EPBN ADVOCACY PAPERS

EU-Philippine Economic Ties: As A New Chapter Unfolds

ABOUT EBPN

EU - PHILIPPINES
BUSINESS NETWORK

01 Advocacy

The EU-Philippines Business Network (EPBN), established in January 2014, is a project co-funded by the European Union and implemented by a consortium of European business organizations based in the Philippines. Led by the European Chamber of Commerce of the Philippines (ECCP), partner chambers of commerce include the Belgian-Filipino Business Club, British Chamber of Commerce Philippines, French Chamber of Commerce of the Philippines, German-Philippine Chamber of Commerce and Industry, Italian Chamber of Commerce of the Philippines, Nordic Business Council of the Philippines, and Spanish Chamber of Commerce of the Philippines.

The overarching objective of EPBN is to support European companies, especially small-medium enterprises, to increase exports to and investment in the Philippines by facilitating market access and ensuring a level playing field for all companies.

Adopting a threefold approach of outreach, support services and advocacy, EPBN provides a strong support system at every stage of entry to the Philippine market for European businesses. In delivering these services, EPBN cooperates closely with its partner organizations in other Association of South East Asian Nation (ASEAN) countries to provide information on ASEAN as a market, promoting the Philippines as a gateway to the region.

03 Outreach

02 Business Support

Produced by the EU-Philippines Business Network (EPBN)

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MESSAGE FROM THE ECCP PRESIDENT

AND CHAIR OF THE EPBN STEERING COMMITTEE

Guenter Taus

Since the last edition of the EPBN Advocacy Papers was handed over to the previous Administration in May 2015, the overarching theme has been to create change and support change initiatives, by both the Government and private sector alike.

Change is written all over the ten-point economic agenda of the new Administration and we are glad to note that most of that agenda is part of our agenda too. The European business community in the Philippines and in Europe (with ambitions to start operations in the Philippines) have long advocated for change – change that will bring more investment to the Philippines and generate more employment, change that will strengthen EU-Philippine trade ties and create business opportunities for Philippine and European companies alike. Change that will ultimately contribute to inclusive growth, growth that is so needed in this country.

Change needs to come in support of key sectors with the most potential for growth creation agri-food, tourism, energy, infrastructure, just to name a few.

Change is also needed to create a level playing field for all actors in the economic field. We are encouraged to see that the Duterte Administration is inclined to support the amendment of economic provisions in the Constitution that limit the involvement of foreign investors in certain fields, especially in the area of public utilities. Change has become visible in the work done by the newly established Philippine Competition Commission that sees to it that the intent and vision of the Philippine Competition Act is fulfilled. More competition will provide every Filipino with better products and services at a better price. More change is needed in the field of anti-corruption. We have been involved in the Integrity Initiative for more than six years now and see progress in some areas, but also see reluctance in others areas as living up to the Integrity rules is a painful process.

Last but not least, change will hopefully filter in through the EU-Philippines Free Trade Agreement negotiations and their completion, by strengthening trade ties and establishing a level playing field for European companies in the Philippines and Philippine companies in Europe, which have been increasing in recent years.

It is change that we hope to achieve through the recommendations included in the second edition of the EPBN Advocacy Papers, by working closely with the Philippine Government towards a competitive, fair and more inclusive economic environment in the Philippines.

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Our special thanks goes to Lauren Skarkou, who took the lead in creating this book.

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Positions expressed in the advocacy papers are the result of the activites of the 14 Sector Committees working under the EU-Philippines Business Network.

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METHODOLOGY

The second edition of the EPBN Advocacy papers encompasses issues and recommendations which are the outcome of extensive discussions among members of the 14 EPBN sector Committees, bilateral dialogues and meetings with representatives of the Executive and Legislative Branches of the Philippine Government, coordination with the EU Delegation to the Philippines and other bilateral European Embassies, participation in hearings and committee meetings in both Houses of the Philippine Congress and private sector consultations led by various executive bodies of the Philippine Government. Some of the positions included in the second edition of the EPBN Advocacy Papers build upon advocacy priorities articulated in the first edition of the EPBN Advocacy Papers which have not been successfully completed yet. Additionally, the second edition also includes advocacies and recommendations that feature for the first time developments during the past year.

The first section of the Advocacy Papers focuses on cross-sector issues that affect the majority of EU businesses operating in or trading with the Philippines, such as fiscal policy, economic liberalization and the enforcement of fair competition, to name a few. The second section, the Sector Papers, address specific issues affecting each of the 14 sectors covered by EPBN Committees. High priority sectors for EU business businesses in the Philippines in terms of business priorities and growth potential are listed first, and are then followed by the remaining sectors. There have been some changes in the list of sector papers, in line with changes to the Sector Committees; specifically, the Pharmaceuticals Committee has become the Healthcare Committee, a new Committee named Food and Beverage has been created and the Infrastructure and Transportation Committee has become the Transportation Infrastructure Committee.

The positions included in each paper were determined based on the issues discussed during regular Committee meetings in the past year (on average, each Sector Committee has a quarterly meeting) and the distribution of an online survey to all active members of each Committee. Identified issues were thoroughly evaluated to ensure that they reflect EU business interests and priorities, in close cooperation with the Committee leadership. Once the draft of each sector paper was finalized and approved by the Committee leadership, it was shared with the wider Committee membership for extensive consultation, with subsequent inputs included in the final draft of the papers.

The following criteria were used for the assessment of the status of each recommendation included in the first edition of the EPBN Advocacy Papers:

Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved)

Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.

Some progress – There has been concrete groundwork implemented towards achieving the recommendation. However, there is substantial work that still needs to be done to successfully complete the recommended action.

No progress – There has been little or no action towards achieving the recommended reforms.

Retrogression – There has been deterioration in the issue described and has become a more worrying bottleneck for EU business in the past year.

The list of completed recommendations is found in Annex II. It is also worth noting that while substantial progress was seen in many of our recommendations, both legislative and administrative, the change of Congress and Administration requires starting the process again.

The objective of the EU business community of the Philippines is not only to improve the investment and trade environment, but to contribute to long term improvements to the Philippine economic environment as a whole through employment generation, technology and knowledge transfer and meaningful capital injection into the economy. The positions included in the advocacy papers reflect that objective and aim to highlight both our recommendations for reform to the Philippine Government and how we view our role as part of those solutions.

ADVOCACY PAPERS

EU-Philippine Economic Ties:
As A New Chapter Unfolds

EU-PHILIPPINE ECONOMIC TIES:

AS A NEW CHAPTER UNFOLDS

The European business community has always looked towards close cooperation with the Philippine Government to achieve mutually beneficial goals, which strengthen the country's investment and trade environment in support of increased competitiveness and long term, sustainable and inclusive growth.

As the new Administration and the 17th Congress assume office, we look forward to joining hands once again to work together towards solutions which will address the Philippines' current competitiveness gaps and achieve an increase in incoming Foreign Direct Investment (FDI) to the country. In fact, the European business community's advocacy priorities are fully aligned to the new Administration's economic priorities. This intersection of economic goals presents an excellent opportunity for business and Government to support each other in developing an internationally competitive, modern economic environment during the next six years. Indeed, public-private sector cooperation is key to the development and implementation of policy measures which respond to the global market structure and economic trends.

In the below table we highlight the commonalities between the Administration's 10-point economic agenda and the European business community's major advocacies, which we look forward to working jointly towards.

ECONOMIC PRIORITIES OF THE ADMINISTRATION	EPBN ADVOCACY PRIORITIES
1. Continue and maintain the current macroeconomic policies, including fiscal, monetary and trade policies.	★ Maintain a competitive fiscal incentives regime ★ Conclude an EU-Philippines Free Trade Agreement (FTA) ★ Implement the Customs Modernization and Tariff Act (CMTA) and ratify the Trade Facilitation Agreement ★ Implement a fully operational, computerized National Single Window ★ Address smuggling, through ways other than pre-shipment inspection ★ Support utilization of Generalized System of Preferences (GSP+)
2. Institute progressive tax reform and more effective tax collection, indexing taxes to inflation. A tax reform package will be submitted to Congress by September 2016.	★ Simplify the tax system and prevent tax evasion ★ Reduce the corporate income tax ★ Reduce and re-align personal income tax brackets, in line with inflation ★ Implement and honor the tax incentives granted (e.g. Value Added Tax (VAT) refund)

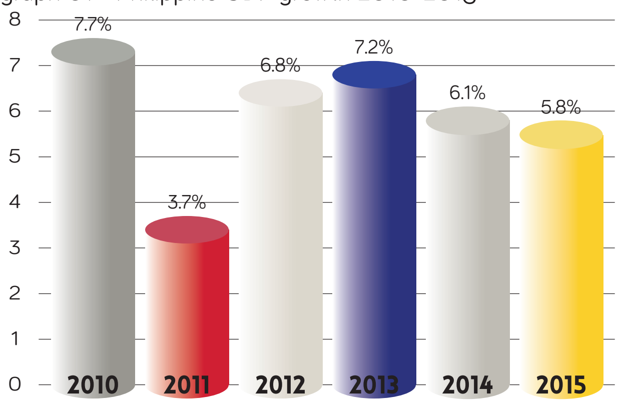
ECONOMIC PRIORITIES OF THE ADMINISTRATION	**EPBN ADVOCACY PRIORITIES**
3. Increase competitiveness and the ease of doing business. This effort will draw upon successful models used to attract business to local cities (e.g. Davao), and pursue the relaxation of the Constitutional restrictions on foreign ownership, except as regards land ownership, in order to attract foreign direct investment.	★ Eliminate or minimize foreign equity limits for FDI (in line with other ASEAN Member States) by amending the Constitution and other (sectoral) laws ★ Amend the Retail Trade Liberalization Law ★ Liberalize regular licensing by Philippine Contractors Accreditation Board (PCAB) ★ Remove reference to the Flag Law of 1936 from the Government Procurement Reform Act ★ Enforce implementation of the Philippine Competition Law ★ Create integrity circles in LGUs
4. Accelerate annual infrastructure spending to account for 5% of Gross Domestic Product (GDP), with Public-Private Partnerships playing a key role.	★ Enact the Public-Private Partnerships (PPP) Law (BOT Law Amendments) ★ Implement the Right of Way Act ★ Amend the Government Procurement Reform Act to remove discrimination of foreign participation and to bring rules in line with the WTO GPA
5. Promote rural and value chain development towards increasing agricultural and rural enterprise productivity and rural tourism.	★ Improve access to finance, technology and post-harvest facilities for farmers ★ Increase farm mechanization ★ Develop agri-food supply and value chains ★ Consolidate land titles (through cooperatives) ★ Promote and support crop insurance
6. Ensure security of land tenure to encourage investments, and address bottlenecks in land management and titling agencies.	★ Facilitate access to land titles ★ Streamline land titling and registration processes ★ Fully implement the computerization project for the provision of e-titling, parcel verification, anywhere-to-anywhere.
7. Invest in human capital development, including health and educational systems, and match skills and training to meet the demand of business and the private sector.	★ Support the effective implementation of K to 12 ★ Enact an Apprenticeship Law ★ Promote responsible contractualization
8. Promote science, technology and the creative arts to enhance innovation and creative capacity towards self-sustaining, inclusive development.	★ Reduce bureaucracy for start-ups and create incubators ★ Support new creative industries, such as game development, software development and animation ★ Increase the focus on Science Technology Engineering Mathematics (STEM) skills in the education system
9. Improve social protection programs, including the Government's Conditional Cash Transfer program, to protect the poor against instability and economic shocks.	★ Support the effective implementation of Universal Healthcare (UHC) ★ Support the development of disaster management

WHERE ARE WE NOW?

MACROECONOMIC OVERVIEW

"The Philippines is no longer the sick man of East- Asia, but the rising tiger"[1] – this statement was first made by then World Bank Country Director for the Philippines, Mr Motoo Konishi, in 2013. Since then, it has become the tagline of the Philippine economic landscape in the past years. While many argue that the Philippines still has a way to go before it catches up with its regional peers, there is much truth in Mr Konishi's statement. Since 2010, the Philippines has consistently shown some of the highest economic growth rates in the region at an annual average rate of 6.3%.[2]. (see graph 01)

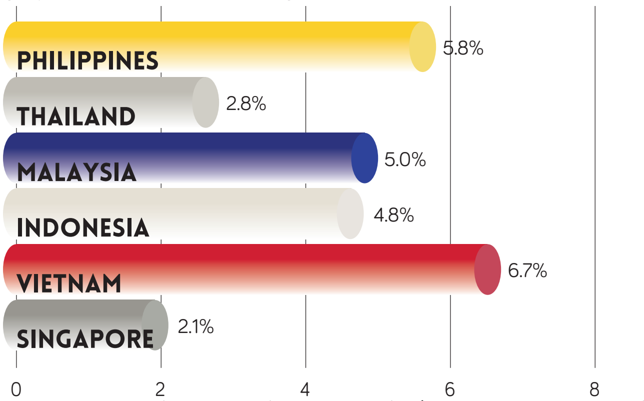
graph 01 - Philippine GDP growth 2010-2015



Source: Philippine Government

While economic growth slowed to 5.8% of GDP in 2015,[3] primarily due to the Chinese economic slowdown and weak growth in exports and the agriculture sector, it remained one of the highest in the region, second only to Vietnam among the ASEAN-6. GNI for 2015 was estimated at 4.1%. [4] (see graph 02)

graph 02 - ASEAN 6 GDP growth-2015



Source: Asian Development Bank, country profiles (Singapore figures retrieved from Singapore Statistics Authority)

GDP per capita grew by 4.2% in 2015.[5] However, it also remained one of the lowest of ASEAN 5 at USD2,858 (current prices in USD), compared to USD 5,742 in Thailand, USD 9,556 in Malaysia and USD 3,362 in Indonesia; only Vietnam registered a lower GDP per capita than the Philippines at USD2,088.[6]

Strong economic growth is expected to continue, with annual GDP growth forecasted at 6% for 2016, driven by pre-election increases on public spending earlier in the year, consumption and a buoyant services sector, and 6.1% for 2017.[7]

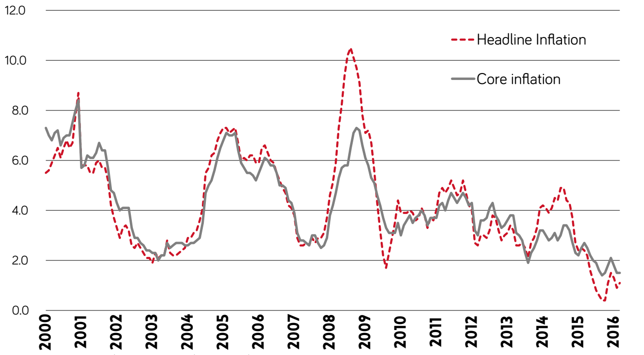
As in previous years, economic growth in 2015 was driven by strong domestic consumption, Overseas Foreign Worker (OFW) remittances and a thriving Business Process Outsourcing (BPO) sector. While manufacturing performance fell in 2015 compared to the past years, it continued to show robust growth. Additionally, growth in the tourism sector and subsequent contributions to

1 Statement first made by Motoo Konishi, World Bank Country Director for the Philippines in the 2013 Philippine Development Forum, Marco Polo Hotel. 05/02/2013.
2 PSA (n.d.).The Philippines at a glance, Gross Domestic Product. Retrieved 28/06/2016. http://www.gov.ph/report/gdp.
3 ADB (2016). Asian Development Outlook 2016, Asia's Potential Growth. Philippines (pp. 243-247). Asian Development Bank.
4 BSP (2016). Selected economic and financial indicators. Retrieved 28/06/2016. http://www.bsp.gov.ph/statistics/keystat/sefi.pdf.
5 BSP (2016). Selected economic and financial indicators. Retrieved 28/06/2016. http://www.bsp.gov.ph/statistics/keystat/sefi.pdf.
6 IMF (2016). Report for selected countries and indicators- GDP per capita at current prices. Retrieved 28/06/2016. http://www.imf.org/external/pubs/ft/weo/2016/01/weodata/weorept.aspx?sy=2014&ey=2021&scsm=1&ssd=1&sort=country&ds=.&br=1&c=518%2C516%2C522%2C566%2C536%2C578%2C544%2C548%2C582&s=NGDPRPC%2CNGDPPC%2CNGDPDPC&grp=0&a=&pr1.x=38&pr1.y=4.
7 ADB (2016). Asian Development Outlook 2016, Asia's potential growth. p21. Manila. The Philippines.

employment and revenue generation were among the economic growth drivers for the year. On the other hand, merchandise exports fell by 13.1% (in US dollar terms), while the agriculture sector was also laggard.[8]

Despite the high levels of growth, inflation has remained relatively low. In 2015, Consumer Price Index (CPI) (2010 = 100) was 117.4[9], while average headline inflation was 1.4%.[10] However, H1 2016, saw inflation moving upwards, with CPI at 144.0 and headline inflation at 1.9% in June 2016. [11] (see graph 03)

graph 03 - Philippine Headline and core inflation 2000-2016



Source: Bangko Sentral Ng Pilipinas

Although food prices have been affected in 2016 due to the El Niño phenomenon and the subsequent damages to crops, the effects on inflation have largely been balanced by the low price of oil. The strong macroeconomic credentials that the country has built in the past years are confirmed by its positive current account balance and falling public debt as a percentage of GDP. Specifically, in 2014 the Philippines registered a current account surplus of USD10.9 billion,[12] while in 2015 public debt fell to 44.8% of GDP, from 51% of GDP in 2011.[13]

The Philippines' credit ratings reaffirm that the Philippine economic landscape is stable and growth is built on sound foundations, as shown in the table below. (see table 1)

Table 01 - Philippine credit rating

2015 Apr 24	Standard & Poor's	BBB STABLE
2015 Sep 24	Fitch	BBB- POSITIVE
2015 Dec 14	Moody's	Baa2 STABLE

Source: Standard & Poor's, Moody's, Fitch

The Philippines' demographics feature high on the list of its competitive advantages. With a population of 100.7 million in 2015, a median age of 23 and 70.7% of the population under 54 years old, in addition to extensive fluency in English, the country offers a competitive workforce and a thriving consumer market.[14]

On the downside, unemployment rates remain among the highest in the region and un- and under- employment are formidable challenges facing decision makers. Unemployment in 2015 stood at 6.3%, or 2.6 million people. Underemployment stood at 18.5% in 2015, equivalent to 7.2 million underemployed persons. Of the total underemployed, 41.8% were from the services sector, 40.5% from the agriculture sector, and 17.7% from the industry sector.[15]

Finally, in terms of international rankings, the Philippines ranked 47 out of 140 countries in the World Economic Forum's Global Competitiveness Index 2015-2016, with a score of 4.39/7, compared to its ranking of 52 out of 144 countries in the 2014-2015 Index. Out of the 12 pillars that are assessed in the Index, the Philippines scored highest in the third pillar, macroeconomic environment, with a ranking of 24 and a score of 5.74; it scored lowest in the second pillar, infrastructure, with a ranking of 90 and a score of 3.4.[16] The World Bank Doing Business 2016 Report ranked the Philippines 103, compared to 97 in the 2015 report. Getting electricity had the best ranking at 19, whereas starting a business had the worst at 165.[17]

The Philippines' ranking in the Corruption Perceptions Index went from 85 out of 175 in 2014 to 95 out of 168 in 2015.[18] Despite the fall in the rankings, and while there is still much room for improvement in terms of increased transparency and integrity both in the public and private sectors, the previous Administration left a strong legacy of an effective anti-corruption drive. The Government's efforts, which have been strengthened by private sector initiatives such as the Integrity Initiative co-chaired by ECCP, have been a decisive factor in the strong economic growth sustained in the past years. Therefore, policy continuation from the current Government in anti-corruption and transparency actions will be a strong determinant in terms of sustaining economic growth and increasing FDI in the country over the coming years.

8 Ibid.p20.
9 WB (2016). Consumer price index (2010=100). Retrieved 28/06/2016. http://data.worldbank.org/indicator/FP.CPI.TOTL.
10 PSA (2016). Summary Inflation Report Consumer Price Index (2006=100) : May 2016. Retrieved 28/06/2016. https://psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2006100-may-2016.
11 PSA (2016). Consumer price index and inflation rate. Retrieved 28/07/2016. https://psa.gov.ph/business/price-indices.
12 WB (2016). The World Bank Data: Current Account Balance. Retrieved 15/04/2016. http://data.worldbank.org/indicator/BN.CAB.XOKA.CD.
13 Focus Economics (2016). Public Debt in Philippines. Retrieved: 15/04/2016. http://www.focus-economics.com/country-indicator/philippines/public-debt.
14 CIA (2016). The World Factbook: Philippines. Retrieved 28/06/2016. https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html.
15 BSP (2016). 2015 Annual Report.p. 3. Manila. The Philippines.
16 WEF (2015). The Global Competitiveness Report 2015-2016, Philippines.
17 WB (2015). Doing Business 2016, Philippines.
18 TI (2015). Corruption Perceptions Index 2015. Retrieved: 02/05/2016. http://www.transparency.org/cpi2015.

INTERNATIONAL ECONOMIC INTEGRATION

The Philippines' extensive economic integration at a regional and global level has been an important factor in the country's economic revival over the past years.

As one of ten members of the ASEAN Economic Community (AEC), which was launched on the December 31 2015, the country stands to benefit from access to a single market of over 600 million consumers and an increasingly integrated regional economy, including the free movement of skilled workers and products.[19] The Philippines is also party to a number of agreements that aim to support AEC realization, including the ASEAN Trade in Goods Agreement, the ASEAN Framework Agreement on Services and the ASEAN Comprehensive Investment Agreement. [20] By April 2016, the Philippines had achieved a 92.1% implementation rate of commitments under AEC, which translates to 466 of 506 commitments in absolute terms. [21]

In addition to its membership in ASEAN and subsequently in the AEC, the Philippines is highly integrated at a regional and global level through membership in international organizations and partnerships, such as the World Trade Organization (WTO), International Monetary Fund (IMF), World Customs Organization (WCO), World Bank (WB), Group of 77 (G77), Group of 24 (G24) and the Asia-Pacific Economic Cooperation (APEC), which it hosted in 2015. The hosting of APEC was largely hailed as a success and did much for the Philippines in terms of bringing the opportunities it offers to the forefront of global interest. APEC also marked the launch of important initiatives for the Philippine economic fabric, and most especially for Micro Small Medium Enterprises (MSMEs), such as the Boracay Action Agenda for MSMEs. In line with its membership in international bodies, the Philippines has largely committed to using international standards and practices. However there still remain areas, especially at an implementation and enforcement level, where further improvements are needed to meet the country's international commitments and facilitate trade and market access.

The Philippines' global economic integration is further strengthened through its FTAs with third countries. The Philippines has an FTA with Japan, the Japan-Philippines Economic Partnership Agreement (JPEPA) and also concluded an FTA with the European Free Trade Association (EFTA) group of countries earlier this year. The Philippines is also party to the ASEAN Free Trade Agreement (AFTA), the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), the ASEAN-China Free Trade Agreement (ACFTA), the ASEAN-India Free Trade Agreement (AIFTA), the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEPA) and the ASEAN-Korea Free Trade Agreement (AKFTA).[22] The Philippines is not one of the 12 countries to initially form part of the Trans-Pacific Partnership (TPP) although it is considering accession at a later stage. It is also part of the negotiations for a Regional Comprehensive Economic Partnership (RCEP) and the ASEAN-Hong Kong FTA (AHKFTA).[23] In this context, the ongoing negotiations between the EU and the Philippines is key to further spur FDI in the Philippines and solidify its position in a globally integrated economy.

Still, the Philippines continues to account for a disproportionately small percentage of total FDI flowing into the region. Specifically, in 2015, net FDI inflows to the Philippines reached USD5.7 billion, equivalent to 5.8% of GDP and just 4.8% of net FDI inflows to the region.[24] This represented a slight fall compared to net FDI inflows in 2014, which stood at USD5.74 billion.[25]

Collectively, the EU Member States were the largest

19 ADB (29/12/2015). ASEAN Economic Community: 12 things to know. Retrieved: 15/04/2016. http://www.adb.org/features/asean-economic-community-12-things-know.

20 ASEAN (2016). About AEC. Retrieved: 15/04/2016. http://investasean.asean.org/index.PhP/page/view/asean-economic-community/view/670/newsid/755/about-aec.html.

21 Kristyn Nika M. Lazo (15 April 2016). DTI to hold consultations on FTAS. The Manila Times. http://www.manilatimes.net/dti-to-hold-consultations-on-ftas/255856.

22 DTI(2016). Trade Agreements. (Retrieved 15/04/2016). http://www.dti.gov.ph/dti/index.PhP/resources/trade-agreements.

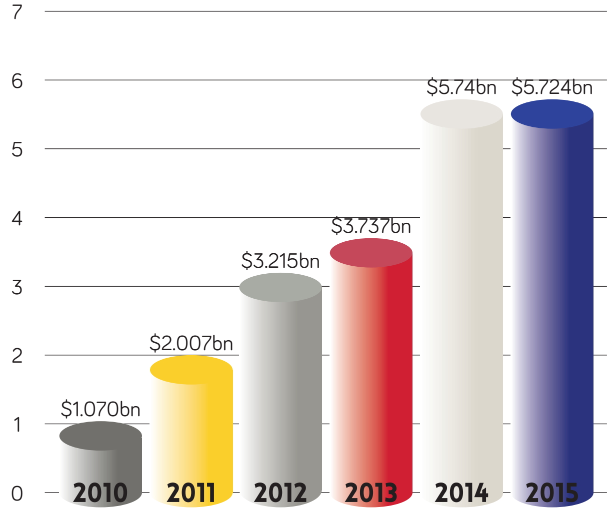
23 Kristyn Nika M. Lazo (15 April 2016). DTI to hold consultations on FTAS. The Manila Times. http://www.manilatimes.net/dti-to-hold-consultations-on-ftas/255856.

24 ASEAN Secretariat (2016). Table 25 – Foreign direct investment net inflows, intra- and extra- ASEAN. Retrieved 26/06/2016. http://asean.org/storage/2015/09/Table-251.pdf.

25 WB (2016). Foreign direct investment, net inflows (BoP, current US$). Retrieved 15/07/2016. http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?locations=PH&year_high_desc=false.

source of incoming FDI to the Philippines in 2015. Other top countries of origin for FDI inflows in 2015 were the United States, The Netherlands, Japan, The United Kingdom and Singapore. The sectors that received the biggest proportion of FDI were manufacturing, financial services and insurance, real estate, wholesale and retail trade and construction activities.[26] (see graph 04)

graph 04 - Philippine Net FDI inflows 2010-2015



Source: World Bank Data (2015 figures retrieved from ASEAN Secretariat

The low numbers of foreign investment inflow show that a more aggressive drive to improve the country's attractiveness as an investment destination is still needed, including the liberalization of key economic sectors. Nonetheless, it is also acknowledged that there have been noteworthy efforts in the past years by the Government to improve the country's competitiveness. The Department of Trade and Industry (DTI) has put in place a Comprehensive National Industrial Strategy and 30 industry roadmaps, including the Comprehensive Automotive Resurgence Strategy. The Comprehensive Automotive Resurgence Strategy was signed by former President Aquino on May 29 2015, and set out parameters for the subsidization of manufacturing of up to three vehicle models with the objective to attract new investment in the automotive manufacturing sector.[27]

In terms of international trade, in 2015 total trade fell slightly to USD125.3 billion from USD127.5 billion in 2014. Furthermore, the trade deficit increased to USD8 billion in 2015, up from USD3.3 billion in 2014, as exports fell to USD58.6 billion from USD62.1 billion and imports increased to USD66.7 billion, up from USD65.4 billion in the previous year.[28]

Trade data highlights the consumption driven nature of the economy and the comparatively weak production segment. A number of factors account for the fall in exports. These include a lack of diversification of export products and high concentration of export destinations whichmake the country's exports sensitive to external shocks. In fact, the top 10 export products – semiconductors, electronic data processing, machinery and transport equipment, woodcrafts and furniture and chemicals – account for two-thirds of exported goods, while approximately three quarters of exports of services are covered by the Information Technology (IT)-Business Process Management (BPM) sector. In terms of export destinations, the top five destinations account for approximately half of export revenues. Finally, the Philippines has incurred a loss of competitiveness. The products it has a competitive advantage in are registering slow growth or declining demand. According to a trade competitiveness mapping completed in 2014, the country has been unable to keep up with global trends and high growth markets due to a trade-impeding domestic market.[29] There is therefore, a need to revamp the export profile of the country and put in place enabling policies and structures, so as to increase export revenues and move to a surplus trade balance.

EU AND THE PHILIPPINES AS TRADE PARTNERS

In terms of access to the EU market, the Philippines has already benefited substantially from tariff-free access to EU Member States for 6,274 product lines, following the granting of GSP+ in December 2014. In the first months after the granting of GSP+, Philippine GSP+ related exports to the EU increased by 27%. Major Philippine export products to the EU benefiting from GSP+ include crude coconut oil, canned tuna, pneumatic tires, spectacle lenses, relays, preserved fruits, board and similar cabinets for electric control or the distribution of electricity, and ballasts for discharge lamps.[30]

In 2015, the Philippines showed a trade surplus in bilateral trade with the EU, equivalent to 653 million euros (EUR). Philippine exports of goods in 2015 reached EUR6.8 billion in absolute terms, compared to EUR5.7 billion in 2014. Main goods exported to the EU include

26 BSP(10/03/2016). FDI Reach US$273 Million in December 2015; Full-year Level at US$5.7 Billion. Retrieved 28/06/2016. http://www.bsp.gov.ph/publications/media.asp?id=4015.
27 EO 182. Signed by President Benigno Aquino III. 29 May 2015.

28 PSA (2016). Table 1. Total trade by month and year: 2014-2016. Retrieved: 15/04/2016. https://psa.gov.ph/sites/default/files/attachments/itsd/trade/TABLE%201%20%20Total%20Trade%20by%20Month%20and%20Year%20%202014%20-2016_0.pdf.
29 The Philippine Exporters Confederation, Inc. (Philexport) (2016). The Philippines: General economy and export industry. (Retrieved: 15/06/2016). http://www.philexport.ph/philippines-economy.
30 DTI (15/02/2016). PH exports to the EU increased by 27%. Retrieved 28/06/2016. http://www.gov.ph/2016/02/15/exports-to-eu-increases-27-percent.

table 02 - EU Trade with the Philippines 2005-2015

Period	Imports			Exports			Balance	Total trade
	Value Mio €	% Growth*	% Extra-EU	Value Mio €	% Growth*	% Extra-EU	Value Mio €	Value Mio €
2005	6,540		0.6	3,616		0.3	-2,923	10,156
2006	6,810	4.1	0.5	3,733	3.2	0.3	-3,077	10,543
2007	6,043	-11.3	0.4	3,963	6.2	0.3	-2,080	10,006
2008	5,815	-3.8	0.4	3,750	-5.4	0.3	-2,065	9,565
2009	4,004	-31.1	0.3	2,940	-21.6	0.3	-1,064	6,944
2010	5,633	40.7	0.4	3,748	27.5	0.3	-1,885	9,381
2011	6,415	13.9	0.4	3,995	6.6	0.3	-2,420	10,410
2012	5,149	-19.7	0.3	4,819	20.6	0.3	-330	9,968
2013	5,114	-0.7	0.3	5,798	20.3	0.3	683	10,912
2014	5,736	12.2	0.3	6,799	17.3	0.4	1,063	12,534
2015	6,814	18.8	0.4	6,161	-9.4	0.3	-653	12,975

% Growth: relative variation between current and previous period

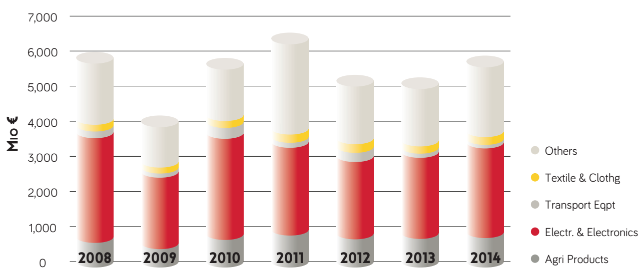
% Extra-EU: imports/exports as % of all EU partners i.e. excluding trade between EU Member States

Source: European Commission, DG Trade

office telecoms equipment, machinery and food. Food and manufactured products saw the biggest growth. The Philippines' main trade partners in the EU are Germany, France, The Netherlands, United Kingdom and Italy. Philippine imports of goods from the EU were estimated at EUR6.2 billion in absolute terms in 2015, compared to EUR6.8 billion in 2014. The main products imported from the EU included transport equipment, machinery, food products, chemicals, and electronic components. Bilateral trade reached EUR12.98 billion in 2015.[31] (see table 02)

In terms of trade in services, EU-Philippine bilateral trade reached EUR3.3 billion in 2014. Philippine exports to the EU reached EUR6.3 billion in 2015, EUR1.8 billion in 2014, and EUR1.7 billion in 2013. Main products exported were sea transport services, travel services, telecommunication, and BPO services. Philippine imports of services from the EU, reached EUR1.5 billion in 2014, compared to EUR1.4 billion in 2013, registering a EUR300 million deficit. Main products imported include IT, Telecom services and transport. [32] (see graph 05+06)

graph 05 - Major EU imports from the Philippines 2008-2014

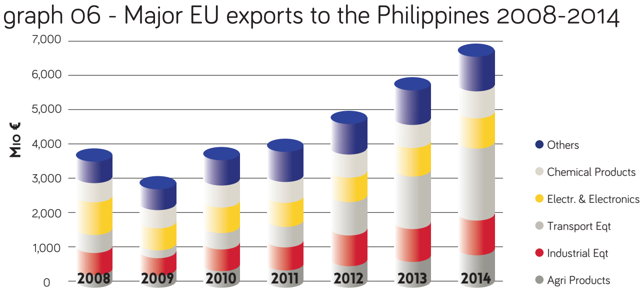


Source: European Union

31 http://ec.europa.eu/trade/policy/countries-and-regions/countries/philippines.

32 European Union(2016). Philippines – Trade Statistics. Retrieved 21/06/2016. http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_111557.pdf.

graph 06 - Major EU exports to the Philippines 2008-2014



Source: European Union

In 2015, the EU was the Philippines' fourth largest trade partner, while the Philippines was the EU's sixth largest trade partner in the region.[33]

The EU was the Philippines' largest source of FDI with reported investment from the EU by IPAs standing at PhP 90.6 billion, or 37% of total. Major source countries were The Netherlands, United Kingdom, Germany, Austria, Ireland, Spain, Cyprus, Poland, Belgium, France and Denmark.[34] There are approximately 600 European companies based in the Philippines, generating 400,000 jobs.[35] In the past years, there has been a growing trend of Philippine FDI in the EU, while Philippine buyouts of major European brands have also been recorded. (see graph 07)

Finally, the EU continues to be an important employer of Filipino OFWs. In 2015, it was estimated that landbased OFWs in the EU generated USD3.37 billion (approximately EUR2.81 billion) of remittances, accounting for 13% of

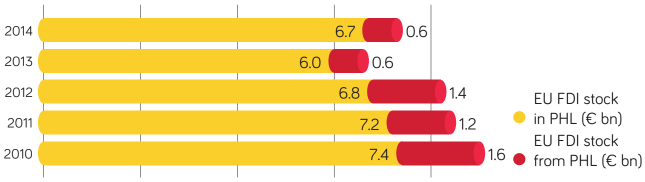
33 European Union, DG Trade (29/04/2016). The Philippines. Retrieved 28/06/2016. http://ec.europa.eu/trade/policy/countries-and-regions/countries/philippines.

34 European Union, Delegation to the Philippines (13/04/2016). Philippines-Economic and Trade Report 2015. p.11. Manila. The Philippines.

35 European Union, Delegation to the Philippines (08/05/2014). Press Release, Foreign Direct Investment: Create Jobs in the Philippines. Retrieved 28/06/2016. http://eeas.europa.eu/delegations/philippines/documents/press_corner/20140805.pdf.

total.[36] The European maritime industry is the largest employer of Filipino seafarers worldwide.

graph 07 - Total EU FDI stock in the Philippines/ PHL FDI stock in the EU 2010 – 2015



Source: European Union

EU-PHILIPPINES FREE TRADE AGREEMENT

The EU and the Philippines have completed the first round of negotiations for a Free Trade Agreement in Brussels on May 23-27. The areas tackled in the first round include trade in goods, rules of origin, sanitary and phytosanitary measures, services and investment, intellectual property rights (including geographical indications), competition, trade and sustainable development and dispute settlement.

The scoping exercise concluded last year showed a willingness by both parties to achieve a common vision wherein bilateral trade in goods and services as well as investment between the EU and the Philippines is eased and increased. We believe such an agreement will propel the Philippines as the main gateway to ASEAN.In this context, the overarching objective of an EU-FTA is to remove barriers to trade and investment in different areas and in various levels that exist in both regulation and actual practice.

To this end, we found it useful to look at the EU FTAs with ASEAN neighbors, Singapore and Vietnam.

Salient features of the Singapore and Vietnam FTAs focus on liberalization of foreign investments, elimination of tariffs and quotas, opening up of the market and fair competition, dilution of parochial preference for domestic goods and services, fostering of a level playing field, and protection of property rights. Indeed, these form the foundation of international free trade in a globalized economy. It thus stands to reason that the EU-Philippines FTA will also formulate policies and strategies on these areas.

In this light, we have identified key priorities for a free trade agreement and the corresponding strategies to address them.

36 European Union, Delegation to the Philippines (13/04/2016). Philippines-Economic and Trade Report 2015. p.10. Manila. The Philippines.

1. Foreign participation in economic activities
   Amend the economic provisions of the 1987 Constitution and related Philippine laws and administrative issuances that provide for foreign ownership restrictions on various economic activities which include operation of public utilities, practice of certain professions, exploration, development and utilization of natural resources, and retail trade. Rationalize, if not eliminate, investment conditions and thresholds for foreign ownership.

2. Foreign participation in government procurement of goods and services
   Amend the Government Procurement Reform Act to remove the application of the Flag Law of 1936 to procurement processes that give preferential treatment to domestic suppliers. Repeal administrative issuances that implement these laws.

3. National treatment and preferential tariffs for EU goods and services
   Repeal the Flag Law of 1936 and amend laws that give preference to domestic goods and services. Minimize tariffs, quotas and safeguard measures. Repeal administrative issuances that implement these laws. Extend the same preferential tariffs currently enjoyed by foreign goods and services from other countries.

4. Fair competition and consumer welfare
   Implement the Philippine Competition Act to open up the market and prevent dominant players from abusing their dominant position. Promulgate an executive issuance that requires industry regulators to undertake a comprehensive study and planning of their respective sectors to foster a business environment conducive to new entrants.

5. Recognition and protection of intellectual property rights
   Recognize and protect EU food and beverage products by prioritizing geographical indications among the intellectual property rights protected under the Intellectual Property Code of the Philippines.

RECENT REFORMS AND EPBN ADVOCACY ACHIEVEMENTS

2015 and early 2016 marked the passage of a number of important pro-business reforms that have the potential to make doing business in the Philippines easier for European companies and illustrated the Philippines' drive for increased international competitiveness. The reforms marked significant successes for the advocacy efforts of EPBN.

- Anti -Ambulance Chasing Act
- Seafarers Protection Act
- Philippine Competition Act
- Amendments to the Cabotage Law
- Customs Modernization and Tariff Act
- Right-Of-Way Act
- Tax Incentives Management and Transparency Act
- Department of Information and Communications Technology

The *Philippine Competition Act* (Republic Act (RA) No. 10667), enacted on July 21 2015, is a groundbreaking reform. Enforced effectively, it will set clear parameters for fair competition in the Philippine business environment. The Philippine Competition Commission was constituted in the first quarter of 2016, with former Director-General of NEDA, Arsenio Balisacan, as the Chair. The Implementing Rules and Regulations (IRR) were promulgated in May 2016.

The enactment of *Amendments to the Cabotage Law* (RA No. 10668) on July 21 2015, which allows stops at multiple ports for foreign cargo ships subject to certain conditions, was an important step towards integrating the Philippines further in the global value chain by opening the way for more cost-efficient shipping options for importers and exporters. The EPBN Maritime Committee was also actively involved in the drafting of the IRR, which were issued in May 2016.

The enactment of the *Customs Modernization and Tariff Act* (RA No. 10863) on May 30 2016 has the potential to establish substantial benefits for international trade to and from the Philippines by improving and modernizing customs procedures. It also aligns the Philippines to its commitments made under the WCO's Revised Kyoto Protocol. With the IRR being drafted and presented for public consultation as of this writing, the business community looks towards its implementation as the key to creating pro-business reforms, opening the way for more transparent customs procedures and implementing an effective and fully operational National Single Window.

The *Tax Incentives Management and Transparency Act* (TIMTA) (RA No. 10708) was enacted on December 9 2015 and establishes measures to promote transparency and clear guidelines on the management of the fiscal incentives regime of the country.

The adoption of the law creating a *Department of Information and Communications Technology* (RA No. 10844), on May 23 2016 was an important step towards strengthening the ICT sector and major industries such as the BPM/Knowledge Process Management (KPM) sectors, by creating a dedicated government agency that focuses on the development of the sector. The IRR have been presented for public consultation.

The *Right-Of-Way Act* (RA No. 10752), enacted on March 7 2016, will facilitate much needed infrastructure development and remove obstacles that have caused long delays to major infrastructure projects in the past. The IRR are yet to be promulgated.

The passage of the *Seafarers' Protection Act* (RA No. 10706), otherwise known as the Anti-Ambulance Chasing Act, on November 26 2015 is a positive development towards addressing the problems that employers of Filipino seafarers face as a result of deficiencies in the claims system and protection of seafarers' rights. However, it will have to be complemented by additional legislative and administrative reforms if it is to effectively address the serious concerns that the manning industry faces and the subsequent repercussions on the competitiveness of Filipino seafarers.

Last, but not least, the enactment of the amendments to the FINL (RA No. 10881) to remove foreign ownership restrictions of adjustment companies, lending companies, financing companies and investment houses will complete the liberalization of the country's financial services sector, following the passage of the Foreign Banks Liberalization Act of 2014, which opened up the banking sector to 100% foreign ownership.

The constitution of the Commission for the National Privacy Commission, with Mr Raymond Liboro, a former Assistant Secretary of the Department of Science and Technology (DOST), as Chair, was the first step towards the long awaited implementation of the Data Privacy Law of 2012. The promulgation of the IRR and issuances on specific subjects are promising signs that the law will finally be implemented. The signing and adoption of the Mexico City Principles at the end of 2015 established a framework for ethics in the pharmaceuticals industry, which aligns the country to its international commitments and supports a level playing field for all industry players.

EPBN ADVOCACY ACHIEVEMENTS

- Enactment and implementation of PHILIPPINE COMPETITION LAW
- Enactment of **CMTA** and inclusion of anti-smuggling measures
- Revision of **PNP list** of controlled and regulated chemicals
- Establishment of a **DICT**
- Enactment of **Amendments to the Cabotage Law**
- Enactment of the RIGHT OF WAY ACT
- Constitution of the National Privacy Commission
- Issuance of EO on **Freedom Of Information**
- Enactment of TIMTA
- Adoption of the *Mexico City Principles*

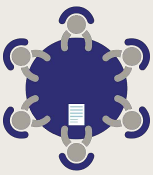

JFC with BOC Commissioner Lina


JFC with PEZA DG De Lima


JFC with DTI Sec. Domingo

JFC with the Leaders of the House of Representatives

EPBN ADVOCACY ACTIVITIES

	Number of committee meetings	Number of meetings with government*	TWGs with the government*	Media stories	Letters sent to government
2016	69	66	2	24	55
					
2015	24	17	5	10	18

Another positive development for the pharmaceuticals industry was also the modernization of the Philippine National Formulary.

The speedy issuance of the executive order on Freedom of Information (FOI) on July 23 2016 is a laudable measure as it requires executive government agencies, including GOCCs and SUCs, to comply with information requests, with the exception only of information that is considered as critical to national security. The enactment of a counterpart legislative framework will further strengthen and institutionalize transparency and integrity across Government and the private sector.

The promulgation of the IRR of the *Codifying The Laws On Illegal/Unlawful Possession, Manufacture, Dealing In, Acquisition Or Disposition, Of Firearms, Ammunition Or Explosives Or Instruments Used In The Manufacture Of Firearms, Ammunition Or Explosives, And Imposing Stiffer Penalties For Certain Violations Thereof And For Relevant Purposes of the Philippine National Police (PNP) List of Controlled and Regulated Chemicals* (Presidential Decree (PD) No. 1866 as amended by RA No. 9516) was a much anticipated reform for the agriculture sector. The deregulation of fertilizers used heavily by the agricultural sector, will benefit farmers' productivity and profitability and remove substantial non-tariff barriers for European fertilizer importers. Finally, the application of Euro 4 standards for fuel on January 1 2016 was a positive development for the automotive sector that will reduce pollution levels in Manila. However, alignment of standards across various government bureaus is yet to be fully achieved.

Another noteworthy initiative in the past year was the launch of the Repeal Project by the National Competitiveness Council in June 2016. Repeal Project allows an interactive process for businesses to submit laws and regulations that are no longer relevant, but instead handicap the ease of doing business, to be considered for repeal. During the launch of Project Repeal, 1,900 issuances were repealed, 2,032 were delisted, 22 were consolidated and five are up for revision.[37] The National Competitiveness Council could build upon Project Repeal and spearhead the implementation of a monitoring system of the enforcement of legislative and administrative measures that are integral to a competitive investment environment.

In early 2016, the National Competitiveness Council also presented plans to reduce business registration time to eight this year from 29 days in 2015, and the procedures to only six steps from 16.[38] This is an initiative that EPBN fully supports and anticipates following President Rodrigo Duterte's pronouncement on cutting down on government processes.

ROOM FOR IMPROVEMENT

While the above reforms substantially improved the business environment and the competitiveness of the Philippines, there is still much to be done. A number of priority bills for the 16th Congress, including amendments to the restrictive economic provisions of the Constitution, Resolution of Both Houses Number 1 (RBH1), the PPP Billl, a comprehensive tax reform, amendments to the Public Service Act of 1936 and amendments to the Government Procurement Reform Act, did not make it into law.

Infrastructure still remains a major bottleneck for the Philippine economy - inadequate hard and soft infrastructure handicap the country's growth potential - whether it is the negative impact that Manila and Cebu traffic congestion have on workers' productivity, the inability of Ninoy Aquino International Airport (NAIA) to become a world class gateway to the country for a growing number of international arrivals, or the barriers to trade that insufficient port and road infrastructure create. Additionally, the Philippine business environment still faces competitiveness gaps. The excessive red tape and bureaucracy required of investors outside Philippine Economic Zone Authority (PEZA) zones, one of the highest corporate and individual income taxes in the region, the restrictions on foreign ownership in key economic activities, and widespread corruption in the private and public sectors continue to hinder the Philippines' competitiveness, in ASEAN.

Finally, fair competition and market access must be improved. Anti-competitive practices in sectors such as infrastructure and telecommunications are detrimental to both users and investors and prevent services from becoming at par with international and regional standards.

With this in mind, the EU business community in the Philippines has identified the following bills, which we believe should be prioritized during the 17th Congress, in addition to the implementation of bills enacted during the 16th Congress.

37 National Competitiveness Council (NCC) (2016). Philippines kicks off Repeal Day, Government agencies to revoke unnecessary regulations. Retrieved 29/06/2016. http://www.competitive.org.ph/stories/1284#sthash.CFoz0QX5.dpuf.

38 DTI(2016). Programs and projects. Retrieved 25/06/2016. http://www.dti.gov.ph/dti/index.PhP/programs-projects/trade-for-growth-growth-in-trade/trade-for-growth-news/632-dti-steps-up-advocacy-to-improve-ease-of-doing-business-reaffirms-3-steps-3-days-to-start-a-business.

2015 ADVOCACY PAPERS - RECOMMENDATION STATUS

1	48	30	21	11
RETROGRESSION	NO PROGRESS	SOME PROGRESS	SUBSTANTIAL PROGRESS	COMPLETED

MORE TO BE DONE

AMENDMENTS TO THE ECONOMIC PROVISIONS OF THE CONSTITUTION

BOT Law Amendments/ PPP Act

Retail Trade Act Amendments

Government Procurement Reform Act

COMPREHENSIVE TAX REFORM

ENERGY EFFICIENCY AND CONSERVATION

Apprenticeship Bill

ELECTRIC POWER INDUSTRY REFORM ACT (EPIRA) AMENDMENTS

Corporation Code Amendments

Civil Aviation Authority of the Philippines (CAAP) Act Amendments

Cybercrime Protection Act

LABOR CODE AMENDMENTS

WHISTLEBLOWER PROTECTION ACT

WITNESS PROTECTION AND BENEFIT ACT

Maritime Code Amendments

Immigration Code Amendment

ASSESSMENT OF 2015 RECOMMENDATIONS

This table presents an overall assessment of the progress made on the recommendations in the 2015 edition of the advocacy papers. As various developments in the political and business climate have resolved some of the previous challenges faced by the European businesses, this edition carries over only those priorities which remain unaddressed, and identifies new priorities.[39]

	COMPLETED	SUBSTANTIAL PROGRESS
OPENING UP FOR FDIs		
a. Revision of the FINL to remove provisions including the practice of professions and foreign ownership restrictions on investment houses, lending firms, financing companies, among others		All professions were removed from the 10th FINL and are now subject to reciprocity, with the exception of pharmacy, radiologic and x-ray technology, criminology, forestry and law. The bill liberalizing foreign ownership of investment houses, lending firms and financing companies has been passed.
b. Clear definition of what a public utility is and what it is not by the DOJ		
c. Implementation of House Speaker Belmonte's proposals to amend the Constitution's restrictive economic provisions		
d. Issuance of clear instructions on the application of the control test vs. the grandfather test by the SC and the SEC to determine the nationality of a corporation		

39 The following criteria was used for the assessment of the status of each recommendation included in the first edition of the EPBN Advocacy Papers:
Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved etc)
Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.
Some progress – There has been concrete groundwork implemented towards achieving the recommendation. However, there is substantial progress that still needs to be done to successfully complete the recommended action.
No progress – There has been little or no action towards achieving the recommended reforms.
Retrogression – There has been deterioration in the issue described, it has become a more worrying bottleneck for EU business in the past year.

40 While many of the legislative recommendations included in the first edition of the EPBN Advocacy Papers progressed substantially during the 16th Congress, they were not approved before the end of the 16th Congress. Effectively, efforts to pass relevant legislation will have to begin again- therefore those recommendations are listed as "no progress", despite significant progress.

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	The scope of public utilities still follows the list provided under Section 1 of the Public Service Act of 1936 (RA No. 2677).	
	[2] While the RBH1 was approved on second reading in the House of Representatives during the 16th Congress, it was not approved on third and final reading due to a lack of quorum.	
HB No. 4407 amending the Corporation Code, included specific provisions on the use of the control test vs the grandfather rule. However, the bill was not approved before the end of the 16th Congress.		

	COMPLETED	SUBSTANTIAL PROGRESS
ENACTMENT OF A NATIONAL FAIR COMPETITION LAW		
a. Enactment of an effective fair competition law before the conclusion of the Aquino Administration	The Philippine Competition Law (RA No. 10667) was enacted on July 21 2015. The Philippine Competition Commission was set up in early 2016 and the IRR of the law were promulgated in May 2016.	
PUBLIC PROCUREMENT LAW REFORM		
a. Amendments to the Government Procurement Reform Act, RA No. 9184		
b. Publication of the reciprocity list by the GPPB and inclusion of the 28 EU member states		
c. Participation of the Philippines in the WTO Agreement on Government Procurement, initially as an observer		
d. Increased transparency in the procurement process		
RATIONALIZATION OF FISCAL INCENTIVES		
a. Non-removal of the provision for income tax holidays(ITH)		
b. Inclusion of provisions in the future fiscal incentives regime which will make the Philippines attractive to investors		
c. Inclusion of a new fiscal incentive of a preferential 15% corporate income tax rate for 15 years, extendable for 15 years, as an additional option, not a replacement, to current incentives		
CUSTOMS MODERNIZATION AND ANTI-SMUGGLING		
a. Enactment of a robust Customs Modernization and Tariff Act by the 16th Congress	The Customs Modernization and Tariff Act (RA No. 10863) was enacted on May 30, 2016.	

Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved etc)
Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.
Some progress – There has been concrete groundwork implemented towards achieving the recommendation. However, there is substantial progress that still needs to be done to successfully complete the recommended action.
No progress – There has been little or no action towards achieving the recommended reforms.
Retrogression – There has been deterioration in the issue described, it has become a more worrying bottleneck for EU business in the past year.

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	Ø	
	In December 2014, the GPPB issued Resolution No. 34-3014, which removed reference to Annex 1 and thus the provisions providing for the creation of a reciprocity list.	
	Ø	
Companies have observed some improvements in transparency in the procurement process, however there is still a need for more concerted efforts.		
ITH still remains as one of the fiscal incentives offered to foreign investors. As the rationalization of fiscal incentives was not approved before the end of the 16th Congress, there have been no significant changes to the fiscal incentives regime in the past year.		
	Ø	
	Ø	

	COMPLETED	SUBSTANTIAL PROGRESS
b. Integration of the CMTA bill and an anti-smuggling measure into one bill, taking into consideration the country's legal obligation to comply with the provisions of the RKC	The Customs Modernization and Tariff Act (RA No. 10863) includes anti-smuggling measures, in line with the WCO's Revised Kyoto Protocol.	
PROMOTING INTEGRITY IN THE PUBLIC AND PRIVATE SECTORS		
a. Enactment of HB No. 5298 ,which seeks to amend RA No. 3019 or the Anti-Graft and Corrupt Practices Act, and introduction of a corresponding bill in the Senate		
b. Passage of a Freedom of Information Act by the 16th Congress		The Freedom of Information Act bills were not approved before the end of the 16th Congress. However, President Duterte signed an EO on FOI which covers all offices under the Executive branch, including GOCCs and SUCs.
JUSTICE REFORM		
a. Timely enactment of a Whistleblower Act and strengthening the Witness Protection law during the 16th Congress		
b. Streamlining and improvements to the judicial system at an operation level, including HR policies, introduction of responsive procedures, expansion of the use of amici curiae by the SC		There have been substantial reforms to the judicial system at an operational level on the following four pillars: integrity and public credibility, speedy judicial actions, infrastructure systems and processes and human resources.
c. Allocation of a reasonable percentage of the national budget to the SC, the Office of the Ombudsman and the Commission on Audit	The 2016 appropriation is PhP23.5 billion for the SC, a little over PhP2 billion for the Office of the Ombudsman and PhP8.9 billion for the Commission on Audit. For reference, the total national budget for 2016 is PhP3 trillion.	
d. Implementation and enforcement of anti-corruption measures		

Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved etc)
Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.
Some progress – There has been concrete groundwork implemented towards achieving the recommendation. However, there is substantial progress that still needs to be done to successfully complete the recommended action.
No progress – There has been little or no action towards achieving the recommended reforms.
Retrogression – There has been deterioration in the issue described, it has become a more worrying bottleneck for EU business in the past year.

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	Ø	
	Ø	
Despite a fall in the Philippines' rankings in the Corruption Perceptions Index in 2015, there has been progress in initiatives by the Government and the private sector to address corruption and increase transparency in the public and private sector. The Integrity Initiative has continued to implement programs, such as the Integrity for Jobs program, in support of addressing corruption in LGUs.		

	COMPLETED	SUBSTANTIAL PROGRESS
e. Consistency between local ordinances and national policies		
f. Creation of an inventory of laws with the aim to identify and eliminate laws that have become redundant		Project Repeal, established by the National Competitiveness Council and launched in June 2016, has initiated the review and repeal of unnecessary administrative orders and aims to take up similar action with thousands more administrative and legislative measures.

PROTECTION AND ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

	COMPLETED	SUBSTANTIAL PROGRESS
a. Implementation of a sui generis or specific geographical indication legal protection framework to ensure a higher level of protection of products		

PROPOSED AMENDMENTS TO THE LOCAL GOVERNMENT CODE OF 1991

	COMPLETED	SUBSTANTIAL PROGRESS
a. Inclusion of a provision that clearly clarifies that LGUs cannot overrule national policies		
b. Introduction of a lower single tax rate		
c. Provide for a clear framework on the allocation of revenues from PEZA locators by PEZA and clear reference to the exception of PEZA locators from local permits and taxes		
d. Introduction of an administrative mechanism for appeal of the assessment of taxes by the local treasurer		

AGRICULTURE

	COMPLETED	SUBSTANTIAL PROGRESS
a. Amendments to the Draft Circular on the Rules and Regulations for the Registration of Organic Input Producers and Licensing of Organic Input Establishments (full list of recommendations in position paper)	The PNS for Organic Bio-Control Agents (BCA): Microbials and Botanicals - Minimum Data Requirements, was approved by BAFS in early 2016. It specifies the minimum data requirements for the safety assessment of organic biocontrol agents, specifically for microbials and botanicals. The Philippine National Standards for Organic Agriculture (PNS/BAFS 07:2016) also set out national standards for organic agriculture, which are aligned to ASEAN Standards.	

Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved etc)
Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.
Some progress – There has been concrete groundwork implemented towards achieving the recommendation. However, there is substantial progress that still needs to be done to successfully complete the recommended action.
No progress – There has been little or no action towards achieving the recommended reforms.
Retrogression – There has been deterioration in the issue described, it has become a more worrying bottleneck for EU business in the past year.

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	Ø	

IPOPhil has developed an administrative framework for the development and registration of GIs, but not their protection.		

	Ø	
	Ø	
	Ø	
	Ø	

	COMPLETED	SUBSTANTIAL PROGRESS
b. Harmonization of the organic certification rules and regulation with international standards		The Revised Guidelines for the official accreditation of organic certifying bodies (DO No. 6, Series of 2015) aligned processes to ISO 17065 requirements. The Philippine National Standards for Organic Agriculture (PNS/BAFS 07:2016) are aligned to ASEAN Standards.
c. Delisting of Calcium Nitrate fertilizer from the list of controlled and regulated chemicals	The PNP list of controlled and regulated chemicals was revised in early 2016 and no longer includes Calcium Nitrate components used in agricultural inputs.	
AUTOMOTIVE		
a. Implementation of the Comprehensive Automotive Resurgency Strategy (CARS)		The Comprehensive Automotive Resurgence Strategy was signed by former President Aquino on May 29 2015, and set out parameters for the subsidization of manufacturing of up to three vehicle models with the objective to attract new investment in the automotive manufacturing sector. However, due to the high production volumes required, no EU automotive company has participated in CARS so far. We now look towards the review of supplementary automotive manufacturing programs to be used as a stepping stone for EU vehicle manufacturers towards availing of CARS.
b. Successful implementation of Euro 4		Since January 1 2016, fuel sold in the Philippines is required to meet Euro 4 standards, while new vehicles sold and introduced in the market are also required to be equipped with a Euro 4 engine and compliant with Euro 4 emissions standards. However, there still remain some shortcomings in terms of its effective implementation and enforcement by all relevant agencies.
c. Inclusion of the vehicle sector in the EU-Philippines FTA negotiations		
d. Development and implementation of more stringent customs procedures		DOF's initiative to request all importers to register with SEC and pass a physical inspection by customs on their business operations (DO No. 12, series of 2014, as amended by DO No.18-2014) has had positive results in terms of elimination illegal imports.

Completed – Recommended action has been completed (eg – law passed, administrative order issued, enforcement has been substantially improved etc)
Substantial progress – There has been significant progress towards achieving the recommendation and it is very likely that the recommendation will be completed in the near future.
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Retrogression – There has been deterioration in the issue described, it has become a more worrying bottleneck for EU business in the past year.

SOME PROGRESS	NO PROGRESS	RETROGRESSION

Negotiations for an EU-Philippines FTA have commenced, with the first round of negotiations being held in May 2016. We are hopeful that the negotiated text will include provisions in support of the EU automotive sector.		

	COMPLETED	SUBSTANTIAL PROGRESS
e. Streamlining of requirements set by specific agencies		
f. Full implementation of WVTAS and promulgation of IRR in line with the 19 priority UNECE regulations for ASEAN		
CONSUMER GOODS AND RETAIL		
a. Revision of the Retail Trade Liberalization Act(RA No. 8762)		
b. Harmonization with ASEAN standards on food and beverage, also focusing on international benchmarks		
c. Recognition and acceptance of internationally recognized standard certifications by FDA		Following the adoption of the majority of Codex Alimentarius standards through AO No. 2014-0030, the FDA has further amended certain labelling standards in harmonization with Codex Alimentarius.
ENERGY AND RENEWABLE ENERGY		
a. Development of a comprehensive National Energy Roadmap, with a focus on a sustainable energy mix		
b. Formulation and promulgation of the RPS Rules and Regulations		The DOE is currently drafting the IRR for the RPS.
c. Public-private sector cooperation, led by DOE, to identify necessary grid upgrade infrastructure projects		
d. Clear definition of responsibilities for the maintenance and improvement of the grid under the TRANSCO-National Grid Company franchise agreement		
e. Creation of a one-stop shop for the approval process of privatization		
f. Creation of an inventory including all available power supply capacity, both active and idle, but conditionally able to operate	The DOE now includes complete lists of existing power plants on its website.	

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While the DTI-BPS has streamlined some of the PNS with UNECE regulations, there still remain PNS which have not yet been harmonized. The proposed WVTAS has not been implemented. The Philippines still needs to harmonize with prevalent ASEAN standards and eliminate localized standards.		

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	Ø	
There have been frequent TWGs in support of establishing MRAs for ASEAN food standards, however there the process has not been completed yet.		

SOME PROGRESS	NO PROGRESS	RETROGRESSION
	Ø	
There have been discussions between multilateral organizations, the Philippine Government and the private sector to this extent. However, there has not been any definite action so far.		
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	COMPLETED	SUBSTANTIAL PROGRESS
g. Increase of FIT-All ceiling for wind power to 500MW		
h. No changes to rates for solar power FIT-All		
i. Clarification on the load capacity of the existing transmission lines, prior to the award of connection agreements by NGCP		
j. 100% foreign ownership for wind and solar RE developers		
k. Recognition of the advanced technology of diesel-solar hybrid application in the ERC regulation		
l. No new filing with the ERC for a retrofit of solar to an existing diesel plant		
m. Full implementation of the RE Act of 2008		
n. Implement national standards for lighting in line with international standards		The standards for LED lighting have already been completed and are pending an issuance by the DOE on mandatory compliance.
o. Facilitation of self-generation through targeted provisions		

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
The second wave of FIT for wind power implemented was an additional 200 MW, bringing the total FIT ceiling for wind power to 400MW.		
		FIT-All rates for solar power have been reduced to PhP8.69 per kilowatt hour for the second wave of installation targets. In the meantime, the total capacity of solar power projects being developed has already surpassed the FIT installation target.
	Ø	
	The 40% limit remains for wind and solar. 100% foreign ownership is only possible for biomass, where the power plant is disintegrated from the biomass landfill.	
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The DOE has been working towards the full implementation of the RE Act of 2008, including the drafting of the IRR for the RPS. However, no progress has been made on the implementing guidelines for the Green Energy Option, RE Market, Section 22-Biomass Plantations. VAT exemption on certain purchases for RE projects (Section 15) cannot be implemented due to lack of revenue regulation, which the BIR has not issued.		
	Ø	

	COMPLETED	SUBSTANTIAL PROGRESS
p. Creation of a National Energy Commission similar in structure to the National Competitiveness Council		
HUMAN CAPITAL		
a. Removal of the practice of all professions from the FINL		All professions were removed from the 10th FINL subject to reciprocity, with the exception of pharmacy, radiologic and x-ray technology, criminology, forestry and law.
b. Allowing foreigners to own companies that provide services delivered by licensed professionals		It is basically understood and accepted that foreigners can own a company, e.g. a Customs Brokerage, as long as the services are delivered by a Filipino national, e.g. a licensed customs broker.
c. Simplification of the system for recognition of foreign qualifications, in line with the Bologna Accord		
d. Definition of stricter guidelines and accreditation procedures for online transnational education opportunities		CHED has made significant progress in developing and implementing the recognition of transnational education opportunities. Again, it is expected that the rollout of the new curriculum in 2018 will lead to further progress.
e. Develop the skill base of the Philippine workforce, through the enactment of the Apprenticeship bill.		
f. Creation of a public-private sector task force, to streamline the approach by all stakeholders towards skill development and training at a nationwide, horizontal level		The EPBN Human Capital Committee has held talks with DEPED to establish public-private cooperation towards skills development, especially as part of the work immersion program of K-12.

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
The EPBN Energy Committee is now focusing on the revival of the Council of Energy Advisers and an expansion of private sector participation, instead of the creation of a National Energy Commission. Discussions are already being held with key stakeholders to this extent. A draft EO was sent to the Office of the President for the establishment of a National Energy Commission during the previous Administration, but was not issued.		

There has been some progress as a result of ASEAN integration. Significant progress is expected in 2018 when the CHED rolls out its new curriculum.		
ECCP worked closely with the Senate and DOLE during the 16th Congress to address concerns raised with regard to the safeguarding of apprentices' rights. However, due to a lack of time the bill was not approved before the end of the 16th Congress.		

	COMPLETED	SUBSTANTIAL PROGRESS
g. Development of programs to incentivize talent retention in the Philippines		
ICT-BPM-KPM-CREATIVE INDUSTRIES		
a. Establishment of a DICT	The law creating a *Department of Information and Communications Technology* (RA No. 10844) was enacted on May 23 2016.	
b. Introduction of a requirement for building owners to provide direct meters with the DU for individual tenants		
c. Implementation of energy efficiency requirements for buildings to become PEZA-accredited		
INFRASTRUCTURE AND TRANSPORTATION		
a. Amendments to the BOT Law to improve the implementation of PPP projects		
b. Improvements to the public procurement framework		
c. Amendments to the IRR of PCAB, in line with the provisions of the 1987 Constitution and legal framework governing the construction sector in the Philippines		
MANUFACTURING		
a. Development of dedicated Domestic/ Export Economic Zones		PEZA and the private sector made substantial progress in planning the implementation of Domestic/ Export Industrial Zones. However they have not been approved yet due to concerns by the BIR on the fiscal incentives to be provided. It is expected that Domestic/ Export Economic Zones will be established with a full set of fiscal incentives under the current Administration, following announcements by the DTI.
b. Creation of one-stop shops for all investors, not just those located in PEZAs		

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
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No progress in old mixed buildings, however progress has been seen in terms of new buildings applying for PEZA status.		
There are still no energy efficiency requirements for buildings to become PEZA accredited. However, Resolution No. 15-239 was issued by PEZA in May 2015 and introduced tax- and duty- free importation for certain energy efficiency technologies for locators.		

	The PPP bill was approved on second reading in the House of Representatives but remained pending in the Senate due to lack of time before the end of the 16th Congress.	
	Ø	
The issue has been raised with PCAB and the Philippine Competition Commission, which is looking into the anti-competitive aspect.		

	Ø	

	COMPLETED	SUBSTANTIAL PROGRESS
c. Inclusion of energy efficiency equipment for PEZA registered companies under VAT and import tax exceptions	Resolution No. 15-239 was issued by PEZA in May 2015 and introduced tax- and duty- free importation for certain energy efficiency technologies for locators.	
d. Introduction of VAT exemption on electricity power for manufacturers in priority sub-sectors or investments outside the main manufacturing areas		
e. Creation of a PPP Task force for a centralized and transparent approach to enforcement and monitoring of industrial practices		
f. Enforcement of targeted action to eradicate smuggling, including implementation of transparency measures, the tightening of egress at freeports and SEZs, and the strict enforcement and heavy punishment of offenders		Members have seen improvements in the past years in terms of better enforcement of anti-smuggling measures. The enactment of CMTA (RA No. 10863) and the promulgation of IRR will contribute to the improvement of customs processes and enforcement of anti-smuggling measures.
g. Infrastructure development to facilitate the transportation of goods, including road infrastructure development, improvement of the port system and decrease of domestic shipping costs		

MARITIME

	COMPLETED	SUBSTANTIAL PROGRESS
a. Creation of a comprehensive port infrastructure development roadmap by the Cabinet Cluster on Port Congestion		
b. Disbursement of the budget which has been allocated to MARINA activities by DBM	MARINA had a total budget of PhP1.2 billion per 2015 General Appropriation Act. The funds were all provided to MARINA per Financial Agency Report No. 1. For 2016, MARINA's budget is PhP1.3 billion.	

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
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While infrastructure gaps still remain a major bottleneck to economic activities, including manufacturing, there have been some improvements. Namely, the introduction of TABs, efforts to re-introduce a train service in and out of Manila port and the establishment of bonded warehouses in Laguna by ICTSI have facilitated the transportation of goods in and out of the country. The enactment of *The Amendments to the Cabotage Law* (RA No. 10668) on July 21 2015 was also a major step towards reducing domestic shipping costs.		

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	COMPLETED	SUBSTANTIAL PROGRESS
c. Development and adoption of a long term roadmap with clear objectives and benchmarks for MARINA		
d. Modernization and Modification of the national ship registry to include a secondary ship registry		
e. Creation of a new body within POEA to deal exclusively with the international recruitment of seafarers		
f. Reform of the seafarers' claim system to improve ruling procedures and eliminate the phenomenon of "ambulance-chasing" (detailed recommendations in the position paper)		
g. Approval of the co-loading bill in the House of Representatives and timely passage of the respective law	*The Amendments to the Cabotage Law* (RA No. 10668) was enacted on July 21 2015 and the IRR were promulgated in May 2016.	
h. Further amendment of R.A. 8424 to revise CCT and GPBT provisions to cover international air and sea cargoes.		
PHARMACEUTICALS		
a. Appointment of a dedicated UHC lead, who will bring together an inter-agency task force to develop the necessary policy, budget and operational recommendations to improve UHC application		
b. Modernization of the Philippine National Formulary (PNF), through an updated, fit-for purpose PNF and a transparent, efficient PNF listing process		The PNF process is being modernized through cooperation between the EU TA project supporting healthcare reform and the DOH. However, there still remain areas for further improvement.

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
There are relevant bills in both Houses of Congress for modernizing MARINA and provide for budget increases, capability building, etc.		
Legislation is being crafted as a result of extensive discussions between private sector and relevant Government agencies, in support of creating a strong national ship registry. The bill filed also includes a second registry for ocean-going vessels not trading domestically.		
	Ø	
The passage of the Seafarers' Protection Act (RA No. 10706), otherwise known as the Anti-Ambulance Chasing Act, on November 26 2015 is a positive step towards addressing the problems that employers of Filipino seafarers face due to the issues with the claims system and protection of seafarers' rights. However, the pro-claimant bias throughout the seafarers' claim system and subsequent costs to international shipping lines are still a major concern for international ship-owners.		
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While a dedicated UHC lead has not been appointed, there have been improvements to the implementation of UHC in the past year.		

	COMPLETED	SUBSTANTIAL PROGRESS
c. Operational and strategic strengthening of the FDA, including the fast-track review of the proposed 5-year Business Plan		There have been substantial improvements to the FDA in the past year. The first tranche of the proposed business plan was approved by the DBM in 2015. Proposed areas for further improvement are included in the 2016 edition of the advocacy papers.
d. Adoption, implementation and enforcement of the Mexico City Principles		The IRR for the implementation of the MCPs were published by the DOH in late December 2015 through DOH Administrative Order "Implementing Guidelines on the Promotion and Marketing of Prescription Pharmaceutical Products and Medical Devices" (DOH AO No. 2015-0053). Full implementation is expected to commence by early 2017.
TOURISM		
a. Expansion of RA No. 10378 to include the exemption of cargo from CCT and GPBT		
b. Amendments to paragraph 4.3 of BIR RR No. 15-2013, to ensure preferential income tax rates or exemption of income tax for offline carriers		
c. Improvement of tourism transportation infrastructure, including air, sea, and road travel		
d. Inclusion of specific measures for strengthened security in the IRR for the creation and operation of TEZs		
e. Increase and institutionalization of the "tourism-oriented police for security and safety"		

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Government efforts to improve infrastructure have been evident over the past year, including the launch of the National Cruise Tourism Development Plan in early 2016 and the conduct of a series of public-private sector working group meetings on maritime tourism development between the DOT and the EPBN Tourism Committee and cooperation between the DOT and ECCP on air transport issues.		
While the IRR have not been amended to strengthen security, TIEZA does have certain operational measures in place in support of increased security, such as the Emergency Response Group.		
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	COMPLETED	SUBSTANTIAL PROGRESS
f. Highlight the limited nature of security concerns in the Philippines, in tourism promotion campaigns		
g. Adoption of incentives for foreign players in the tourism industry, following best practices seen abroad		
h. Application of more consistent and detailed data collection methodologies for the supply side of tourism by DOT		

WATER & ENVIRONMENT

a. Creation of a communication campaign targeted at awareness building for public and private sector decision makers		
b. Amendment of provisions under Sec. 7, Article 1, Chapter 2 of the CWA to provide clearer responsibilities for funding of water treatment projects		
c. Use of advance technologies and projected population growth for the development of water treatment projects		
d. Inclusion of enforceable provisions for the prevention of the use of hazardous building material in new buildings		
e. Creation of a central urban planning agency, attached to DPWH		
f. Production of new tendering documents specifically for flood control projects		
g. Application of long term modelling in the planning process of flood control projects		

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SOME PROGRESS	NO PROGRESS	RETROGRESSION
There has been an increased emphasis on promoting the Philippines as a safe destination in tourism campaigns. However, the kidnapping of two foreign nationals in September 2015 from Samal island re-enforced concerns over safety of travelers.		
	Although TIEZA should provide fiscal and non-fiscal incentives to investors both inside and outside TEZs, those have not yet been implemented.	
The DOT has been collecting supply side hospitality data, such as the "Number of accommodation establishments and room per region, province, city and municipality 2014" survey. However more detailed data collection on the supply side for hospitality is still required.		

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	COMPLETED	SUBSTANTIAL PROGRESS
h. Development of an integrated solid waste management solution		
i. Implementation of waste management projects already approved under the BOT law without further delays		
j. Amendment of the IRR of R.A. 9003 to mandate LGUs to set up professionally designed and operated recycling plants		
k. Adoption and implementation at a national level of a Philippine Hazardous and Radioactive Wastes Management Act		

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WHERE DO WE WANT TO BE?

In a study conducted by IHS in 2015, it was estimated that the Philippines has the potential to become a trillion dollar market by 2029, with a GDP per capita of USD 6,000 by 2024, if high levels of economic growth continue.[41]

Similarly, the economic figures and the recent reforms, send a positive signal with regard to the Philippines' economic prospects. Indeed, with 6% growth forecasted for 2016 and 6.1% for 2017,[42] there is optimism that, despite unfavorable external factors, the Philippines can continue to sustain robust economic growth in coming years. The benefits of such growth on national and individual prosperity can be exponential, as IHS's estimated increase to GDP per capita highlights.

Undoubtedly, this is a shared vision and aspiration of local and foreign business. We want to see the Philippines sustain long-term economic growth and become a leading economy in the region in terms of market share, total trade and incoming FDI. The EU business community in the Philippines would like to witness the Philippines become one of the most important trade and investment partners for the EU in the region. In 2015, the Philippines already ranked as the EU's 6th trade partner in ASEAN[43] – we are confident the Philippines can place itself among the EU's top 4 ASEAN trade partners within the next 10 years.

HOW DO WE GET THERE?

The stable economic growth and the sound macroeconomic policies have gained momentum for the Philippines as a potential investment destination and trading partner. However, it has to pull away from the catch-up game with other ASEAN countries. It must enhance its potential to become a regional leader in terms of foreign investment and trade.

For the Philippines to reach that potential, a dynamic and proactive approach must be taken towards addressing areas which need improvement and which keep the Philippines behind its peers in the region.

GLOBAL MARKET INTEGRATION

Trade facilitation, a proactive approach to bilateral and multilateral trade agreements and an economic policy direction that prioritizes international economic integration are key to the Philippines' economic growth,. A dynamic approach towards the upcoming rounds of negotiations and the necessary reforms and concessions for an EU-Philippine FTA will be decisive in concluding a mutually beneficial agreement that will increase bilateral trade and investment. Furthermore, the numerous technical and administrative barriers often cited by importers and exporters as bottlenecks to trade need to be addressed to facilitate trade and business to business (B2B) cooperation. The application of a National Single Window will be instrumental in addressing many of these administrative barriers.

COMPETITIVENESS AS AN FDI DESTINATION

Although FDI levels have shown great improvement in the past years, the Philippines still lags behind other countries in the region. Employment generation, especially among low skilled workers has much to gain from increased FDI in the country. The Philippines can transform itself into a more attractive investment destination to investors looking into the region by lifting foreign investment restrictions, creating competition in sectors dominated by few domestic players, providing competitive investment incentive packages, improving the ease of doing business across the country, and adopting best practices applied in PEZA zones.

INFRASTRUCTURE DEVELOPMENT

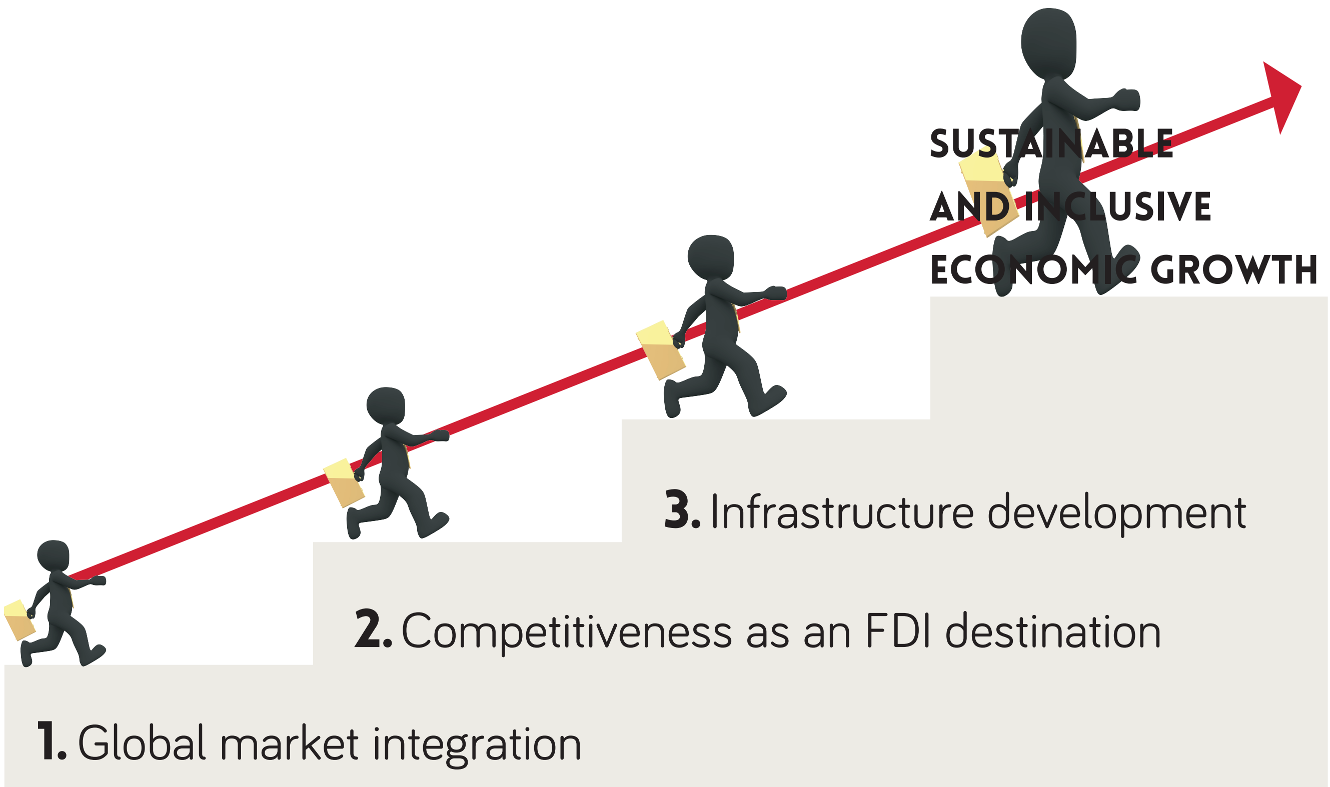
Infrastructure development that facilitates economic

41 Information taken from the PPP Center website: Ambanta, J. (21/04/2015). PH poised to become a trillion-dollar economy. Retrieved 28/06/2016. https://ppp.gov.ph/?in_the_news=ph-poised-to-become-a-trillion-dollar-economy.
42 ADB (2016). Asian Development Outlook 2016, Asia's potential growth. P.21. Manila. The Philippines.
43 European Union, DG Trade (29/04/2016). The Philippines. Retrieved 28/06/2016. http://ec.europa.eu/trade/policy/countries-and-regions/countries/philippines.

growth remains a priority for the country's continued development. While public spending in infrastructure has increased greatly in the past years, there is still space for a more comprehensive approach to infrastructure development to ensure adequate and quality infrastructure, cost-efficiency, and more innovation. The private sector is willing to be part of that process, but it is necessary to establish more dynamic implementation of PPP projects and create a level playing field for foreign companies.

A change of mindset needs to happen in both the private sector and Government. We recognize that this is not an objective that can be achieved either but through cooperation. Government has to make decisive moves to pass the necessary reforms in the spirit of public-private partnership and the private sector has to support the implementation of those reforms in a fair, transparent and effective way.

It is in this context that we present the position papers in the second edition of the EPBN Advocacy Papers, as an overview of what, in our view, needs to be done to reach the full potential of EU-Philippine economic ties and Philippine economic growth. The position papers present suggested reforms as well as how we view the role of the EU business community in the Philippines as partner of the Government to realize these much needed changes with benefits that trickle down to every Filipino.



SUMMARY OF RECOMMENDATIONS

CROSS SECTOR PAPERS

ECONOMIC LIBERALIZATION

Amendment of the economic provisions of the 1987 Philippine Constitution	★ Amend economic provisions in the Constitution to ease restrictions on foreign ownership.
Amendment of the Public Service Act of 1936	★ Amend the Public Service Act of 1936; Revise and limit the scope of the definition of public utilities.
Amendment of the Corporation Code and the Nationality Test	★ Establish the "Control Test" as the single test for determining the nationality of corporations. ★ Amend the Corporation Code to permit the formation of one-person corporations and the extension of the life of corporations.
Amendment of the Government Procurement Reform Act	★ Reform the Government Procurement Reform Act, to remove provisions subjecting the procurement of goods and services to the Flag Law of 1936 and provide for increased transparency and efficiency in the procurement process. ★ Join the WTO Agreement on Government Procurement (GPA).
Integration into the global economy	★ Ratify the WTO Trade Facilitation Agreement (TFA). ★ Join WTO plurilateral initiatives and negotiations including the WTO Agreement on Government Procurement, the Environmental Goods Agreement (EGA) and the Trade in Services Agreement (TiSA).

COMPETITIVE BUSINESS ENVIRONMENT

Full implementation and enforcement of the Philippine Competition Law	★ Fully implement and enforce the Philippine Competition Law; Support the Philippine Competition Commission.
Strengthening the sanctity of contracts	★ Honor international contracts and agreements; Establish mechanisms to strengthen the enforcement of sanctity of contracts.
Comprehensive tax reform	★ Reduce the corporate income tax to become more competitive for investors. ★ Reduce and re-align personal income tax brackets, in line with inflation. ★ Simplify the tax system and prevent tax evasion..

Creation of a competitive fiscal incentives regime	★ Benchmark fiscal incentives currently granted as a minimum for future fiscal incentives regimes. ★ Ensure that fiscal incentives that have been granted are delivered by the Executive Branch. ★ Grant the President the ability to match incentives by other countries to attract specific investors.
Promotion of Transparency and Integrity	★ Implement CMTA, the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol. ★ Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies. ★ Enact a Freedom of Information Act. ★ Create an effective enforcement mechanism for the Anti-Graft and Corrupt Practices Act.
Judicial reform	★ Enact a Whistleblower Protection Act to ensure whistleblowers are guaranteed full protection. ★ Reform the Witness Protection, Security and Benefit Act to address limitations to witness protection in the current law.
Intellectual Property Rights (IPR) protection	★ Continue to improve IPR protection and enforce strict anti-smuggling measures. ★ Create and enforce a policy framework for the protection of Geographical Indications (GIs).
Partnering with Local Government Units (LGUs) to increase the ease of doing business	★ Deepen private sector-LGU partnerships to create an attractive investment environment and support inclusive growth within local communities. ★ Establish an enforcement mechanism that will ensure that national investment policies are not overstepped by LGUs.

ASEAN INTEGRATION

Trade facilitation	★ Remove non-tariff barriers to trade. ★ Implement an ASEAN Single Window. ★ Ease existing Customs procedures across ASEAN to facilitate intra-ASEAN trade.
Investment promotion	★ Protect IPR and clamp down on illicit trade. ★ Implement regional harmonization of standards and regulations. ★ Ease long term investment constraints.

Competitiveness	★ Establish a support framework for Small-Medium Enterprises (SMEs). ★ Facilitate the development and movement of skilled labor.

HIGH-PRIORITY SECTORS

AGRICULTURE

Ensuring EU agriculture interests in the EU-Philippines FTA	★ Include provisions to facilitate market access for EU agriculture products in the EU-Philippines FTA, preferably address some of the issues earlier.
Agricultural value chain development	★ Establish a constructive regular interchange between public and private sector stakeholders for the development and implementation of a sector wide roadmap for agricultural modernization, by building on many opportunities offered by the EU, including GSP+.
Improvements to the regulatory process	★ Modernize and improve transparency in the regulatory processes and expand cooperation with other relevant government agencies through the establishment of a National Single Window.

ENERGY AND RENEWABLE ENERGY

Implementation of a sustainable energy mix policy	★ Enforce a sustainable energy mix policy and review existing licenses for planned coal plant projects.
Adoption of a downstream natural gas policy	★ Enact a Downstream Natural Gas Industry Development Law.
Establishment of a nationwide grid connection	★ Create an integrated national grid system by linking the Mindanao grid with the Visayas.
Support energy efficiency and conservation	★ Enact an Energy Efficiency and Conservation Act.
Implementation of measures in support of increased renewable energy capacity	★ Implement the Renewable Portfolio Standards in the shortest possible timeframe. ★ Approve additional installation targets for Renewable Energy (RE) consistent with the Feed in Tariff (FIT) IRR, which are high enough to mitigate the risk for developers created by the first come first served system.
Revival of the Council of Advisers on Energy Affairs	★ Revive the Council of Advisers on Energy Affairs and expand its private sector membership.

FOOD AND BEVERAGE

Improvement of the registration and regulation process	★ Address inefficiencies in the Certificate of Product Registration (CPR) process to facilitate product registration. ★ Implement and enforce post-market surveillance.
Improvements to the fiscal environment for alcoholic beverages	★ Reduce the excise tax on champagne and sparkling wines. ★ Prioritize the enforcement process and operational efficiency in the application of the alcohol tax stamp.
Enforcement of anti-smuggling measures and implementation of the National Single Window	★ Operationalize a National Single Window that allows full alignment between the BOC and key government agencies. ★ Strengthen enforcement mechanisms through an integrated PPP approach.
Protection of Geographical Indications	★ Implement a GI protection framework.
Creation of a Philippine platform for consumer health, diet and physical exercise	★ Create a Philippine platform for consumer health, physical exercise and diet.

ICT/KPM/BPM

Incentivizing continued investment in the ICT/BPM/KPM sector	★ Issue an Executive Order (EO) to clarify that LGUs cannot override provisions for fiscal incentives included in the Special Economic Zone Act of 1995. ★ Incentivize investment in untapped provincial areas with high growth potential.
Skills development, with an increased focus on STEM capabilities	★ Implement a national skills development strategy and action plan for the ICT/BPM/KPM sector, with a focus on STEM skills.
Improvement of broadband service	★ Design and implement a comprehensive reform strategy to improve broadband connectivity to internationally competitive levels.
Implementation and enforcement of the Data Privacy Act of 2012	★ Implement and strictly enforce the Data Privacy Act of 2012.
VAT exemption for energy in PEZA zones	★ Require building owners to provide direct meters for individual tenants in vertical PEZA zones.

TOURISM

Improvement of international and domestic connectivity	★ Implement measures to improve international air connectivity. ★ Develop a two-airport system in Manila, utilizing NAIA and Clark, and improve international airport infrastructure in high priority tourism destinations. ★ Provide funding for seaports, airports and roads that connect priority tourism destinations.
Development of internationally competitive tourism destinations	★ Implement the incentives program under the Tourism Act of 2009 for tourism enterprises. ★ Support the development of soft infrastructure through the implementation of targeted training programs in Tourism Economic Zone (TEZs). ★ Improve security in major tourism destinations.
Facilitation of investment through adequate data collection on supply in the hospitality sector	★ Improve data collection systems for supply side data on tourism and tourist facilities.

TRANSPORT INFRASTRUCTURE

Removal of foreign ownership restrictions	★ Amend the Public Service Act of 1936; Revise and limit the scope of the definition of public utilities. ★ Reform the Government Procurement Reform Act to remove provisions subjecting the procurement of goods and services to the Flag Law of 1936 and provide for increased transparency and efficiency in the procurement process.
Improvement of the PPP program	★ Amend the BOT Law to strengthen the PPP program, adopting the Senate version of the 16th Congress, and ensure timely implementation. ★ Update the IRR of the BOT Law and PPP Governing Board policy circulars. ★ Establish the use of the Swiss challenge for unsolicited proposals.
PCAB licensing for fully foreign owned contractors	★ Amend the IRR of PCAB to allow regular licenses to be issued to fully foreign owned contractors.
Comprehensive, pro-growth infrastructure development	★ Develop adequate transportation infrastructure across the country that will enhance and sustain economic growth.

SECTOR PAPERS

AUTOMOTIVE

Inclusion of an immediate tariff reduction schedule for vehicles under the EU-Philippines FTA	★ Include the elimination of import tariffs for EU automotive vehicles in the EU-Philippines FTA text, with immediate effect upon ratification of the FTA.
Review of the automotive manufacturing development programs	★ Review existing motor vehicle development programs, as provided for by Section 17 of EO No. 182, and institute incentives for companies intending to eventually participate in CARS.
Facilitation of the importation of vehicle parts	★ Facilitate the importation of vehicle parts to the Philippines by improving processes and aligning Philippine National Standards (PNS) and Import Commodity Clearance (ICC) to international standards.
Implementation of the Motor Vehicle Inspection System	★ Implement the Motor Vehicle Inspection System as a PPP project.
Effective implementation of Euro 4 emissions standards	★ Improve the implementation and enforcement framework of Euro 4 emission standards.

CONSUMER GOODS AND RETAIL

Retail trade liberalization	★ Amend the Retail Trade Liberalization Act to facilitate market access for foreign retail companies and improve competition.
Customs facilitation	★ Extend participation in the Super Green Lane and Super Green Lane Plus to importers with a strong compliance record, irrelevant of their trade volume. ★ Operationalize an effective National Single Window that allows full alignment between the BOC and other key government agencies.

FINANCIAL SERVICES

Amendment of the Bank Secrecy Law	★ Amend the Bank Secrecy Law to include exemptions in the case of investigation of tax fraud and evasion.
Amendments to the Anti-Money Laundering Act of 2001 (AMLA)	★ Amend AMLA to expand its coverage to better enforce anti-money laundering measures in the Philippines.
Senate concurrence of the Foreign Account Tax Compliance Act	★ Implement FATCA in the shortest possible timeframe.

Improvements to the eDST(electronic Documentary Stamp Tax System) system	★ Improve the eDST technical system and put in place safeguards to support smooth operations in the case of system malfunctions.

HEALTHCARE

Facilitation of patient access to life-saving medicines	★ Improve the application process and institutionalize interaction with the private sector in the determination of the medicines that are included in the Philippine National Formulary (PNF). ★ Institutionalize consultations with the private sector to increase the effectiveness of the Maximum Drug Retail Price (MDRP) mechanism.
Continuation of initiatives to strengthen the healthcare sector and Universal Healthcare	★ Strengthen primary healthcare and improve Philhealth services and coverage of out-patient medicines. ★ Continue the improvement of the Food and Drugs Administration (FDA) in support of better regulation and anti-counterfeit enforcement. ★ Create a comprehensive disease and patient register.
Implementation of the Mexico City Principles	★ Enforce the implementation of the Mexico City Principles by all industry players.
Institutionalized public-private sector dialogue	★ Institutionalize a monthly dialogue between Government and private sector.

HUMAN CAPITAL

Skills development	★ Establish a more pragmatic immersion for K to 12 as a PPP with the Department of Education (DEPED) and support the Apprenticeship bill to be refiled in the 17th Congress.
Easing of restrictions on the employment of foreign nationals	★ Relax limits on foreign employment in PEZA zones. ★ Create a one-stop shop for renewals and facilitate the employment of foreign nationals in priority sectors.
Retention and protection of investments in human capital	★ Protect and incentivize employers who invest in competitive training programs.
Development of a pro-business, pro-employee contractualization framework	★ Strengthen enforcement of the laws against the abuse of contractualization and address loopholes, at the same time allow a more flexible work environment.

MANUFACTURING

Development of Domestic/ Export Economic Zones	★ Establish D/EEZs in areas with the highest instances of un- and under- employment.

Reduction of the cost of electricity for manufacturers	★ Exempt manufacturers in priority sub-sectors and areas from VAT on electricity. ★ Expand incentives for investment in energy efficiency technologies by end users.
Expansion of the Manufacturing Resurgence Program	★ Adopt manufacturing resurgence programs, with a focus on incentivizing new investment that generates employment.

MARITIME

Establishment of an objective, trustworthy claims system	★ Review and reform the seafarers' claims process to ensure objectiveness in rulings. ★ Safeguard compensation fees until appeal is final. ★ Enforce the Anti-Ambulance Chasing Act.
Enactment of legislation to strengthen MARINA's capacity to develop the Philippines as a maritime nation	★ Enact legislation that empowers MARINA to implement international maritime conventions and thus develop the Philippines as a maritime nation.
Reorganization of POEA functions for seafarers	★ Create a separate body for the recruitment of Filipino seafarers, focused on a developmental rather than regulatory role. ★ Allow contact between foreign principals and prospective crews during the recruitment process.
Improvement of port infrastructure and the BOC processes	★ Develop port and ancillary infrastructure to meet current and future demand in Manila and the provinces. ★ Improve and automate administrative and customs processes.
Development of the Philippines as an attractive ship registry	★ Create a modern, attractive Philippine ship registry.

WATER AND ENVIRONMENT

Improvement of the technical specification for Government water infrastructure projects	★ Develop specific technical procurement documents and Terms of Reference (TORs) for water infrastructure projects.
Improvement of governance and formulation of a long term vision for the water sector	★ Develop a long term national development roadmap for a centralized approach to water management and enact true sectoral reform for the water sector. ★ Enact legislation to strengthen the legislative and institutional framework for the development and regulation of the water sector. ★ Improve the operational efficiency and capacity of LGUs in the water sector. ★ Involve the private sector through more PPPs.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CHAMBER OF COMMERCE
PHILIPPINES
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ITALIAN CHAMBER OF COMMERCE IN THE PHILIPPINES, INC.
La Cámara
NORDIC
BUSINESS
COUNCIL
PHILIPPINES
N B C P

CROSS-SECTOR PAPERS

EU-PHILIPPINE ECONOMIC TIES: AS A NEW CHAPTER UNFOLDS

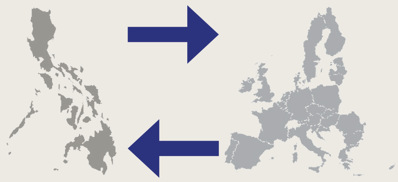
CROSS-SECTOR PAPERS

EU-PHILIPPINE ECONOMIC TIES ALREADY BENEFIT BOTH ECONOMIES

6,274 PHILIPPINE PRODUCTS have tariff free access to the EU market under **GSP+**

2015 **€ 6.8 BN**
Trade in Goods

2014 **€ 1.8 BN**
Trade in Services



€ 6.8 BN 2015
Trade in Goods

€ 1.5 BN 2014
Trade in Services

600 EUROPEAN COMPANIES → **400,000 JOBS**
in the Philippines

EU was **THE PHILIPPINES'** 4th largest trade partner. 2015

THE PHILIPPINES was the **EU'S** 6th largest trade partner in the region. 2015

EU COMPANIES ARE COMMITTED TO SUPPORT

INNOVATION

Technology transfer

Knowledge transfer

EMPLOYMENT GENERATION

INCLUSIVE ECONOMIC GROWTH

BUT FIRST, IT IS NECESSARY TO FACILITATE MARKET ACCESS AND CREATE A LEVEL PLAYING FIELD, THROUGH:

- Economic liberalization of key economic sectors
- Conclusion of EU-Philippines FTA
- Increased ASEAN integration
- Reformed and liberalized Government Procurement
- Enforcement of the Philippine Competition Law
- Comprehensive tax reform
- Promotion of Transparency and integrity
- IPR protection

CROSS-SECTOR PAPERS

ECONOMIC LIBERALIZATION

AMENDMENT OF THE ECONOMIC PROVISIONS OF THE 1987 PHILIPPINE CONSTITUTION

Amend economic provisions in the Constitution to ease restrictions on foreign ownership in certain economic activities.

REVISION OF THE SCOPE OF PUBLIC UTILITIES

Revisit the Public Service Act of 1936 to revise and limit the scope of the definition of public utilities.

AMENDING THE CORPORATION CODE, WITH SPECIAL FOCUS ON THE IDENTIFICATION OF CORPORATIONS' NATIONALITY: CONTROL TEST VS GRANDFATHER RULE

Establish the "Control Test" as the single test for determining the nationality of corporations.

Amend the Corporation Code to permit the formation of one-person corporations and the extension of the life of corporations.

AMENDMENT OF THE GOVERNMENT PROCUREMENT REFORM ACT

Reform the Government Procurement Reform Act, to remove provisions subjecting the procurement of goods and services to the Flag Law of 1936 and provide for increased transparency and efficiency in the procurement process.

Join the WTO Agreement on Government Procurement.

In their report "Trade, Growth and Poverty", published in 2014, Dollar and Kray showed that countries which have liberalized registered acceleration of real income in their growth patterns.[44] The direct correlation between liberalization and economic growth patterns in developing countries can be seen in much of ASEAN. However, the Philippines remains one of the most restrictive countries in the region in terms of economic liberalization. This is reflected in the levels of FDI that the country receives. Despite substantial growth in incoming FDI in the past years, it only accounted for 4.8% of total net FDI into the region in 2015.[45] In fact, while the Philippines continues to show some of the highest growth rates in the region, two out of three major growth drivers are consumption and OFW remittances (the other being the IT/BPM sector).

If the country is to move towards more sustainable

44 Dollar, D. and Kray A. (2004), "Trade, Growth and Poverty," Economic Journal, Vol. 114, Issue 493, pp. F22-F49.

45 ASEAN Secretariat (2016). Table 25 – Foreign direct investment net inflows, intra- and extra- ASEAN. Retrieved 26/06/2016. http://asean.org/storage/2015/09/Table-251.pdf.

economic growth, inclusive prosperity and the country's trade balance, incentivizing investment is imperative.

The first step is to liberalize key economic activities. This opens the economy to much needed capital investments while giving foreign investors sufficient participation in the management of the business to manage the risk of their capital investments and increase their potential returns on investment.

In addition to the major legislative reforms required to facilitate economic liberalization listed in this section, there are also low hanging fruits that have the potential to greatly benefit the economic landscape and Filipino consumers. Further amendment of the Retail Trade Liberalization Act to make it easier for foreign retail companies to enter the market, and the removal of restrictions on foreign ownership of solar and wind power from the IRR of the Renewable Energy Act of 2008, are two such measures.

Liberalization of key economic activities should also be considered as a priority in light of the ongoing EU-Philippines FTA negotiations and the discussions of the Philippines joining the TPP. Based on the existing TPP text which the Philippines would be required to adhere to and the texts of previous FTAs negotiated by the EU with countries in the region, economic liberalization will be a decisive factor in the completion of agreements for the Philippines' participation in these two important agreements.

1. AMENDMENT OF THE ECONOMIC PROVISIONS OF THE 1987 PHILIPPINE CONSTITUTION

ISSUE DESCRIPTION

The Philippine Constitution of 1987 provides for restrictions to foreign ownership in a number of key economic sectors. Specifically, Article XII sets limits to foreign ownership or interest on the exploration, development and utilization of natural resources, lands, public utilities, educational institutions, mass media and advertising. The restrictions in the Constitution constitute a major barrier to the opening up of the Philippine economy in a fast integrating global value chain. Notably, the Philippines is one of few countries worldwide to maintain restrictions to foreign ownership in its Constitution, rather than in the national legislative framework.

By maintaining foreign ownership restrictions in the Constitution, the economy is essentially stymied as it limits the level of foreign investment that will increase growth and create a competitive business environment. There should be scope for lawmakers to respond to the changing global economic and investment environment, while still protecting the goals of national economy and patrimony.

Additionally, the Philippines is pursuing an ambitious agenda for further regional and international integration into the global market. The Philippines is already a member of the AEC, currently negotiating for an EU-Philippine FTA, and interested in joining the TPP once it is ratified. Removing restrictions to foreign ownership of key sectors from the Constitution, subject to legislation, will send a positive message on the commitment of the Philippines to these agreements. Indeed, it may be a decisive factor in terms of the Philippines' ability to participate in these important agreements, following basic benchmarks set in the TPP and other EU FTAs.

As a genuine effort on the part of Congress to address this obstacle, both Houses sought to introduce an amendment that would permit the legislature to pass laws allowing greater foreign participation in certain economic activities. Unfortunately, it did not muster enough support in the 16th Congress.

RECOMMENDATIONS

AMEND ECONOMIC PROVISIONS IN THE CONSTITUTION TO EASE RESTRICTIONS ON FOREIGN OWNERSHIP.

We support the passage of amendments to the Constitution that would allow greater foreign participation. Ideally, the economic provisions would be amended to totally remove the restrictions as in other jurisdictions. The new Administration has expressed its openness to this and we hope it can be carried out. If, however, consensus on this proves difficult to obtain, amendments granting the legislature the authority to pass laws that allow greater foreign ownership in certain activities, by inserting the phrase "unless otherwise specified by law" in front of restrictive clauses could serve as a reasonable middle ground. We thus recommend a two-pronged approach whereby total elimination of foreign restrictions and grant of authority to Congress to legislate exemptions are simultaneously sought. Concurrent moves on these reforms will send a positive message to international investors and trade and investment partners alike, that the Philippines is open for business.

2. AMENDMENT OF THE PUBLIC SERVICE ACT OF 1936

ISSUE DESCRIPTION

Article XII, Section 11 of the Philippine Constitution provides that:

> *No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years.*
>
> *Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public.*
>
> *The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.*

As stated above, public utilities are partly nationalized, reserving it to Filipino citizens and entities with at least 60% Filipino ownership. The term "public utility" was used in Act Nos. 2307, 269 and 3108. It was then interchangeably used with "public service" in a later law (Commonwealth Act (CA) No. 146) and subsequently abandoned and replaced with "public service" in CA No. 454. The subsequent enactments, RA No. 1270 and RA No. 2677, also defined public service only.

The Supreme Court has thereafter interpreted "public utility" to be "a business or service engaged in regularly supplying the public with some commodity or service of public consequence such as electricity, gas, water, transportation, telephone or telegraph service" and explained that the term implies public use and service. [46][47]

"Public service" is in turn defined by enumeration in the Public Service Act of 1936 (CA No. 146 as amended by RA No. 2677):

> *The term "public service" includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes, any common carrier, railroad, street railway, traction railway, sub-way motor vehicle, either for freight or passenger, or both with or without fixed route and whether may be its classification, freight or carrier service of any class, express service, steamboat or steamship line, pontines, ferries, and water craft, engaged in the transportation of passengers or freight or both, shipyard, marine railways, marine repair shop, [warehouse] wharf or dock, ice plant, ice-refrigeration plant, canal, irrigation system, gas, electric light, heat and power water supply and power, petroleum, sewerage system, wire or wireless communications system, wire or wireless broadcasting stations and other similar public services: Provided, however, That a person engaged in agriculture, not otherwise a public service, who owns a motor vehicle and uses it personally and/or enters into a special contract whereby said motor vehicle is offered for hire or compensation to a third party or third parties engaged in agriculture, not itself or themselves a public service, for operation by the latter for a limited time and for a specific purpose directly connected with the cultivation of his or their farm, , the transportation, processing, and marketing of agricultural products of such third party or third parties shall not be considered as operating a public service for the purposes of this Act.*[48]

Notably, some activities have been exempted from the coverage of the law, such as steamboats, motorships and steamship lines, [49] motor vehicles used in special contracts for a limited time and for a specific purpose directly connected with agriculture, [50] tugboats and lighters, [51] ice and refrigeration plants, municipal warehouses, vehicles drawn by animals and bancas moved by oar or sail, airships, radio companies, and public services owned or operated by any instrumentality of the national Government.[52]

However, all other industries continue to be covered and

46 *National Power Corporation v. CA*, G.R. No. 112702 (September 26, 1997).
47 *JG Summit Holdings, Inc. v. Court of Appeals*, G.R. No. 124293, 24 September 2003.

48 REP. ACT No. 2677, sec. 1, amending Sec. 13(b), COMM. ACT No. 146 as amended.
49 COMM. ACT No. 454 (1939).
50 REP. ACT No. 1270 (1955).
51 REP. ACT No. 2013 (1957).
52 REP. ACT No. 2677 (1960).

subject to 40% foreign ownership limitation.

The list of commodities and services included in Section 13(b) of the Public Service Law of 1936 is a major bottleneck to the creation of healthy market competition for the benefit of the wider public.

The telecommunications sector is a notable example where the definition of wire or wireless telecommunication systems as a public utility has created a saturated market with two dominant players who profit from little competition and the very difficult process obtain licensing. Consequently, despite regulation, the cost and quality of services provided to consumers are arguably the least competitive in ASEAN.

Similarly, the concept of public utilities as including both the services and the physical infrastructure impedes foreign investment in infrastructure, which the country seriously needs.

There is therefore a need to revisit the conceptual definition of public utilities and the sectors listed in the Public Service Act of 1936 so that only those activities that fulfill the definitions of "regularly supplying the public with some commodity or service of public consequence"[53] are included.

RECOMMENDATIONS

AMEND THE PUBLIC SERVICE ACT OF 1936; REVISE AND LIMIT THE SCOPE OF THE DEFINITION OF PUBLIC UTILITIES.

We therefore recommend a reexamination of section 13(b) of the Public Service Act of 1936. The definition of "public utility" should be updated in two ways. First, it should only include services that are really serving the public in the present context. In certain jurisdictions, the public utilities are only water and electricity. Second, a distinction has to be made between the supply of services and commodities of public consequence and the physical structure where the services are provided. For example, in the case of a train system, the service of public consequence would be the carriage services. The rail infrastructure as a physical structure would not be a public utility. By making this distinction, greater foreign capital can be infused in the construction and maintenance of infrastructure while reserving the provision of services to Filipinos, thus preserving the public interest that the nationality requirement seeks to protect.

53 *JG Summit Holdings, Inc. v. CA*, G.R. No. 124293, 24 September 2003.

3. AMENDMENT OF THE CORPORATION CODE, SPECIFICALLY THE TEST OF A CORPORATION'S NATIONALITY: CONTROL TEST VS GRANDFATHER RULE

CONTROL TEST

at least 60% of its capital stock outstanding is owned by Philippine citizens and at least 60% of the members of its board of directors are Filipino citizens.

V

GRANDFATHER RULE

determines the nationality of a corporation based on the nationality of its stockholders and looks at the cascade of companies and their ultimate parent.

ISSUE DESCRIPTION

In order to determine whether a corporation is foreign-owned or not, and therefore able to participate in economic activities with limitations on foreign ownership, there are two established tests of a corporation's nationality. These are the control test and the grandfather rule. Under the control test, a corporation is considered a Philippine national if at least 60% of its capital stock outstanding is owned by Philippine citizens and at least 60% of the members of its board of directors are Filipino citizens. On the other hand, the grandfather rule determines the nationality of a corporation based on the nationality of its stockholders and looks at the cascade of companies and their ultimate parent company. The usual test that is applied is the control test and only when there is doubt after applying the control test is the grandfather rule resorted to. If the Filipino ownership in the corporation or partnership is less than 60%, only the number of shares corresponding to such percentage shall be counted as of Philippine nationality. The combined totals in the investing corporation and the investee corporation are traced to determine the total percentage of Filipino ownership. Still, the application of this test has been rather inconsistent and unpredictable.

The use of the grandfather rule increases the barriers for market entry to foreign corporations. Coupled with existing legislative barriers to foreign investment, such as the FINL, this makes the Philippines uncompetitive in attracting incoming FDI. A clearer policy on the use of control test vs grandfather rule, and indeed, the exclusive use of the control test to determine the nationality of a corporation would not only increase transparency and clarify to international investors what test is followed, but it would also simplify the compliance process and facilitate FDI into sectors that most need the capital and innovation that partnerships with foreign investors can provide.

During the 16th Congress, House Bill (HB) No. 4407 sought to amend the Corporation Code to include provisions that would set clear guidelines on the determination of a corporation's nationality. However, while it determined that the "control test" should be used as the general rule to determine a corporation's nationality, it also included exceptions, specifically:

I. When the corporation is required by the Constitution or by statute to be wholly nationalized;
II. When the corporation has a corporate stockholder owning less than 60% of both its outstanding capital stock and voting stocks; and
III. When a more stringent measure is required by the Constitution or other laws.

The vagueness of the exceptions effectively negates the stability and predictability in the application of the test of nationality.

RECOMMENDATIONS

ESTABLISH THE "CONTROL TEST" AS THE SINGLE TEST FOR DETERMINING THE NATIONALITY OF CORPORATIONS.

We strongly support the passage of amendments to the Corporation Code which would establish the "control test" as the single rule of determining a corporation's nationality. The use of the control test will facilitate investment in important economic activities, by clarifying the rules of participation in partnerships with local corporations for foreign investors, therefore opening the way for an inflow of capital, technology and skills.

AMEND THE CORPORATION CODE TO PERMIT THE FORMATION OF ONE-PERSON CORPORATIONS AND THE EXTENSION OF THE LIFE OF CORPORATIONS.

Additionally, we support the introduction of amendments to the Corporation Code to permit the formation of one-person corporations and allow juridical persons to become incorporators as it will facilitate investment and legal contribution to the Philippine economic environment by foreigners. This reform will also align the Philippines to what is practiced in other countries.

4. AMENDMENT OF THE GOVERNMENT PROCUREMENT REFORM ACT

ISSUE DESCRIPTION

The Government Procurement Reform Act (RA No. 9184) was enacted in 2003 to modernize, standardize and regulate the Government's procurement activities. Among other provisions, it provides for the establishment of the Government Procurement Policy Board and the use of the Philippine Government Electronic Procurement System (PhilGEPS), which is seen as a vehicle to promote transparency and efficiency.

While the Act provides for the procurement of local and foreign goods and services, it also subjects government procurement processes to the Flag Law of 1936 (CA No. 138) which provides that the procurement of supplies, materials or public works for public use shall be purchased from domestic suppliers. In the case of public bidding, the award shall be given to the domestic entity making the lowest bid.

Additionally, while measures such as PhilGEPs and the creation of the Procurement Transparency Board have improved the procurement process, the law could benefit from stronger policy framework governing transparency, efficiency and the determination of technical requirements throughout the procurement process.

As long as the procurement process is not fully competitive and is restrictive to foreign participation, national infrastructure, both soft and hard, will lag behind. Foreign investors are prepared to introduce long term investment into the country, not just in terms of capital but also in terms of technology and knowledge transfer and long term employment generation. However, in order to invest, they need to be allowed fair access to the procurement process. Lack of transparency and efficiency in the process also hampers the delivery of vital goods and services at affordable prices to the Filipino consumer, be it roads, medicines or schools.

Additionally, the current procurement regime stands as an obstacle to the Philippines' aspiration of international market integration. The liberalization and improvement of the Philippine procurement process will be a significant factor in the conclusion of an EU-Philippine FTA and the accession of the Philippines into the TPP.

There were a number of bills filed in both Houses of Congress during the 16th Congress with the objective to amend certain provisions in the Philippine Government Procurement Reform Act, but they did not progress.

RECOMMENDATIONS

REFORM THE GOVERNMENT PROCUREMENT REFORM ACT, TO REMOVE PROVISIONS SUBJECTING THE PROCUREMENT OF GOODS AND SERVICES TO THE FLAG LAW OF 1936 AND PROVIDE FOR INCREASED TRANSPARENCY AND EFFICIENCY IN THE PROCUREMENT PROCESS.

We recommend that the Government Procurement Reform Act is amended to remove provisions that subject the procurement of goods and services to the Flag Law of 1936, and eliminate the preferential treatment given to domestic goods and services to open up Government procurement to a fully competitive process. Additionally, we suggest the amendment and inclusion of reforms to provide clear guidelines and mechanisms that will ensure the transparency and efficiency of the procurement process, in line with international best practices. The development of an internationally reputable, transparent and fair procurement process will attract more international capital and investment. Furthermore, opening up to increased competition in the procurement process will conceivably improve the standards and cost of projects and ultimately redound to national welfare.

JOIN THE WTO AGREEMENT ON GOVERNMENT PROCUREMENT.

In addition to the reform of the legislative framework for procurement, we believe that the Philippines' participation in the WTO Agreement on Government Procurement (GPA), initially as an observer, will benefit the country's procurement process by remaining informed and adapting international best practices. It will also increase the country's credibility internationally among partner countries and reputable international companies who can greatly contribute to the Philippines' development through their participation in procurement processes and the subsequent projects.

5. INTEGRATION INTO THE GLOBAL ECONOMY

ISSUE DESCRIPTION

The Philippines is a member of a number of international and multilateral organizations, one of which is the WTO. As a member of the WTO since January 1 1995, and of General Agreement on Tariffs and Trade (GATT) since December 27 1979, the Philippines has increased its integration into the global market by adopting policies that are aligned with WTO regulations and agreements, in support of market access facilitation and improved trade ties.

One major recent WTO Agreement is the WTO Trade Facilitation Agreement (TFA). Negotiations between WTO members for a TFA were concluded at the Bali Ministerial Conference that took place in December 2013. In November 2014, a Protocol of Amendment was adopted by WTO members to insert the TFA into Annex 1A of the WTO Agreement. The TFA includes provisions for expediting the movement, release and clearance of goods, including goods in transit. Additionally, it puts in place measures in support of effective cooperation between relevant authorities, including customs, on trade facilitation and customs compliance issues. It also contains provisions on technical assistance and capacity building. In the case of the Philippines, although DTI submitted the documentation for ratification of the Agreement to the Office of the President in early 2016, it was not ratified before the end of the previous Administration. Ratification is now pending and subject to submission of documentation for ratification to the Office of the President.

Additionally, 17 WTO members[54] are currently taking part in negotiations for the Environmental Goods Agreement (EGA). The agreement will target the removal of barriers to trade for environmental goods that are crucial to environmental protection. The Agreement will aim to remove tariffs from a number of environmental goods, building upon the list of 54 products on which APEC member countries have agreed to reduce tariffs to 5% by 2015. The list will be open to further review and additions after its adoption. EGA is a plurilateral Agreement, therefore participation by WTO members is voluntary. The Philippines has not yet indicated if it plans to join negotiations.

The Trade in Services Agreement (TiSA) is currently being

54 Australia, Canada, China, Costa Rica, Chinese Taipei, the European Union, Hong Kong (China), Japan, Korea, New Zealand, Norway, Switzerland, Singapore, United States, Israel, Turkey and Iceland.

negotiated by 23 WTO members, [55] which collectively account for 70% of world trade in services. TiSA builds upon the WTO's General Agreement on Trade in Services (GATS) and aims to liberalize markets and improve rules for licensing, financial services, telecoms, e-commerce, maritime transport, and professionals moving abroad temporarily, among others. Similar to the EGA, TiSA is a plurilateral Agreement; the Philippines has not yet indicated whether it plans to join negotiations.

RECOMMENDATIONS

RATIFY THE WTO TRADE FACILITATION AGREEMENT.

We strongly recommend ratification of the WTO TFA soonest to ensure full compliance with the Agreement. Taking into consideration the recent enactment of CMTA, it is important that its implementation and general customs operations are aligned to the WTO TFA, to meet the objectives of facilitating market access, improving transparency and efficiency and addressing operational bottlenecks to trade.

JOIN WTO PLURILATERAL INITIATIVES AND NEGOTIATIONS INCLUDING THE WTO AGREEMENT ON GOVERNMENT PROCUREMENT (GPA), THE ENVIRONMENTAL GOODS AGREEMENT AND THE TRADE IN SERVICES AGREEMENT.

The Philippines' accession to the WTO GPA, initially as an observer, and participation in ongoing negotiations on the EGA and TiSA agreements will be a decisive factor in continuing to integrate the Philippines into the international economy and the adoption of international practices, for increased competitiveness, market access facilitation and a level playing field.

55 Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, the EU, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Turkey and the United States.

CROSS-SECTOR PAPERS

A COMPETITIVE BUSINESS ENVIRONMENT

STRENGTHENING THE SANCTITY OF CONTRACTS
Honor international contracts and agreements; establish mechanisms to strengthen the enforcement of sanctity of contracts.

CREATION OF A COMPETITIVE FISCAL INCENTIVES REGIME
Benchmark fiscal incentives currently granted as a minimum for future fiscal incentives regimes.
Ensure that fiscal incentives that have been granted are delivered by the Executive Branch.
Grant the President the ability to match incentives by other countries to attract specific investors.

JUDICIAL REFORM – IMPROVING THE LEGAL PROTECTION SYSTEM FOR WHISTLEBLOWERS AND STATE WITNESSES
Enact a Whistleblower Protection Act to ensure whistleblowers are guaranteed full protection.
Reform the Witness Protection, Security and Benefit Act to address limitations to witness protection in the current law.

PARTNERING WITH LGUs TO INCREASE THE EASE OF DOING BUSINESS
Deepen private sector-LGU partnerships to create an attractive investment environment and support inclusive growth within local communities.
Establish an enforcement mechanism that will ensure that national investment policies are not overstepped by LGUs.

FULL IMPLEMENTATION AND ENFORCEMENT OF THE PHILIPPINE COMPETITION LAW
Fully implement and enforce the Philippine Competition Law, support the Philippine Competition Commission.

COMPREHENSIVE TAX REFORM
Reduce the corporate income tax to become more competitive for investors.
Reduce and re-align personal income tax brackets, in line with inflation.
Simplify the tax system and prevent tax evasion.

PROMOTION OF TRANSPARENCY AND INTEGRITY
Implement CMTA in line with the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol.
Operationalize a National Single Window that allows full alignment between the BOC and key Government agencies.
Enact a Freedom of Information Act.
Create an effective enforcement mechanism for the Anti-Graft and Corrupt Practices Act.

IPR PROTECTION
Continue to improve IPR protection and enforce strict anti-smuggling measures.
Create and enforce a policy framework for the protection of GIs.

In addition to market access, the ease of doing business in a jurisdiction is also a major factor in investors' decision to enter a market. According to the Global Competitiveness Index 2015-2016, the Philippines ranked 47 out of 140 countries, [56] while in the World Bank Doing Business Report 2016, it ranked 103 out of 189.[57] (see table 03+04)

table 03 - **ASEAN Member States Global Competitiveness Index 2015-2016 rankings**

2	Singapore
18	Malaysia
32	Thailand
37	Indonesia
47	**Philippines**
56	Vietnam
83	Lao PDR
90	Cambodia
131	Myanmar

*No information available for Brunei Darussalam

Source: World Economic Forum (2015). The Global Competitiveness Report 2015-2016, Global rankings.

table 04 - **ASEAN Member States WB Doing Business 2016 rankings**

1	Singapore
18	Malaysia
49	Thailand
84	Brunei Darussalam
90	Vietnam
103	**Philippines**
109	Indonesia
127	Lao PDR
134	Cambodia
167	Myanmar

Source: World Bank (2015). Doing Business 2016, Global rankings.

These rankings demonstrate that the Philippine business environment remains challenging, despite positive developments in recent years. To be sure, the creation of export processing zones under PEZA, considered as one of the best practices, fostered a competitive and attractive investment environment for foreign investors that the WB Doing Business Report does not take into account. Still, the ease of doing business in the Philippines can be further improved. Difficulties in doing business not only serve as a barrier to market entry but also encourage entrepreneurs and start-up investors to stay 'underground'. Creating a competitive business environment will not just be advantageous for foreign investors, it will also support increased efficiency and productivity for all.

56 WEF (2015). The Global Competitiveness Report 2015-2016, Philippines.
57 WB (2015). Doing Business 2016, Philippines.

1. FULL IMPLEMENTATION AND ENFORCEMENT OF THE PHILIPPINE COMPETITION LAW

ISSUE DESCRIPTION

After decades of lobbying, the Philippines enacted on July 21 2015 a landmark piece of legislation in the area of fair trade, the Competition Law. The law sets a legislative framework to ensure fair market competition, in line with international standards and best practices. It seeks to enhance economic efficiency and promote free and fair competition in trade, industry and all commercial economic activities; establish a National Competition Policy; prevent economic concentration that will unduly stifle competition; penalize all forms of anti-competitive agreements, abuse of dominant position and anti-competitive mergers and acquisitions, with the objective of protecting consumer welfare and advancing domestic and international trade and economic development.

Pursuant to the law, a Philippine Competition Commission was constituted, composed of a chairperson and four commissioners. To their credit, the Commission promulgated the implementing rules and regulations within a few months from their constitution. Both the law and the implementing rules draw from the more developed EU competition law. As of this writing, the Commission has yet to issue rules of procedure for enforcement of the provisions of the law, which is important both for the effective implementation of the law and observance of due process.

Two features of the Competition Law are worth mentioning. First, the Competition Law covers state-owned enterprises or what is known as the Government-owned and Controlled Corporations (GOCCs). This is important because GOCCs, by virtue of their state ownership, enjoy a preferential status that is sometimes used as a justification for anti-competitive conduct. An oft-cited example are GOCCs which have the dual functions of being operators and regulators. By being the regulators of their own competitors, said GOCCs suffer from an inherent conflict of interest which calls into question the existence of a level playing field. The inclusion of GOCCs in the coverage of the Competition Law thus appears to be the first step towards removing this anomalous situation and puts GOCCs at par with any other business entity.

Second, the Competition Law contains a provision on the Commission's relationship with sector regulators. It directly tackles the jurisdiction of the Commission vis-à-vis another co-equal body where a business is simultaneously subject to the regulatory supervision of another agency that also has the mandate or authority to regulate and penalize anti-competitive conduct. The Competition Law thus provides that the Commission shall have original and primary jurisdiction in the enforcement and regulation of all competition-related issues. It also provides for collaboration between the Commission and the sector regulators to promote competition, protect consumers, and prevent abuse of market power by dominant players within their respective sectors.

The enactment of the Philippine Competition Law is a milestone in terms of establishing a level playing field and addressing anti-competitive practices that have long affected Filipino consumers especially in sectors such as retail, infrastructure and telecommunications. The provisions against anti-competitive conduct and abuse of dominant position coupled with the approval requirements for mergers and acquisitions having a transaction value above PhP 1 Billion should ideally be able to curb anti-competitive conduct as well as put an end to monopolies/duopolies/oligopolies. If implemented successfully, the law has the potential to revolutionize the Philippine market and open saturated sectors to new players. The benefits on the Filipino consumer will be considerable as increased market competition invariably leads to the delivery of higher quality goods and services at more competitive prices. The application of principles of fair competition in sectors which until now, have been difficult for new market entrants to compete in, will increase the attractiveness and investment potential for foreign investors and new domestic investors to enter.

However, actual implementation and effectiveness of the law remains to be seen.

In May of this year, Philippine Long Distance Telephone Co. (PLDT) and Globe Telecom, dubbed as the telecommunications duopoly of the Philippines, were able to acquire San Miguel Corporation's ("SMC") Vega Telecom Inc., the potential third player in the market. The acquisition, which has a transaction value of PhP 61.9 Billion, was made while the Commission was about to finalize the implementing rules and regulations that would supersede a memorandum circular on mergers and acquisitions earlier issued by the Commission. The acquisition was done during the affectivity of the memorandum circular that ostensibly exempted mergers and acquisitions that met the transaction value threshold from the Commission's evaluation provided they comply with the notification requirements. The execution of this deal stirred doubts on the effectiveness of the anti-competitive policy, given that the purchase of SMC's spectrum was approved by the National Telecommunications Commission, the sector regulator, and the acquisition "deemed approved" by the Competition Commission by virtue of the memorandum circular. If such an acquisition, which clearly falls within the ambit of the Competition Law, could be carried out by a duopoly, the question of whether the law will be implemented in its full force becomes critical.

IMPACT ON THE BUSINESS ENVIRONMENT

The enactment of the Philippine Competition Law is a milestone in terms of establishing a level playing field and addressing anti-competitive practices that have long affected Filipino consumers especially in sector such as retail, infrastructure and telecommunications. The provisions against anti-competitive conduct and abuse of dominant position coupled with the approval requirements for mergers and acquisitions having a transaction value above One Billion Pesos should ideally be able to curb anti-competitive conduct as well as put an end to monopolies/duopolies/oligopolies. If implemented successfully, the law has the potential to revolutionize the Philippine market and open saturated sectors to new competition. The benefits on the Filipino consumer will be considerable as increased market competition invariably leads to the delivery of higher quality goods and services at more competitive prices. The application of principles of fair competition in sectors which until now, have been difficult for new market entries to compete in, will increase the attractiveness and investment potential for foreign investors and new domestic investors to enter.

On the other hand, if the law is either selectively implemented or honored more in circumvention rather than in application, then it will only reinforce the perception that whether there is a competition law or not, the Philippine economy will always be dominated by a few oligarchs, to the huge disadvantage of the public.

RECOMMENDATIONS

FULLY IMPLEMENT AND ENFORCE THE PHILIPPINE COMPETITION LAW, SUPPORT THE PHILIPPINE COMPETITION COMMISSION.

With this in mind, we look forward to the full implementation of the Philippine Competition Law and the enforcement of regulatory measures and punitive provisions for those who do not comply. The rules of procedure should also be promulgated without delay so that the absence thereof cannot be used as an excuse for non-enforcement of the law.

With respect to the interpretation of the law and the implementing rules, reference to other jurisdictions and international best practices is encouraged with a view to strengthening the law and creating a wealth of jurisprudence that is geared towards a strict but reasonable implementation of the law. The exceptions provided in the law should be applied only in genuinely meritorious cases; these should not serve as opportunities for legal maneuverings that would negate the purposes of the law. Similarly, the uniform application of the law to state-owned enterprises is key in signifying to the business community the Government's seriousness in enforcing the national competition policy.

The role of sector regulators as partners in ensuring the successful implementation of the law cannot be underestimated. As in other legislations that need to be implemented through joint efforts of various government agencies, it is recommended that the Commission enter into memorandum of agreement with relevant sector regulators that would allocate jurisdictions and responsibilities and at the same time identify points of collaboration.

We also highlight the importance of ensuring that the two year transition period is used not as an opportunity for anti-competitive measures to be implemented by the private sector, but a time during which private sector is expected to transition to market practices that comply with the principles of fair competition and the provisions of the Philippine Competition Law.

2. STRENGTHENING THE SANCTITY OF CONTRACTS

ISSUE DESCRIPTION

Recent cases involving government contracts with foreign private firms have frustrated, if not scared, foreign investors in the country. One such case involves Fraport AG Frankfurt Airport Services Worldwide, a German company that invested in Philippine International Air Terminals Co., a Philippine company. Philippine International Air Terminals Co. (PIATCO) was granted by the Philippine Government in 1997 the concession rights for the construction and operation of the NAIA Passenger Terminal III. In 1998, PIATCO's Concession Agreement was subject to amendment. Thereafter, construction of the airport commenced in 2000. In 2001, however, renegotiations ensued between PIATCO and the Government, which eventually reached an impasse. At this time, the contract became subject of investigation which led to the President of the Philippines declaring in 2002 that the Government will not honor the contract for being null and void. Petitions were likewise filed with the Supreme Court, which also ruled the contract to be null and void. As Fraport sought relief from the International Centre for Settlement of Investment Disputes, the Government of the Philippines took possession of Terminal 3 and instituted domestic court expropriation proceedings.[58]

Other more recent cases involve Government contracts for the computerization of the customs processes at the Bureau of Customs and the production of new number plates by the Land Transportation Office, both of which were awarded to European companies. Once again, the Government did not honor the contracts citing anomalies in the procurement process which Government itself, through the relevant government agency, implements.

Similarly, the consortium that has implemented the Malampaya natural gas project was ordered to pay PhP 53.14 billion in taxes to the Philippine Government following a ruling by the Commission on Audit, despite a previous understanding that the amount was already imputed in the royalties paid to the Government for the revenue generated by the project. The Malampaya Consortium's position was fully supported by the Department of Energy (DOE). The ruling is now up for appeal.[59]

In the past, the Metropolitan Works and Sewerage System (MWSS) v. Manila Water case, the Laguna Lake Dyke Project and waste to energy projects have also been victims of the lack of policy continuity by Government with respect to contracts with the private sector.

These cases highlight a severe habit of disrespect for the sanctity of contracts by Government, hiding behind the fault of the responsible government agency or a previous administration, the lack of policy continuity and legal instability in terms of contract enforcement.

The inability to safeguard legitimate contracts entered into by a government agency with the private sector not

58 *Fraport Ag Frankfurt Airport Services Worldwide v. Republic of the Philippines* (ICSID Case No. ARB/03/25).
59 Information provided by COA. June 2016.

only results in substantial losses for investors involved but also diminishes the attractiveness of the Philippines as an investment destination. The perceived risk of participation in Government project bids is heightened, especially with the accompanying negative press that hounds the foreign investor. Combined with the restrictive Government procurement framework, such cases immensely increase the risk of investment for reputable international companies, which are often industry leaders that could have made invaluable contributions in achieving international standards and applying the latest technological innovations in the Philippines.

RECOMMENDATIONS

HONOR INTERNATIONAL CONTRACTS AND AGREEMENTS; ESTABLISH MECHANISMS TO STRENGTHEN THE ENFORCEMENT OF SANCTITY OF CONTRACTS.

We recommend that the new Government establishes operational mechanisms that will protect the sanctity of contracts and the investment made by private sector in major projects.

In recent contracts, the PPP Centre has included provisions to provide for payment mechanisms in the case of project termination due to the Government defaulting on its commitments. This is a positive development that we believe can be applied and expanded across Government contracts with the private sector, with distinct guidelines on the circumstances under which government agencies can overturn successful bids.

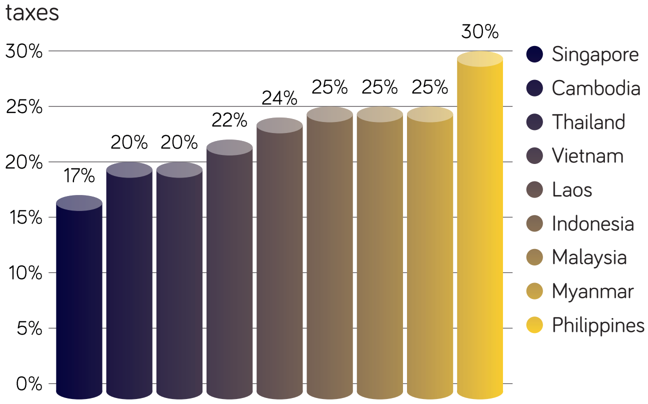
The role of the Commission on Audit in evaluating Government contracts and procurement processes should likewise be revisited. At least two issues should be addressed in this respect. First, audit of the procurement should be done at the earliest instance so that the private counterparty is not placed in a situation wherein it has already invested or even performed its obligations under the contract only to be later told that the contract is null and void and therefore the Government will not honor the same. Second, the objective of the audit should be revolutionized. While traditional audit is fault-finding that almost partakes of a witch-hunt exercise, modern audit practice aims to help the subject of the audit to meet its business goals by evaluating processes for efficiency and identifying areas for improvement. COA should start adopting this progressive view where it acts as a partner in making sure Government is efficient and achieves its economic goals.

3. COMPREHENSIVE TAX REFORM

ISSUE DESCRIPTION

At 30% corporate income tax, the Philippines has the highest tax regime on corporations in ASEAN. Among other ASEAN countries, Indonesia applies a corporate income tax ranging from 12.5% to 25% depending on the company's capital, Thailand 20%, Malaysia 25% and Singapore applies a corporate tax of only 17% of taxable income. [60] (see graph 08)

graph08 - Comparative table of ASEAN MS corporate income taxes



Source: Runckel and Associates

Personal income tax is also a burden for employees and employers alike, as not only is the top tier tax bracket one of the highest in the region at 32%, but the tax brackets themselves are based on outdated salary levels which do not take into account inflation. In fact, there has been hardly any adjustment since the income brackets were set in 1986, and no adjustment since 1997. This is despite an estimated increase in consumer prices between 1986 and 2014 of 539.5%.[61] Effectively, an annual salary of PhP500,000 is taxed with the highest tax bracket of 32%, while an individual with an annual salary of just PhP10,000 is already taxed at 5%.[62] Additionally, the tax bracket is not progressive and therefore those entering taxable income levels are taxed on their full salary.

At the same time, the tax base remains limited, compared to the total workforce. In fact, it is estimated that in 2013 just 16% of workers bore 85% of all individual compensation and business taxes collected. In the same year, it was estimated that only 41% of self-employed professionals and only 31% of self-employed non-professionals paid any direct tax.[63]

60 Runckel and Associates (2015). Table of tax comparison: taxes and mandatory contributions that a medium-size company must pay or withhold in a given year in Asia. Retrieved 23/05/2016. http://www.business-in-asia.com/asia/taxation_asia.html
61 NSO (2014). 1986 to 2014 Consumer Price Index.
62 PWC (27/04/2016). Philippines- Individual taxes on personal income. Retrieved 23/05/2016. http://taxsummaries.pwc.com/uk/taxsummaries/wwts.nsf/ID/Philippines-Individual-Taxes-on-personal-income.
63 Hon. Romero S. Quimbo (28/05/2016). ECCP Membership meeting. Presentation made during ECCP luncheon. Shangri-La Hotel. Makati. Manila.

The AEC brings great benefits by creating a single market for the ten ASEAN Member States. However, it also makes it easier for companies to locate in one country and serve the rest of the ASEAN market from there. In this context, it becomes ever more important for the Philippines to provide an attractive investment environment and fiscal regime for foreign and domestic investors. As long as tax rates remain among the highest in ASEAN, the Philippines will continue to risk losing out on more FDI coming into the region and more worryingly, lose existing investors who relocate to more tax-friendly cost-efficient jurisdictions.

The high level of individual income taxes is not only a burden on corporations, who have to pay higher wages to retain workers, but also on Filipino employees who see a disproportionate part of their salaries being taxed every month.

Despite deliberations in both Houses of Congress during the 16th Congress in support of legislative measures to amend and modernize the fiscal environment, these were not pursued due to strong opposition by the Executive.

RECOMMENDATIONS

REDUCE THE CORPORATE INCOME TAX TO BECOME MORE COMPETITIVE FOR INVESTORS.

REDUCE AND RE-ALIGN PERSONAL INCOME TAX BRACKETS, IN LINE WITH INFLATION.

SIMPLIFY THE TAX SYSTEM AND PREVENT TAX EVASION.

We therefore recommend that a comprehensive tax reform is undertaken to focus on three main elements:

- The reduction of the corporate income tax to levels that are competitive within ASEAN;
- The reduction of individual income tax and re-alignment of tax brackets to current consumer prices, and with provisions for the frequent review of the tax brackets in line with inflation;
- The simplification of the tax system and introduction of tax administration mechanisms in line with international best practices as recommended by international organizations, such as the Organization for Economic Co-operation and Development (OECD), to increase the tax base and successfully prevent tax evasion;
- Application of double taxation agreements.

A comprehensive tax reform that includes the above measures will create a competitive fiscal regime and affordable tax system for taxed individuals. At the same time, it will address long-term issues pertaining to tax evasion, thus ensuring that compliant tax payers are not overburdened to cover the tax gap left by those who are not paying taxes.

4. CREATION OF A COMPETITIVE FISCAL INCENTIVES REGIME

ISSUE DESCRIPTION

During the 16th Congress there were a number of bills filed in both Houses of Congress with the objective to rationalize, modernize, and ensure transparency and clear guidelines on the granting of fiscal incentives on investors. The *Tax Incentives Management and Transparency Act* (TIMTA) (RA No. 10708) was enacted on December 9th 2015 and establishes measures to promote transparency in the fiscal incentives regime and clear guidelines on the management of the fiscal incentives regime of the country.

Salient features of TIMTA:

1. All registered business entities are required to use the Bureau of Internal Revenues (BIR) Electronic Filing and Payment System in filing their tax returns and paying their tax liabilities;
2. All registered business entities availing of the incentives must file with their IPAs, a complete annual tax incentives report of their income-based tax incentives, VAT and duty exemptions, deductions, credits or exclusions from the tax base as required by the IPA concerned, within thirty (30) days from the statutory deadline for filing of tax returns and payment of taxes;
3. IPAs shall within sixty (60) days from the deadline for filing tax returns, submit to the BIR their respective annual tax incentives report based on the list of registered business entities who have filed said report;
4. The filing by the registered business entities of their tax incentive reports shall be without prejudice to the right of the BIR and BOC to conduct assessment within the prescribed period under existing laws;

5. The Department of Finance (DOF) shall maintain a single database for monitoring and analysis of tax incentives granted;
6. The TIMTA law shall not be construed to diminish or limit, in whatever manner, the amount of incentives that IPAs may grant pursuant to their charters and existing laws, or to prevent, deter or delay the promotion and regulation of investment, processing of application for registration and evaluation of entitlement of incentives by IPAs;
7. The National Economic and Development Authority (NEDA) is mandated to conduct cost-benefit analysis on the investment incentives to determine the impact of tax incentives on the Philippine economy;
8. Non-compliance by the registered business entities with the reporting requirements would be subject to penalties, from a fine of P100,000.00 (1st violation), P500,000.00 (2nd violation) and cancellation of the registration (3rd violation).

The two main mechanisms for the granting of fiscal incentives to foreign investors are the Bureau of Investment's (BOI) Investment Priority Plan (IPP) and PEZA.

In consideration of increasing regional integration in ASEAN and the increased influx of FDI into the region as more and more investors look for alternative investment destinations to China, it is important that the Philippines capitalizes on these opportunities by increasing its competitiveness. Taking into account existing restrictions on foreign ownership, a sound fiscal incentives regime is imperative to attracting a bigger percentage of the FDI coming into the region, which in turn is integral to establishing a sustainable and inclusive economic growth model.

RECOMMENDATIONS

BENCHMARK FISCAL INCENTIVES CURRENTLY GRANTED AS A MINIMUM FOR FUTURE FISCAL INCENTIVES REGIMES.

The EU business community welcomes the Philippine Government's efforts to improve the fiscal incentives regime for investors. The enactment of TIMTA is a positive development that will bring substantial benefits to the Philippines' competitiveness, by ensuring that incentives are granted fairly, transparently, and consistently. The current incentives regimes already in effect in different sectors and industries should be maintained and any further reforms should be benchmarked against existing fiscal incentives granted to investors as the minimum. Additionally, any rationalization of the fiscal regime needs to be centered on improving the Philippines' competitiveness.

ENSURE THAT FISCAL INCENTIVES THAT HAVE BEEN GRANTED ARE DELIVERED BY THE EXECUTIVE BRANCH.

Incentives that were granted to entice the investment should in fact be given when the investment is actually made and for the period stated during the grant of incentives. The rules should not be changed in the middle of the game, so to speak. Also, no government agency should have the power to veto fiscal incentives that have been granted by law. An agency notorious for this behavior in the past administration is the Bureau of Internal Revenue, which adamantly continued to impose regular income tax on entities granted preferential rates or refused VAT refunds or exemption to entities entitled thereto as part of their fiscal incentives. Similarly, despite the conclusion of several double taxation agreements with European countries, companies have faced difficulties in availing of these benefits.

GRANT THE PRESIDENT THE ABILITY TO MATCH INCENTIVES BY OTHER COUNTRIES, TO ATTRACT SPECIFIC INVESTORS.

We believe that the President of the Philippines should be authorized to match the fiscal incentives of a competing economy for a project considered to be of strategic national importance. A recent example where this practice has had extensive benefits for the national economy is Vietnam, where the Prime Minister's decision to grant Samsung fiscal incentives for its expansion projects, usually provided only to new investment according to the legislative framework, and additional non-fiscal incentives has led to noteworthy levels of investment by the company. Total investment capital by Samsung in Vietnam currently stands at approximately USD15 billion, while earlier this year the company committed to investing an additional USD300 million in Research and Development (R&D) in the country.

5. PROMOTION OF TRANSPARENCY AND INTEGRITY

ISSUE DESCRIPTION

When former President Aquino entered Office in 2010, one of the identified priorities for his Administration was the improvement of transparency and integrity for both the private and public sector. Without a doubt his Administration leaves a legacy of substantial success in achieving those goals. The private sector has also actively contributed to the nationwide transparency and anti-corruption drive through remarkable initiatives, such as the Integrity Initiative of which ECCP is a founding business organization.

However, there remains room for improvement, as highlighted by the slight fall in the Philippines' score to 35 in the Global Corruption Perceptions Index 2015, compared to 38 in 2014.[64] Notably, EU companies often cite the lack of transparency and corruption in customs procedures as major obstacles faced when doing business in the Philippines. Corruption within the customs process hampers trade facilitation and handicaps compliant players who lose out to those willing to be party to corrupt practices. This is especially true for EU businesses, many of whom come from jurisdictions where strict anti-corruption laws, such as the United Kingdom (UK) Bribery Act 2010, cover businesses across other jurisdictions. Furthermore, corrupt and non-transparent processes invariably add an administrative and financial burden to companies. This cost is passed along the value chain and ultimately passed onto Filipino consumers of goods and services, whose purchasing power is effectively reduced. The enactment of the *Customs Modernization and Tariffs Act* (CMTA) (RA No. 10863) is an important piece of legislation which, in addition to multiple provisions that aim to modernize and align the national customs process to international standards, has the potential to institutionalize transparency and anti-corruption practices within the BOC structure.

Freedom of Information laws are used as vehicles for increased transparency and accountability by government and private sector alike in numerous jurisdictions across the world. The passage of the EO on FOI on July 23 2016 is a commendable and much welcomed measure that requires government agencies to comply with information requests, with the exception only of information that is considered as critical to national security. The enactment of counterpart legislation will further strengthen and institutionalize this laudable initiative by President Rodrigo Duterte in support of increased transparency and integrity.

Finally, while the *Anti-Graft and Corrupt Practices Act* (RA No. 3019) provides a legislative framework for the enforcement of anti-graft and anti-corruption measures, the weak enforcement of the measure has meant little positive impact on the business environment.

The EU business community sees integrity and transparency as a priority for Philippine economic development and we express support for efforts that will build upon the accomplishments of the previous administration in good governance and of the Integrity Initiative.

RECOMMENDATIONS

IMPLEMENT CMTA, THE WTO TRADE FACILITATION AGREEMENT AND THE WCO REVISED KYOTO PROTOCOL.

The enactment of the CMTA is an important step towards addressing concerns pertaining to the lack of transparency and integrity in customs processes. Its implementation is equally important in terms of establishing a transparent customs process, which is fully aligned to international standards and guidelines, including the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol. This will facilitate trade, ensure fair market access for compliant players and, most importantly, reduce the price of goods for Filipino consumers.

OPERATIONALIZE A NATIONAL SINGLE WINDOW THAT ALLOWS FULL ALIGNMENT BETWEEN THE BOC AND KEY GOVERNMENT AGENCIES.

We believe that the implementation of CMTA should also include the rapid operationalization of a National Single Window. The National Single Window should be a fully automated, fully interactive interface that facilitates efficient and effective alignment and coordination between the BOC and key government agencies, including but not limited to the FDA, the Fertilizer and Pesticide Authority (FPA), the BIR, the DTI and the BOI. The implementation of an effective National Single Window will concretely facilitate the import and export of products. It will also serve as an effective tool against corruption and support the enforcement of anti-

64 TI (2016). Global Corruption Perceptions Index 2015. Retrieved 25/05/2016. http://www.transparency.org/cpi2015#results-table.

smuggling and anti-parallel importation measures.

ENACT A FREEDOM OF INFORMATION ACT.

We fully support and recommend the passage of a Freedom of Information Act in the 17th Congress, for increased transparency and accountability in government agencies and in private sector. The law will institutionalize the FOI EO issued by President Rodrigo Duterte earlier this year. International best practices can be applied to ensure that the implementation of a Freedom of Information Act in no way infringes upon data privacy and the protection of personal and sensitive information.

CREATE AN EFFECTIVE ENFORCEMENT MECHANISM FOR THE ANTI-GRAFT AND CORRUPT PRACTICES ACT.

The EU business community has long been supportive of any Government measures, both legislative and administrative, which aim to address corruption in the private sector. In addition to ongoing initiatives, such as the above-mentioned Integrity Initiative, we welcome the opportunity to assist Government in establishing an effective enforcement mechanism, to ensure the Anti-Graft and Corrupt Practices Act is enforced regardless of the personalities involved.

6. JUDICIAL REFORM – IMPROVING THE LEGAL PROTECTION SYSTEM FOR WHISTLEBLOWERS AND STATE WITNESSES

ISSUE DESCRIPTION

The establishment of an effective legal protection system for whistleblowers and state witnesses, to embolden them to come forward and support the prosecution of those guilty of diverging from the law especially in cases related to corruption, will serve to strengthen rule of law.

During the 16th Congress, several bills on Whistleblower Protection were filed in the Senate. However, these did not progress beyond the technical working group level. The bills granted eligible whistleblowers absolute confidentiality of their identity and the subject matter of their disclosure; defense of absolute privileged communication in any other proceeding or inquiry concerning their disclosure; protection against prejudicial conduct and retaliatory actions or reprisals in the workplace, protection against any liability for their disclosure, and monetary rewards.[65]

The Witness Protection, Security and Benefit Act (RA No. 6981), provides a legislative framework to provide for the protection of witnesses. However, as the law has not been amended for over two decades, there are several areas which require amendments in order to effectively support the use of witnesses in the judicial process.

One of the fundamental issues that need to be reviewed is whether the program should be implemented under the auspices of the DOJ. Studies conducted across jurisdictions show a growing consensus that it is preferable for witness protection programs to be kept separate from the investigating/prosecuting arm. As found in a study of best practices conducted by the Council of Europe, this ensures the objectivity of witness protection measures and protects the rights of witnesses.[66] This is especially crucial in highly political cases involving high-ranking government officials.[67]

Moreover, the administrative burden of screening, approving and implementing the witness protection program, along with the prosecutorial functions of the DOJ translates into delay in resolving applications. Thus, a witness applying to be admitted into the program is left without any protection in the interim. In addition, the requirement that there should be a court case before a witness can be admitted into the program is a hurdle that exposes the witness to danger. In applying for the witness protection program, a witness already has to consider two waiting periods during which he will have no protection: the time it takes to file a case in court and the time it takes for the DOJ to process the application for witness protection. On the other hand, all it takes is a split-second shot that could end the life of a witness. There should therefore be interim protection measures for witnesses applying for the program.

On the practical side, the program has an inadequate support system. During admission into the program, a witness is temporarily uprooted from his/her main means of livelihood and would thus need financial support. Unfortunately, the financial provisions under the program are substantially lower and insufficient to support the witness and his/her family. This becomes a serious deterrent to witnesses who would otherwise

65 Whistleblower protection bills filed in the House of Representatives: HB 135, HB 145, HB 150, HB 348, HB 1587, HB 1632, HB 4818. Whistleblower protection bills filed in the Senate: SB 165, SB 189, SB 425, SB 1286, SB 1614, SB 1932.

66 UNODC 2008, Council of Europe (2004, 2006) cited in Y. Dandurand, "A Review of Selected Witness Protection Programs," Research and National Coordination Organized Crime Division Law Enforcement and Policy Branch Public Safety of Canada, at http://publications.gc.ca/collections/collection_2011/sp-ps/PS4-96-2010-eng.pdf.

67 Human Rights Council (August 27, 2010, 15th session), Asian Legal Resource Centre, "PHILIPPINES: Reforms Required Immediately To Protect Witnesses" at http://alrc.asia/philippines-reforms-required-immediately-to-protect-witnesses.

be willing to testify and assist in the administration of justice. In this light, the national budget for the witness protection program should also be augmented. [68]

RECOMMENDATIONS

ENACT A WHISTLEBLOWER PROTECTION ACT TO ENSURE WHISTLEBLOWERS ARE GUARANTEED FULL PROTECTION.

We recommend the enactment of a Whistleblower Protection Act. In addition to the features of previously filed senate bills, the bill should also cover whistleblowing of the co-conspirators or accomplices in the private sector. The monetary reward should be exempt from all taxes and the cap of PhP1 million should be raised. A provision on retroactivity should also be introduced to the bill to benefit whistleblowers who courageously reported corruption even before the enactment of a whistleblower protection measure was enacted.

REFORM THE WITNESS PROTECTION, SECURITY AND BENEFIT ACT TO ADDRESS LIMITATIONS TO WITNESS PROTECTION IN THE CURRENT LAW.

Additionally, we believe that it will be of great importance to reform the Witness Protection, Security and Benefit Act to address limitations to witness protection in the current law and render the law an effective piece of legislation in support of the judicial process.

7. IPR PROTECTION

ISSUE DESCRIPTION

The Philippines has shown great improvement in the past years in terms of IPR Protection, as highlighted by its removal from the United States (US) watchlist of trading partners with grave IPR infringements. In addition to the enactment of RA 10372, which introduced amendments to the IP Code of the Philippines during President Aquino's Administration and which enhanced enforcement of IPR protection by granting enforcement powers to the Intellectual Property Office of the Philippines (IPOPhil) office, the Philippines has put in place a legislative framework that complies with minimum standards of IPR protection set by Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The Philippines is also party to international treaties and agreements on IPR including the Convention Establishing the World Intellectual Property Organization, the Paris Convention for the Protection of Individual Property, the Budapest Treaty on the International Recognition of the Deposit for Microorganisms for Purposes of Patent Procedure, the Berne Convention for the Protection of Literary and Artistic Works, the International Convention for the Protection of Performers, the Producers of Phonographs and Broadcasting Organizations, the Patent Cooperation Treaty and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol). The Philippines has also recently been undertaking policy measures in order to ratify the Nice Agreement on the classification of goods and services in trademark applications.

There are currently four types of courts in the Philippines that deal with cases related to IPR infringement, namely the Special Commercial Courts for IP cases, the IPOPhil Quasi-Judicial Courts for cases under their jurisdiction, Alternative Dispute Resolution (ADR) under the IPOPhil and the Arbitration Courts by Philippine Dispute Resolution Center (PDRCI), which are attached to IPOPhil.

Despite the positive developments in IPR protection in the Philippines in the past years, smuggling and the subsequent entry of counterfeit products into the market remain a significant concern. Additionally, policy measures in certain sectors, such as the Cheaper Medicines Act for the pharmaceuticals sector, risk to compromise IP holders' rights especially in terms of the length of their patent or trademark. With regard to GI protection, while IPOPhil has moved to allow recognition and registration of GIs, there is still no legislative or executive framework to establish their protection. Additionally, the Philippines is producing IPR in the form of software development, game development and other creative services which need IPR protection too.

The need for a strong IPR protection and enforcement framework becomes ever more relevant with the Philippines' membership in the AEC. The single market brings substantial benefits to member countries. However, the lack of a single regional IPR protection regime to cover the ASEAN single market increases the pressure on Member States to safeguard IPR in their respective jurisdictions to limit the opportunities that the single market creates for the intra-ASEAN movement of counterfeit goods. Likewise, as the Philippines continues negotiations for an EU-Philippines FTA, the Philippines' willingness to improve protection of IPR and most especially to create a policy framework to protect GIs, will be important in the negotiations.

68 Ibid.

From an EU business perspective, IPR protection remains a concern in the Philippine market, as many European companies are innovator companies and suffer from substantial smuggling and the presence of counterfeit products in the Philippine market. In addition to the financial costs that the compromise of their IPR leads to, it is especially damaging for their brand images. Counterfeits also pose serious risks on consumer safety especially in sectors such as pharmaceuticals.

RECOMMENDATIONS

CONTINUE TO IMPROVE IPR PROTECTION AND ENFORCE STRICT ANTI-SMUGGLING MEASURES.

We recognize the impressive improvements that the Philippines has made in the past years to improve the IPR protection regime in the country and strongly encourage the continuation and expansion of improvements to the IPR protection and enforcement framework in line with international agreements and treaties in coming years. An improved IPR protection framework will be further complemented by strict anti-smuggling measures at every stage of the value chain to prevent counterfeit products from entering the Philippine market.

CREATE AND ENFORCE A POLICY FRAMEWORK FOR THE PROTECTION OF GIs.

We also recommend the adoption of policy measures that provide for the protection and enforcement of GIs. The protection of GIs is a valuable tool that reinforces community development and fair competition. Local knowledge benefits producers and consumers alike by building the value premium of protected products and guaranteeing product origin, quality and authenticity. It will enable Filipino farmers to benefit further from the opportunities that tariff-free access to the EU market provides, either through GSP+ or a future EU-Philippines FTA, and will empower consumers by assuring them of a product's authenticity when purchasing products with recognized GIs from around the world.

8. PARTNERING WITH LGUs TO INCREASE THE EASE OF DOING BUSINESS

ISSUE DESCRIPTION

The Local Government Code of 1991 governs LGUs' operation and interaction with national Government. While local autonomy is recognized, LGUs cannot overrule national Government policies. Unfortunately, local autonomy is sometimes taken to the extent that LGUs overstep national economic policies in asserting their jurisdiction, thus negatively impacting the ease and cost of doing business for investors.

In the past years, the private sector has been reaching out to LGUs to work in partnership towards a better business environment that effectively creates more jobs and growth in respective LGUs. In fact, since early 2014 ECCP, with the support of the Konrad Adenauer Foundation, has been leading a project named "Integrity for Jobs" which works with LGUs to build transparency in financial management and create an investor-friendly business environment in areas with high levels of un- and under- employment.

By LGUs overstepping their mandate and subjecting investors to additional costs and risks, LGUs are reducing the competitiveness of their localities and the country as a whole, with potentially harmful effects on their constituents' livelihoods. If private sector and LGUs work together effectively to address the factors that lead to these instances, it is possible to create business environments at the local level which are conducive to doing business and beneficial for LGUs and their constituents. Indeed, there will be a positive economic spillover effect to job creation, the growth of indirect industries and revenue collection by the LGU, while ensuring existing and potential investors from a secure investment environment locally and nationally.

RECOMMENDATIONS

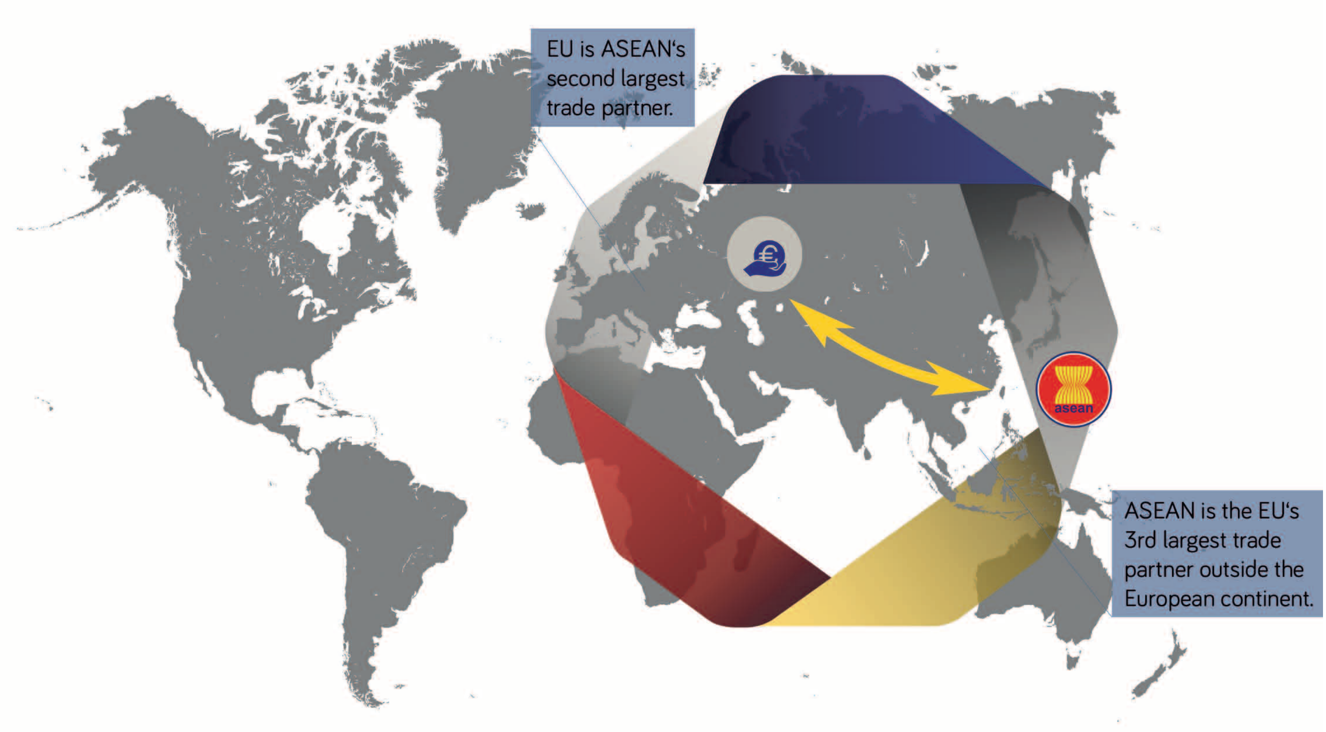
DEEPEN PRIVATE SECTOR-LGU PARTNERSHIPS TO CREATE AN ATTRACTIVE INVESTMENT ENVIRONMENT AND SUPPORT INCLUSIVE GROWTH WITHIN LOCAL COMMUNITIES.

ESTABLISH AN ENFORCEMENT MECHANISM THAT WILL ENSURE THAT NATIONAL INVESTMENT POLICIES ARE NOT OVERSTEPPED BY LGUs.

We therefore look forward to continuing and expanding our work with LGUs to create a mutually beneficial business environment, which creates a transparent and compliant local governance framework in support of increased investment, job creation and inclusive growth in the community. With this in mind, a necessary precondition is also a commitment from national and local government alike to ensure that national investment policies are consistently implemented, sans the bureaucratic tug of war. The practice of entering into memoranda of agreement between a national implementing agency and the relevant LGU is encouraged but the lack of it should also not be used as an excuse to overburden investors with unnecessary bureaucratic hurdles.

CROSS - SECTOR PAPERS

ASEAN INTEGRATION



The launch of the AEC in December 2015 was a milestone for ASEAN economic integration. The AEC includes ten of the fastest growing economies globally, with an average growth rate of over 5% in the past years,[69] and as a group represents the seventh largest economy globally. [70] High GDP growth in ASEAN Member States, combined with a dynamic demographic and increasingly skilled workforce currently renders ASEAN one of the most attractive investment and trade destinations for European business. The change in investment trends seen in the past years, with many manufacturers closing down operations in China and relocating to ASEAN, is evidence of the increasing opportunities the region has to offer.

As such, the integration and facilitation of intra-ASEAN movement of goods and people that the AEC envisions and the subsequent interconnection of ten high growth, high potential markets, is a unique chance for business to capitalize on the opportunities that a fast-growing market of approximately 630 million people has to offer. Similarly, the national economies within ASEAN will benefit from intensified economic growth, employment generation and the creation of regional value chains. Taking into consideration that only 24% of trade registered by ASEAN Member States is currently intra-ASEAN,[71] there is much scope for developing intra-ASEAN business and setting up regional hubs that can serve the ASEAN market.

ASEAN is the EU's third largest trade partner outside of Europe and the EU is ASEAN's second largest trading partner after China. Integrating the region and intensifying cross-border trade and investment both within ASEAN borders and between ASEAN and the EU is therefore imperative. As the Philippines chairs ASEAN in 2017, the Philippines has an excellent opportunity for

69 OECD (2015). Economic Outlook for Southeast Asia, China and India 2015.
70 Economist Intelligence Unit(2014). Redrawing the ASEAN map, table 2 "What if ASEAN were a country…".

71 ASEAN (2013). Intra and Extra ASEAN Trade 2013. ASEAN Statistics Database.

the Philippines to lead the way towards further ASEAN economic integration.

We therefore submit the following recommendations for trade facilitation, investment promotion and strengthening of competitiveness, in furtherance of ASEAN integration.

RECOMMENDATIONS

TRADE FACILITATION

REMOVE NON-TARIFF BARRIERS TO TRADE.[72]

While almost all products in the region are now traded tariff-free or with a tariff in the range of 0%-5%, non-tariff barriers to trade still remain an impediment to intra-ASEAN trade for many products. These include Rules of Origin (ROOs) and product standards and testing, among others. We strongly support the alignment of regulatory processes and the adoption of Mutual Recognition Agreements with other ASEAN Member States on standards and testing for key industries, such as healthcare, food and beverage and automotive. The cosmetics sector stands as a best practice for the harmonization of standards in the above-mentioned sectors. Specifically, ASEAN standards were adopted and implemented in the Philippines through the "Adoption of the Association of Southeast Asian Nations (ASEAN)Harmonized Cosmetic Regulatory Scheme and ASEAN Common Technical Documents" (FDA) Administrative Order (AO) No. 2005-0015) and the "Implementation of the ASEAN Harmonized Cosmetic Regulatory Scheme and ASEAN Common Technical Documents" (FDA AO No. 2005-0025).

IMPLEMENT AN ASEAN SINGLE WINDOW.

Rapid implementation of a fully functional ASEAN Single Window will increase cross-border, intra-ASEAN trade and ultimately contribute to economic growth and regional integration. A prerequisite to the Philippines' participation in an ASEAN Single Window is the establishment of a comprehensive, dynamic, online National Single Window.

EASE EXISTING CUSTOMS PROCEDURES ACROSS ASEAN TO FACILITATE INTRA-ASEAN TRADE.

There are numerous operational and procedural obstacles within Customs procedures across ASEAN Member States that handicap intra-ASEAN trade. We believe

In focus: Automotive

The automotive sector, including vehicles and parts, currently incurs major non-tariff barriers in the Philippines and the region, due to the lack of alignment in product standards. The United Nations Economic Commission for Europe (UNECE) vehicle regulations are widely recognized across the world. There are 19 UNECE regulations which have been identified as priority regulations for harmonization in ASEAN; these include ECE R13 Heavy vehicle braking, ECER13H Braking of passenger cars, ECE R14 Safety-belt anchorages, ECE R16 safety-belts, ECE R17 Strength of seats, their anchorages and restraints, ECE R25 Head restraints, ECE R30 Tires for passenger cars and their trailers, ECE R39 Speedometer, ECE R40 Exhaust emission, ECE R41 Noise emissions, ECE R43 Safety glass, ECE R46 Devices for indirect visions, ECE R49 Diesel emission, ECE R51 Noise emissions of M and N categories of vehicles, ECE R54 Tires for commercial vehicles and their trailers, ECE R60 Driver operated controls, ECE R75 Tires for motorcycles/ mopeds, ECE R79 Steering equipment, ECE R83 Exhaust emissions of M1 and N1 vehicles.

We strongly recommend that the Philippines maximize the opportunity as ASEAN Chair in 2017 to fully align national standards and the approval process to the UNECE regulations (currently, while the Department of Trade and Industry – Bureau of Product Standards (DTI-BPS) has harmonized certain PNS standards to UNECE vehicle regulations, there remain vehicle parts for which standards have not yet been harmonized.[71]) and lead the way for the adoption of a Mutual Recognition Agreement in automotive standards across ASEAN in support of establishing common recognition of standards that are aligned to UNECE standards. It is worth noting that certain ASEAN member states already recognize UNECE standards for automotive.

72 DTI-BPS (n.d.). Road Vehicle Standards: Mandatory and Priority Regulations in ASEAN. Retrieved 16/06/2016. http://pcieerd.dost.gov.ph/images/downloads/presentation_materials/clrv_06142012/07_Road_Vehicle_Standards_Mandatory_and_Priority_Regulations_in_the_ASEAN_Region_MTGR_Davao_2012_06_13.pdf.

that as Chair of ASEAN, the Philippines should drive intra-ASEAN coordination on Customs procedures to reduce operational bottlenecks, such as the acceleration of the implementation of the ASEAN Customs Transit system and the adoption of electronic data interchange for customs declaration and clearance. The recent enactment of the CMTA in the Philippines includes best practices, in line with the WTO Trade Facilitation Agreement and WCO Revised Kyoto Protocol, which could be adopted across ASEAN in support of trade facilitation.

INVESTMENT PROMOTION

PROTECT IPR AND CLAMP DOWN ON ILLICIT TRADE.

The single market offers increased opportunities for intra-ASEAN trade in illicit and counterfeit goods. The institutionalization of cooperation across ASEAN Member States to protect IPR is thus an important element to the success of the AEC in facilitating intra-ASEAN trade and investment.

IMPLEMENT REGIONAL HARMONIZATION OF STANDARDS AND REGULATIONS.

In addition to the benefits on trade facilitation, the mutual recognition and adoption of common standards and regulations across ASEAN is important for investment facilitation. The development and strengthening of regional value chains is dependent on common standards between countries. The ASEAN Harmonized Cosmetic Regulatory Scheme should serve as a best practice.

EASE LONG TERM INVESTMENT CONSTRAINTS.

ASEAN Member States need to collectively address investors' concerns by agreeing on measures in support of long term intra-ASEAN investments. One option could be to build upon the agreement reached by Singapore, Malaysia and Thailand to facilitate more cross-border fund raising, cross-border product distribution, cross-border investment and to facilitate market access by intermediaries.

COMPETITIVENESS

ESTABLISH A SUPPORT FRAMEWORK FOR SMEs.

SMEs are the backbone of ASEAN economies and are an integral part of continuing the high rates of economic growth in the region. The provision of targeted support to empower SMEs in the region to develop their international capacity and therefore become part of the intra-ASEAN value chain is therefore an important step to enhancing ASEAN economic integration.

FACILITATE THE DEVELOPMENT AND MOVEMENT OF SKILLED LABOR.

The implementation of measures to ease the movement of skilled labor around the region will aid businesses in the development and deployment of human capital. Given the Philippines' regional competitive advantage in human capital, we believe that it can play an important role as ASEAN Chair country in 2017 to further develop frameworks to promote the movement and development of skilled labor across the region.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PHILIPPINES

HIGH PRIORITY SECTOR PAPERS

EU-PHILIPPINE ECONOMIC TIES: AS A NEW CHAPTER UNFOLDS

HIGH-PRIORITY SECTORS

ECONOMIC GROWTH

International Competitiveness

EU Business Opportunities

EMPLOYMENT GENERATION

INCLUSIVENESS

AGRICULTURE

Agricultural value chain development

Improvement to regulation and registration for agricultural and F&B products

ENERGY AND RENEWABLE ENERGY

Sustainable energy mix policy

Energy efficiency and conservation

ICT - BPM - KPM

Incentivizing continued investment in ICT/PM/KPM

Improvement of broadband service

TRANSPORTATION INFRASTRUCTURE

Removal of foreign ownership restriction in infrastructure

Improvement of the PPP program

Improvement of international and domestic connectivity

FOOD AND BEVERAGES

Improvement of the fiscal environment for alcoholic beverages

Protection of GIs

TOURISM

Tourism destination development

HIGH PRIORITY SECTOR PAPERS

AGRICULTURE

ENSURING EU AGRICULTURE INTERESTS IN THE EU-PHILIPPINES FTA
Include provisions to facilitate market access for EU agriculture products in the EU-Philippines FTA; preferably address some of the issues earlier

AGRICULTURAL VALUE CHAIN DEVELOPMENT
Establish a PPP framework for the development and implementation of a sector wide roadmap for agricultural modernization, by building on the GSP+ opportunities

IMPROVEMENTS TO THE REGULATORY PROCESS
Modernize regulatory processes and expand cooperation with other relevant Government agencies through the establishment of a National Single Window

Agriculture is a major sector of the Philippine economy, accounting for 10% of GDP and employing 31% of the country's labor force. [73] However, the sector has suffered stagnant growth levels in recent years. A lack of mechanization, low skill level, high levels of post-harvest losses and the inability of farmers to access finance are some of the major factors that handicap the Philippine agriculture sector's ability to increase its productivity. As food security becomes an ever pressing issue, at a national and global level, the Philippines has the potential and adequate national resources to meet national demand for agricultural products and increase its competitiveness as a country of origin for agricultural products in the region, if these issues are addressed.

Major crops such as rice, corn, sugar, coconut, cassava, coffee are significant contributors to the national economy. Cacao, abaca, fruits, already major crops, continue to display great potential as exportable products. Geographically, Mindanao remains an exciting prospect, with crop diversification key to capitalizing on its full potential and bringing it to the forefront of the Philippines' agricultural drive. The implementation of GSP+ in early 2015, opened up the EU market to tariff free imports of Philippine agricultural products, offering numerous opportunities for Filipino producers to increase exports of high-value added products. The development of GI products in the Philippines with the support of the EU also stands as a unique opportunity for farmers to greatly increase the value of their crops. To enhance these opportunities, the Philippines has to develop a policy and implementation framework that is conducive to agricultural growth.

73 PSA (10/2014). Agricultural Indicators System Report: Population and Labor Force. p.4. Retrieved: 24/06/2016. http://psa.gov.ph/sites/default/files/populationlaborforce2014.pdf.

* **BUT** ...

- ↓ low growth and productivity
- ↑ agricultural output just 0.1%
- ↓ lack of mechanization
- ↓ access to finance
- ↓ low value added
- ↓ fragmented supply chain

CROPS SUBSECTOR
PHP 211.1bn
↑ 3.5% (from the previous year)

GROSS EARNINGS
PHP 375.2bn
↓ 1.49% (from the previous year)

SECTOR SITUATIONER

MARKET DATA

It is estimated that the agriculture sector accounts for 10% of the Philippines' GDP. However, despite high economic growth registered in the Philippines in the past years, the agriculture sector has remained stagnant. In fact, agricultural output in 2015 grew by only 0.1%, while in the first three months of 2016 there was a 4.5% drop in production.[74] This is due to the after effects of typhoons Lando and Nona, which traversed the country late last year. Even with the recorded production growth for crop (8.55%) and livestock (4.66%) subsectors, the increment was still insufficient to offset the industry's performance downturn. Fisheries subsectors declined by 5.11% in production output over the same period.[75]

In Q1 of 2016, gross earnings amounted to PhP 375.2 billion at current prices, 1.49% lower than earnings registered during Q1 of 2015. Total agricultural land area of the Philippines was estimated at 9.671 million hectares wherein arable land was 4.936 million hectares (51%).[76]

In Q1 2016, the crops subsector grossed PhP 211.1 billion at current prices, recording a 3.50% increase during the period, while gross value of rice output dropped by 11.52% due to decreases in both production and price. Meanwhile, gross value of livestock production amounted to PhP 60 billion and all components in the subsector contributed to the 1.23% growth.[77]

In terms of agri-food trade, the Philippines ranked 36th among the EU's trade partners. Specifically, Philippine agri-food imports from the EU amounted to EUR919 million. Export sales, on the other hand, totalled EUR734 million and grew by 8.3% in 2015.[78] Even more remarkably, the country's overall exports to the EU market increased by 19% in the previous year, and can be primarily credited to the GSP+ grant.[79]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The PNS for Organic Bio-Control Agents (BCA): Microbials and Botanicals - Minimum Data Requirements, was approved by the Bureau of Agriculture and Fisheries Standards (BAFS) in early 2016. It specifies the minimum data requirements for the safety assessment of organic biocontrol agents, specifically for microbials and botanicals.

74 PSA(n.d.). Performance of Philippine Agriculture January-March 2016. Retrieved 03/06/2016. http://www.psa.gov.ph/ppa-main.
75 Ibid.
76 Ibid.
77 Ibid.
78 Agri-Food Trade Statistical Factsheet. (04/2016). European Union - Philippines. p8. Retrieved 26/05/2015. http://ec.europa.eu/agriculture/trade-analysis/statistics/outside-eu/countries/agrifood-philippines_en.pdf.
79 Delegation of the European Union to the Philippines (2016). Trade, Investment and Financial Links. Retrieved 27/06/2016. http://eeas.europa.eu/delegations/philippines/eu_philippines/trade_relation/index_en.htm.

The revision of the PNP List of Controlled and Regulated Chemicals was a much welcomed reform for the agriculture sector, as the removal of chemical components present in agricultural fertilizers from the list will benefit farmers' productivity and profitability and remove substantial non-tariff barriers for European fertilizer importers.

ADVOCACY

1. ENSURING EU AND PHILIPPINE AGRICULTURE INTERESTS IN THE EU-PHILIPPINES FTA

ISSUE DESCRIPTION

The first round of the negotiations for an EU-Philippines FTA took place in Brussels on 23rd to 27th May 2016, following the conclusion of the scoping exercise in December 2015. The EPBN Agriculture Committee welcomes the negotiations for an FTA, as they signify a major opportunity to address tariff and non-tariff trade barriers that handicap EU agriculture companies, primarily agricultural chemical providers, when doing business in the Philippines.

Taking into consideration that the Philippines is already party to a number of FTAs or regional trade agreements with other countries, the conclusion of an EU-Philippines FTA with a comprehensive set of provisions on agriculture will address competitiveness issues that EU products face in the Philippine market.

The inclusion of measures that ensure market access and a competitive market presence for EU products in the Philippines will not only facilitate existing market positions, but also ensure that EU companies are in a strong position to contribute to the further development of the agriculture sector.

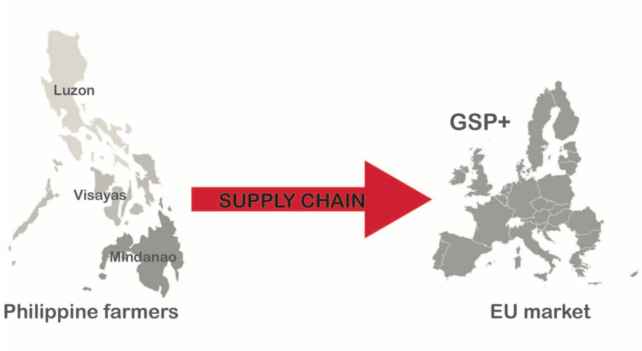
RECOMMENDATIONS

INCLUDE PROVISIONS TO FACILITATE MARKET ACCESS FOR EU AGRICULTURE PRODUCTS IN THE EU-PHILIPPINES FTA.

All positions included in this position paper are important factors to the fair market access of EU agricultural products to the Philippine market. We look forward to an EU-Philippines FTA as an avenue to fully liberalize import tariffs on chemical products for use in the agricultural sector, provide for a strict, but easily implementable Rules of Origin system, align Philippine regulations of crop inputs with, or at the very least recognize, EU regulations and certifications and fully align Philippine practices with the WTO Trade Facilitation Agreement. We also support the inclusion of a Sustainability Chapter such as that included in the EU-Korea FTA. Taking into consideration that many of the tariff and non-tariff barriers applied to EU agriculture products are seriously handicapping their market access to the Philippine market, we recommend that action is taken to address some of the major market access barriers even before the conclusion of the EU-Philippines FTA.

2. AGRICULTURAL VALUE CHAIN DEVELOPMENT

ISSUE DESCRIPTION



The Philippines' agriculture sector has shown consistently low growth and productivity rates. [80] The lack of modernization, productivity and profitability of the agriculture sector is the result of an accumulation of factors across the value chain.

Farmers, in the vast majority smallholders with an average age of 57 and 5 years of education, are often unable to turn agriculture into a profitable business as they lack the capacity or the funds to apply innovative methods and technologies to their farming methods. Indeed, the small size of the farms, the lack of mechanization, use of high-productivity agricultural methods such as inter-cropping, planting of new plant varieties and proper application of agricultural inputs, are some of the major barriers to increasing farmers' productivity. Additionally, as farmers benefiting from the Comprehensive Agrarian Reform Program (CARP) and the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) are unable to use their land as collateral, access to finance is especially difficult. The Agri-Agra Reform Credit Act of 2009 (RA No. 10000), which has sought to address the gaps in financing for agriculture by requiring banks to set

80 PSA(n.d.). Performance of Philippine Agriculture January-March 2016. Retrieved 03/06/2016. http://www.psa.gov.ph/ppa-main.

aside 25% of their loan portfolio to the farm sector, of which 10% for agrarian reform beneficiaries and 15% to agribusinesses, has not been successful as banks prefer to pay penalties rather than lend to farmers.[81]

The **supply chain** itself has handicapped the ability of the Philippines to guarantee food security and increase its agricultural products' competitiveness at an international level. Farm to market infrastructure, including roads and logistics services, are a formidable hindrance to the supply chain. Indicatively, it is estimated that 20-50% of fresh goods are damaged during the journey from market to consumer (post-harvest losses are estimated at 30%); this is compared to just 6% in Thailand.[82] The lack of a support framework, such as effective cooperatives, to ensure that farmers are able to access the market at competitive prices also make them vulnerable to middle-men.

While there have been efforts at a national level to implement laws, policies and projects in support of agricultural development, often jointly with the private sector, implementation is frequently challenged at the regional and local levels. Specific examples where implementation has been challenged at the local level include the observance of the national convergence initiative, good agricultural practices for coffee and the compliance with bidding requirements.

The EU has supported initiatives to empower the Philippine agriculture sector. Namely, since early 2015, the Philippines has benefitted from the EU GSP+ program, which allows tariff free access to the EU market for over 6,200 Philippine products, many of which are agri-fishery products. Similarly, the development of GIs offers an excellent opportunity for farmers to incrementally increase the value of their products.

RECOMMENDATIONS

ESTABLISH A CONSTRUCTIVE REGULAR INTERCHANGE BETWEEN PUBLIC AND PRIVATE SECTOR STAKEHOLDERS FOR THE DEVELOPMENT AND IMPLEMENTATION OF A SECTOR WIDE ROADMAP FOR AGRICULTURAL MODERNIZATION, BY BUILDING ON MANY OPPORTUNITIES OFFERED BY THE EU, INCLUDING GSP+.

We look forward to working with relevant government authorities, including regional and LGUs, to establish a constructive public-private sector partnership to share expertise, create joint ventures between Philippine and European companies in the agri-food supply and value chain, and invest in a bankable, sustainable agriculture sector with the following aims:

- Promote and support the utilization of GSP+ opportunities by the Philippine agriculture sector, including through the continuation and expansion of capacity building and technical assistance offered by DTI to SMEs around the country to support compliance with EU standards, so products can be exported to the EU market;
- Reform the land title regime to establish a system that allows farmers to be bankable;
- Facilitate access to finance for smallholders and those benefiting from agrarian reform, with no collateral;
- Establish professional, transparent cooperatives across the country to serve as agricultural hubs and support farmers with access to finance, capacity building in agri-preneurship and agri-business skills, new agricultural techniques and value added processing; provide processing facilities, serve as a trading hub for agricultural goods to cut out the middle man and provide machinery and agricultural inputs to farmers at fair market prices;
- Invest in transportation and storage infrastructure and facilities to reduce spoilage of products during the transportation / storage process from farm to market;
- Target products and areas to support in developing GIs;
- Ensure cooperation and alignment between national and local government, in support of the implementation of pro-growth policies and projects for the agriculture sector.

3. IMPROVEMENTS TO THE REGULATORY PROCESS

ISSUE DESCRIPTION

The Fertilizer and Pesticide Authority was created on May 30 1977 by virtue of PD No. 1144, which attached it to the DA. EO No. 165 signed on May 5 2014 transferred the FPA to the Office of the President under the Office of the

81 REP. ACT No. 10000 (2009).
82 Gilberto M. Lanto, "How Critical is Transport and Logistics Infrastructure to Interregional Trade? The case of high-value fruits and vegetables in Mindanao," Policy Notes, Philippine Institute of Development Studies, December 2012: 1-8.

Presidential Assistant for Food Security and Agricultural Modernization. The FPA regulates and registers fertilizer and pesticide products, among other functions.

FPA regulates a PhP 12 billion crop pesticide industry and a PhP 30 billion fertilizer industry (2014 estimates at distributor level) that contribute to increased productivity of major economic crops. On pesticides alone, there are 255 registered active ingredients with 2,031 formulated products sold in more than 4,000 brands.[83]

As the Philippine market and agriculture sector continue to expand and modernize, FPA faces difficulties in aligning processes to changing market needs. Challenges include the large backlog of license applications and certifications; long application processing time; a lack of an application tracking mechanism; a large number of applications; a large amount of product data (applications, licenses, product registration); interface with customers, national Government and international regulatory bodies and a lack of resources (funds, staff).

Similarly, the Bureau of Agriculture and Fisheries Standards was created in December 1997, as provided by the Agriculture and Fisheries Modernization Act of 1997 (RA No. 8435), and operates under the DA and oversees the formulation and enforcement of standards in the agriculture sector.

BAFS faces similar shortcomings to those identified within the FPA processes, thus rendering it difficult for organic products and biological control agents to complete the registration process.

FPA and BAFS' functions are of key importance to the development of the agricultural sector and the increase of its productivity, as they are the gateway for the newest agricultural inputs available on the international market to enter the Philippine market and become accessible to Filipino farmers.

RECOMMENDATIONS

MODERNIZE AND IMPROVE TRANSPARENCY IN THE REGULATORY PROCESSES AND EXPAND COOPERATION WITH OTHER RELEVANT GOVERNMENT AGENCIES THROUGH THE ESTABLISHMENT OF A NATIONAL SINGLE WINDOW.

The modernization and improvement of transparency in processes and operational aspects of the FPA and BAFS will undoubtedly be a positive step towards facilitating the importation of fertilizers, pesticides, organic products and biological control inputs into the Philippine market and thus ensure farmers' access to the newest products in the market. In this context, we consider the following actions as urgent and important to establishing a more effective, efficient regulatory process:

- Computerization of the FPA - this has been done for a number of government agencies and is key to establishing the efficiency of the agency and data protection, it is also conducive to improved transparency across regulatory agencies' operations;
- Establish clear regulatory guidelines for the implementation of the Globally Harmonised System guidelines on agrochemical products, organic inputs and biological control agents;
- Establish a National Single Window, which will create an interactive, system of data sharing between the BOC and relevant government agencies including the FPA and BAFS.
- Ensuring energy security is becoming a fundamental concern for the Philippines, especially in Mindanao where the El Niño phenomenon earlier this year caused power shortages across the island. Energy security is integral not just to meeting basic needs, but also to the competitiveness and productivity of the economy at large.

83 Data provided by distributors, based on market data.

HIGH PRIORITY SECTOR PAPERS

ENERGY AND RENEWABLE ENERGY

IMPLEMENTATION OF A SUSTAINABLE ENERGY MIX POLICY

Enforce a sustainable energy mix policy and review existing licenses for planned coal plant projects

IMPLEMENTATION OF A NATURAL GAS STRATEGY

Enact a Natural Gas Law

ESTABLISH A NATIONWIDE GRID CONNECTION

Create an integrated national grid system by linking the Mindanao with the Visayas

SUPPORT ENERGY EFFICIENCY AND CONSERVATION

Enact an Energy Efficiency and Conservation Act

REVIVAL OF THE COUNCIL OF ADVISERS ON ENERGY AFFAIRS

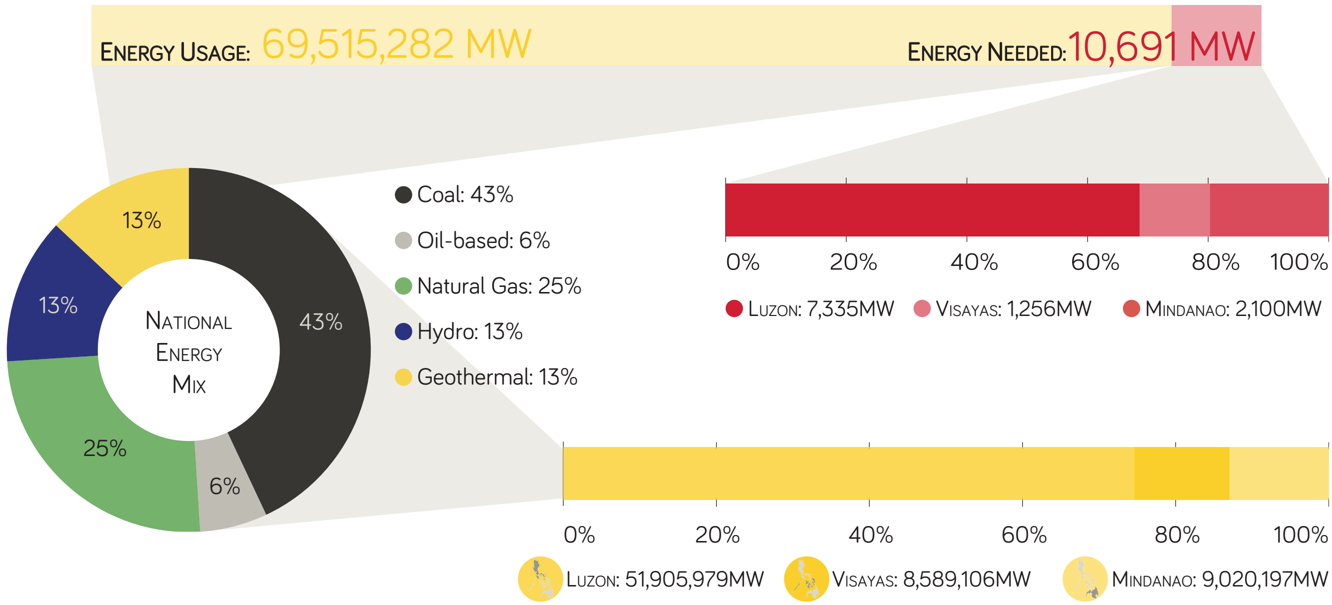
Revive the Council of Advisers on Energy Affairs and expand its private sector membership

Moreover, in light of global efforts to address climate change and the Philippines' ranking among the most climate vulnerable countries globally, it is crucial that energy security is established through environmentally sustainable power generation.

Therefore, it is vital to implement a sustainable energy mix, with a significant share of power coming from clean energy sources, especially renewable energy. Equally important is the development of a strategy to increase the use of Liquefied Natural Gas (LNG), which can meet growing energy demand with less environmental impact than traditional fossil fuels, such as coal. Energy efficiency and conservation are also key to establishing energy security in an environmentally friendly manner, requiring a stick-and-carrot policy to ensure that endusers become more energy efficient.

The fragmentation of the country into two grids needs to be addressed immediately in order to better serve end users across the country. Indeed, the integration of a nationwide grid can neutralize regional energy shortages and accommodate an increasingly variable load.

European companies are global leaders in sustainable energy solutions, be that renewable energy, LNG or energy efficiency. They look forward to the opportunity to develop an energy landscape which meets demand but is environmentally friendly. Thus, we propose the following actions as tools to jointly achieve sustainable energy security in coming years.



SECTOR SITUATIONER

MARKET DATA

The EU continues to be the largest investor for renewable energy in the Philippines, with a record high PhP90 billion of reported investments in 2015, equivalent to 37% of total investment in the sector. The UK has already been making significant investments in the country's clean technology industry. In fact, out of the Philippines' USD250 million clean technology fund, 13% is funded by the UK. In 2015. the EU committed PhP12 billion for cooperation in the field of energy for the period 2014 to 2020.[84]

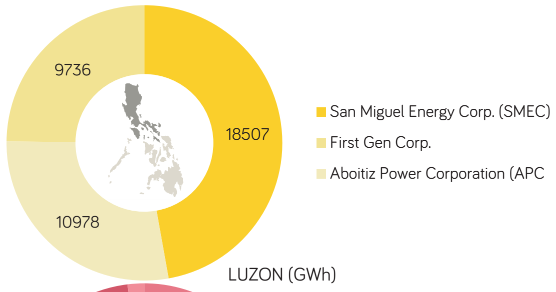
San Miguel Energy Corp. (SMEC) topped the list of power generation companies in Luzon, with power generated at 18,507 GWh or 33% of total Luzon power generation. First Gen Corp. followed with 10,978 GWh or equivalent to 20% of total power generated in Luzon. Aboitiz Power Corporation (APC), which has a portfolio of geothermal, hydro and oil-based power plants came third with a total of 9,736 GWh of energy generated in Luzon. In the Visayas, the National Power Corporation (NPC)/Power Sector Assets and Liabilities Management Corporation (PSALM) continues to be the biggest player, as it controls the installed capacity of the 610.2MW Unified Leyte Geothermal complex. Following NCP/ PSALM is Global Business Power Corporation (GBPC), which owns nine power generation facilities in the Visayas region and Mindoro island, with a combined installed capacity of 3.502 MW, equivalent to 28% share of total. In third place in the Visayas is First Gen Corp. through its EDC-owned Palinpinon-Tongonan Geothermal power plants, with a total installed capacity of 1,657 MW. It is followed by the Aboitiz Group with an installed capacity of 115 MW. In Mindanao, the Government still dominates the power generation sector through NPC's Agus Pulangui Hydro Power Complex and PSALM's IPP contract with Mindanao Coal Power Plant. NPC accounts for the highest electricity generation with 4,458 GWh, followed by PSALM with 1,258 GWh, covering 48% and 14% of the Mindanao Grid respectively. Alcantara Group, which owns oil-based power plants, came in third with 1,238 GWh or 13% of the Mindanao grid, while APC follows with 1,140 GWh or 12% of the grid.[85]

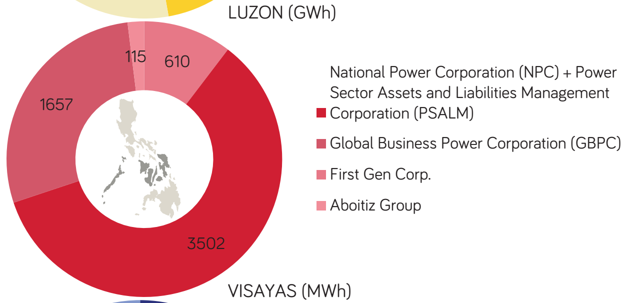
The Mindanao power grid remains on red alert following the decrease of the island's hydro power plants' capacity to 16% due to El Niño, frequent emergency shutdowns of most power plant assets, and the bombing incidents of transmission lines. As already identified by the National Grid Corporation of the Philippines (NGCP), the Visayas and Mindanao grids have to be interconnected, as it would open more investment opportunities in Mindanao, both in terms of additional power generation and industrial loads. The Philippines' reliance on imported fuels has also made the country's electricity rates among the highest in Asia.

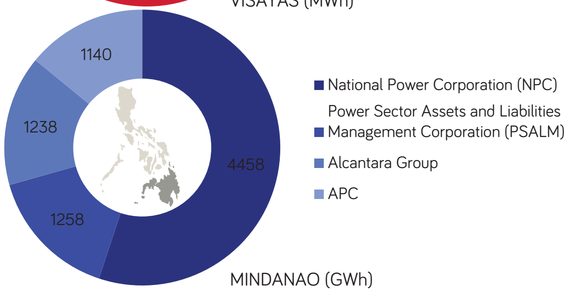
The Philippines has strong potential in harnessing Renewable Energy, both for consumer use and power production. Investment in RE remains a sector with high potential for European investment. However, proper infrastructure, maintenance and connected technologies need to be ensured to make it work.

84 EUROPA – EEAS (14/07/2015). The EU and the Philippines work together to identify best policies for sustainable and competitive energy. Retrieved: 01/05/2016. http://eeas.europa.eu/delegations/philippines/documents/press_corner/20151407.pdf.

85 27th EPIRA (10/2015). Implementation Status Report. Retrieved 07/05/2016. http://www.doe.gov.ph/sites/default/files/pdf/electric_power/power_industry_reforms/27th_epira_report%20_30_march_2016-final.pdf.







In terms of the sector's potential employment generation, a 2014 study by the UK's Energy Research Centre took a deep dive into job creation claims made by proponents of renewable energy and energy efficiency. It came to the conclusion that transitioning to renewables and ramping up energy conservation would create more jobs than the fossil fuel sector, at a rate of about one job per gigawatt hour of electricity saved or generated by a clean energy source.[86]

The waste-to-energy market is currently growing rapidly around the world. According to the DOE, biomass has the capacity to generate 4,450 MW of electricity, which is equivalent to 40% of the country's energy needs. With a population of about 100 million bound to generate abundant biomass resources including agricultural crop residues, animal wastes and agro-industrial wastes, there is a huge potential for waste-to-energy generation in the Philippines.[87]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The DOE issued a circular (DO No. 2015-06-0008) in June 2015, mandating all Distribution Utilities (DUs) to undergo competitive selection process in securing their power supply agreements, to bring down the cost of power and ensure transparency in the procurement process.

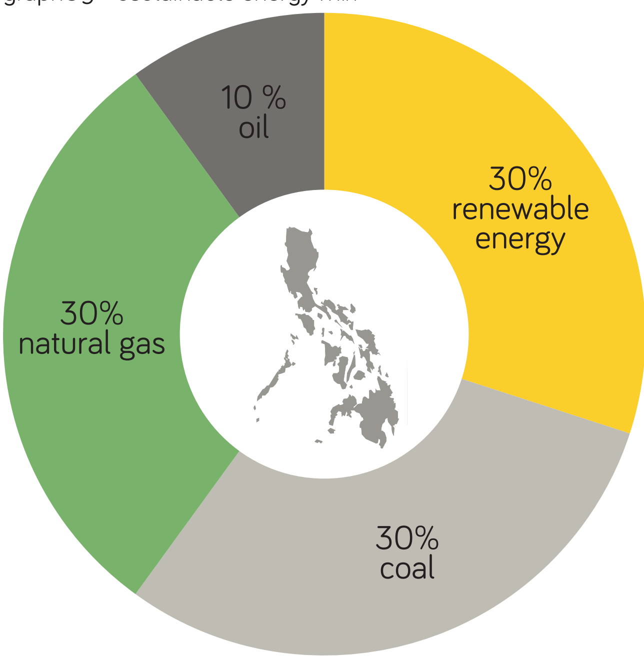
ADVOCACY

1. IMPLEMENTATION OF A SUSTAINABLE ENERGY MIX POLICY

ISSUE DESCRIPTION

A balanced fuel mix for the power sector is essential for economic growth and sustainable development. In the Philippines, the DOE has developed an energy mix policy prescribing a 30% share of power sources from RE, 30% from coal, 30% from natural gas and the remaining 10% from oil.[88] However, it is forecasted that by 2020 coal power could account for up to 56% of the country's energy mix with 23 power plants expected to be operational in the next five years.[89] The expansion of coal fueled power plants is also in direct contrast to the Philippines' Intended Nationally Determined Contributions (INDC) provided to the Paris Agreement, to reduce greenhouse gas emissions by 70% by 2030.[90] (see graph 09)

graph09 - sustainable energy mix



Data issued in Maplecroft's Heat Stress (Future Climate) Index in late 2015 indicated that within a generation South-Asian economies, including the Philippines,

86 UK Energy Research Centre (05/11/2014). The evidence for net job creation from policy support for energy efficiency and renewable energy. Retrieved: 06/05/2016. http://ecowatch.com/wp-content/uploads/2014/11/UKERC-Low-Carbon-Jobs-Report.pdf.

87 Mark Bergman WtERT Philippines (n.d.). Current state of waste to energy in Philippines. Retrieved: 29/05/2016. http://www.wtert.eu/default.asp?Menue=14&ShowDok=54.

88 There is currently a study ongoing within the DOE with the objective to review the energy mix policy, results will be pusblished in July.

89 IHS(06/2015). Sustainable energy transition for the Philippines.

90 President Benigno S. Aquino III (30/11/2015). National statement made during the leaders event of the 21st Conference of Parties in Paris, France. Paris. France.

could be up to a quarter less productive than today due to heat stress. It also highlighted that the Philippines could lose up to 16% of its labor capacity over the next three decades due to the same cause. [91] Indeed, as one of the most climate vulnerable countries globally, the Philippines faces an imminent threat of productivity and competitiveness losses due to climate change. It must mitigate the effects of climate change through the reduction of CO_2 emissions, in line with its commitments made during the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21).

The implementation of an energy mix policy focused on sustainability, which gradually reduces dependence on coal is key to sustainable environmental policy and de-carbonization of the economy. The current trend in the Philippine energy environment, which is a growing dependency on coal fired plants, should be reversed and aligned with the DOE's 30-30-30-10 energy policy mix.

While the short term cost of investment in coal powered plants is lower than renewable energy, in the mid to long term, renewable energy sources are cost competitive compared to coal, even before discounting the environmental and health impact.

RECOMMENDATIONS

ENFORCE A SUSTAINABLE ENERGY MIX POLICY AND REVIEW EXISTING LICENSES FOR PLANNED COAL PLANT PROJECTS.

We strongly support the strict enforcement of the DOE's prescribed energy mix policy of 30% Renewable Energy, 30% coal-fired plants, 30% natural gas and 10% oil burning plants, with an outlook for further review in coming years to increase the share of clean energy sources. To this end, existing licenses for the development of additional coal plants should be reviewed.

We welcome the new Administration's plan to review proposed coal plants and new applications to ensure alignment between the Philippines' energy strategy and the DOE's energy mix policy, the country's international commitments and benchmarked against global trends to reduce the environmental and health impacts of energy production.

91 Verisk Maplecroft (28/10/2015). Heat stress threatens to cut labour productivity in SE Asia by up to 25% within 30 years. Retrieved 19/06/2016. https://maplecroft.com/portfolio/new-analysis/2015/10/28/heat-stress-threatens-cut-labour-productivity-se-asia-25-within-30-years-verisk-maplecroft.

2. ADOPTION OF A DOWNSTREAM NATURAL GAS POLICY

ISSUE DESCRIPTION

The use of LNG is steadily growing across the globe. It presents a viable alternative to traditional power sources, such as fossil fuels.

In the case of the Philippines, since 2001, approximately 40-45% of Luzon's power generation requirements have been covered by the Malampaya Deepwater Gas-to-Power project, which draws gas from beneath the sea to fire three power stations with a total generating capacity of 2,700 megawatts.[92] With Malampaya reserves expected to run out by 2024, there is an increasing need to diversify power supply in Luzon and the country's energy sources to ensure long-term energy security. LNG presents an alternative that is more environmentally sustainable than traditional fossil fuels, such as coal plants.

Upstream exploration and production is already substantially developed and is governed by the Oil Exploration and Development Act of 192 (PD No. 87). However, the downstream sub-sector still requires further development to establish LNG as a viable source of energy for the Philippines.

Although industry interest in the sector exists, with many of the large players turning towards LNG as the next generation of power source, it is necessary to develop a national policy framework and roadmap for sustainable and viable downstream infrastructure.

A Downstream Natural Gas Industry Development Act bill was deliberated during the 16th Congress, but did not progress.

RECOMMENDATIONS

ENACT A DOWNSTREAM NATURAL GAS INDUSTRY DEVELOPMENT LAW.

We fully support the enactment of a Downstream Natural Gas Industry Development Law to establish a legislative framework for a long term strategic plan for the development of downstream infrastructure to increase the use of LNG in the Philippines. The inclusion of provisions with clear regulatory guidelines, long term policy objectives and an incentives scheme will provide a strong policy framework and ensure Government support that will effectively attract private sector participation.

92 Malampaya(2016). Background information. Retrieved 20/06/2016. http://malampaya.com.

3. ESTABLISHMENT OF A NATIONWIDE GRID CONNECTION

ISSUE DECRIPTION

Following the enactment of the Electric Power Industry Reform Act (EPIRA) of 2001 (RA No. 9136), The National Transmission Corporation (TransCo) was created to operate and manage the country's power transmission system. NGCP won the TransCo concession and secured a congressional franchise to operate, maintain and expand the national grid in 2008.[93]

However, while the legislative framework provides clear mandate for the maintenance and expansion of the national grid, operationally, there are several factors which render the current grid ineffective.

Specifically, evolving sources of energy are a key concern for the effectivity of the grid. In the case of Mindanao, the energy supply mix has already started changing, while even more drastic changes are expected in the future. So far, the energy mix in Mindanao is 60% reliant on renewable energy, primarily hydropower, and 40% reliant on fossil fuels. However, it is anticipated that by 2018, the mix will be reversed to 70% fossil fuels and 30% renewable energy, due to 1,800 megawatts of capacity from coal-powered plants coming on line by 2018. [94] In the case of Visayas, the fast expansion of solar power projects in Negros is increasing the variability of power entering the grid, putting pressure on the current grid system.

The fragmented grid system, with two separate grids for Luzon/the Visayas and Mindanao respectively, deters the creation of a national, efficient power system that can absorb discrepancies in supply and demand across the country. Notably, due to the El Niño effect in early 2016, Mindanao faced serious power supply shortages as water sources across the island dried up. Without the existence of an interconnected grid, the island was unable to compensate by utilizing diversified power sources from other regions in the country.

As demand for energy supply continues to grow across the country and variable power from renewable energy sources increase, it becomes ever more important to create an integrated grid system and implement modifications to modernize the grid. Given the expected economic expansion in Mindanao under the Duterte Administration, the grid link between the Visayas and Mindanao is essential.

RECOMMENDATIONS

CREATE AN INTEGRATED NATIONAL GRID SYSTEM BY LINKING THE MINDANAO GRID WITH THE VISAYAS.

We recommend the interconnection of the national grid system between the Visayas and Mindanao to develop one national integrated grid system including Luzon, the Visayas and Mindanao. Additionally, the maintenance and expansion of the grid system should be prioritized, to ensure that the grid is able to accommodate changing energy supply patterns and growing demand, and thus serve more areas in the country. In this context, it is essential that the NGCP, as mandated by the franchise agreement, provides ancillary services to stabilize the grid and develop quality power.

4. SUPPORT ENERGY EFFICIENCY AND CONSERVATION

ISSUE DESCRIPTION

The inclusion of energy efficiency technologies in the BOI's IPP 2014-2016 and the adoption of Resolution No. 15-239 by PEZA in May 2015, which introduced tax- and duty- free importation for certain energy efficiency technologies for locators, incentivize investment in certain energy efficiency technologies. Additionally, the Philippine Energy Efficiency Roadmap 2014-2030 provides a strategic plan directed at making industrial, transport, commercial and residential sectors in the Philippines more energy-efficient by 2030. The corresponding National Energy Efficiency and Conservation Action Plan 2016-2020 is a short term action plan aimed at implementing actions towards the strategic goals included in the Philippine Energy Efficient Roadmap 2014-2030, through provisions for resource allocation, institutional arrangements, stakeholder engagement, timeframes for completion, and responsibility to ensure that programs are developed and implemented in each of the key sectors.[95]

However, what is lacking so as to fully ensure that the Philippines becomes more energy efficient, is a legislative framework that institutionalizes stick-and-carrot measures for end users to become more energy

93 REP. ACT No. 9511. December 1, 2008.

94 PIA(09/06/2016). Mindanao's RE push to boost PHL's clean energy agenda. Retrieved 23/06/2016. http://news.pia.gov.ph/article/view/1701465459726/mindanao-s-re-push-to-boost-phl-s-clean-energy-agenda.

95 DOE (15/01/2016). Philippine Energy Efficiency Roadmap 2014-2030 and Action Plan 2016-2020: This is where we need to be and this is how we will get there. Retrieved: 20/06/2016. http://www.doe.gov.ph/news-events/events/announcements/2874-philippine-energy-efficiency-roadmap-2014-30-and-action-plan-2016-20-this-is-where-we-need-to-be-and-this-is-how-we-will-get-there.

efficient. Indeed, unlike renewable energy technologies, for which the Renewable Energy Act of 2008 provides specific parameters which incentivize private sector investment, incentives for energy efficiency are not institutionalized, but rather subject to review by the IPAs which provide incentives. Similarly, there are no legally binding requirements for end users to become more energy efficient. Notably, the Philippines and Malaysia are the only countries of the ASEAN-6 with no energy efficiency law.[96] (see table 05)

table 05 - Existing incentives for energy efficiency

Incentive program	Incentives granted
BOI IPP 2014-2016	Income Tax Holiday from 4 years to a maximum of 8 years, depending on whether the activity is pioneering or not, provided the registered enterprise meets the targets of its project. Registered projects also have the privilege of importing capital goods free of duties.
Resolution No. 15-239, PEZA	Energy efficiency equipment/products to be imported tax and duty-free or constructively exported by ecozone locators, limited initially to solar panel and LED lighting system.
National Energy Efficiency and Conservation Action Plan 2016-2020	Duty free importation of equipment, and tax holidays on revenues derived from projects.

Source: BOI, PEZA, DOE

The Energy Efficiency and Conservation bill, filed in the House of Representatives during the 16th Congress, aimed at establishing legally binding parameters for incentives and requirements for end users, However, the bill was not passed into law.

RECOMMENDATIONS

ENACT AN ENERGY EFFICIENCY AND CONSERVATION ACT

We fully support the timely enactment of an Energy Efficiency and Conservation Act in line with the draft bill deliberated during the 16th Congress. The Act should provide an incentives framework for end users who inject substantial capital from their operations into energy efficient technologies.

5. IMPLEMENTATION OF MEASURES IN SUPPORT OF INCREASED RENEWABLE ENERGY CAPACITY

PRESENT SITUATION

The Renewable Energy Act of 2008 (RA No. 9513) was enacted with the objective to accelerate the use of RE as a sustainable source of power in the Philippines. However, while many provisions included in the law have since been implemented, including the FIT system and the Feed in Tariff Allowance (FIT-All) which funds it, there remain constraints. Two of these include the implementation of the Renewable Portfolio Standards and the application of the FIT system.

The Renewable Portfolio Standards aims to increase demand for RE, by setting a minimum criteria for the percentage of RE sourced power to be consumed by end users. So far, the Renewable Portfolio Standards has not been implemented, although the DOE has published the proposed IRR and the Philippines Electric Market Corporation (PEMC) has set up the necessary systems for the RE Market.

While the implementation of FIT system and the FIT-All was hailed as a positive development in support of increasing the country's RE power capabilities, the manner of its implementation has raised concerns among RE developers. In particular, the "first come first served" system applied by the DOE and the Energy Regulatory Commission (ERC) for qualification of the FIT rates, renders a high level of risk for developers, as there is no guarantee they will be able to offset the cost of investment with the preferential rates offered through FIT-All once the development is completed. This increases the cost of capital and consequently the price of power to the consumer. Additionally, the process is characterized by a lack of transparency, as highlighted by the large oversubscription for the most recent solar installation target which has left a number of projects without FIT rates. In addition, the ERC has been slow to raise the FIT-All rate to a level that will fund present obligations to eligible projects. This again increases risk to developers and raises their cost of capital.

It is worth noting that despite concerns on the impact of the variability of RE sourced energy on the national grid, a study conducted by the World Bank has shown that variable RE penetration would need to exceed 10% of the total for grid stability to be affected – this is far in excess of current levels and those planned for the coming years.[97]

96 WEC (n.d.). World Overview, Energy Efficiency Law. Retrieved 20/06/2016. http://www.worldenergy.org/data/energy-efficiency-policies-and-measures.

97 WB (2013). A guide to operation impact-analysis of variable renewables: application to the Philippines.

The country should capitalize on the existing momentum created in the RE sector which will continue to drive down costs and power prices.

RECOMMENDATIONS

IMPLEMENT THE RENEWABLE PORTFOLIO STANDARDS IN THE SHORTEST POSSIBLE TIMEFRAME.

We fully support the adoption of the IRR published by the DOE for the full implementation of the Renewable Portfolio Standards soonest. This will complement the application of the FIT system in support of increasing the use of RE sourced power by energy users across the country.

APPROVE ADDITIONAL INSTALLATION TARGETS FOR RE CONSISTENT WITH THE FIT IRR, WHICH ARE HIGH ENOUGH TO MITIGATE THE RISK FOR DEVELOPERS CREATED BY THE FIRST COME FIRST SERVED SYSTEM.

The FIT IRR provides for successive installation targets to be announced once existing ones are used up. This allows for the momentum achieved by the RE sector to be sustained which in turn will allow for progressively lower FIT rates. The current situation in the solar sector where multiple projects have been stranded without offtake arrangements could be easily addressed by the swift implementation of a further installation target for solar along with a new target for wind which has also exhausted its current allocation. By applying installation targets which are higher than the immediate supply of projects, the risk for developers due to the implementation of a "first come first served system" will be mitigated. This will allow for a thriving RE sector to flourish and the progressive reduction of FIT rates, which in due course will reduce towards grid parity.

6. REVIVAL OF THE COUNCIL OF ADVISERS ON ENERGY AFFAIRS

ISSUE DESCRIPTION

At present, the development and application of energy policies are overseen by the DOE. However, there is a high degree of fragmentation and a lack of coordination between government agencies, especially on a regional basis. Policy development, energy security, grid and energy source development are addressed in a devolved manner, which is not conducive to increasing the country's energy sources with maximum benefits for consumers and minimum impact on the environment.

To advance the common interest of energy security and sustainability there has to be an institutionalized avenue for public-private cooperation towards the development of comprehensive, pro-active energy policies.

The *Department of Energy Act of 1992* (RA No. 7638) provided for the creation of a Council of Energy Advisers, comprised of five members from industry, labor and consumer groups, to advise the President on energy policies, especially in relation to private sector initiatives.[98] However, the Council is not currently operational.

RECOMMENDATIONS

REVIVE THE COUNCIL OF ADVISERS ON ENERGY AFFAIRS AND EXPAND ITS PRIVATE SECTOR MEMBERSHIP.

We propose the revival of Council of Advisers on Energy Affairs (CAEA), and expansion of private membership. The Council will serve as platform for regular dialogue among government agencies, business organizations, and other key stakeholders in the energy sector for the development and implementation of a comprehensive national energy policy to promote energy security and an environmentally sustainable energy mix.

98 REP. ACT No. 7638., Chapter III, Section 14.

HIGH PRIORITY SECTOR PAPERS

FOOD AND BEVERAGES

IMPROVEMENTS TO THE FISCAL ENVIRONMENT FOR ALCOHOLIC BEVERAGES

Reduce the excise tax on champagne and sparkling wines.
Prioritize the enforcement process and operational efficiency in the application of the alcohol tax stamp.

PROTECTION OF GEOGRAPHIC INDICATIONS

Implement a GI protection framework.

IMPROVEMENT OF THE REGISTRATION AND REGULATION PROCESS

Address inefficiencies in the CPR process to facilitate product registration.
Implement and enforce post-market surveillance.

ENFORCEMENT OF ANTI-SMUGGLING MEASURES AND IMPLEMENTATION OF THE NATIONAL SINGLE WINDOW

Operationalize a National Single Window that allows full alignment between the BOC and key Government agencies.
Strengthen enforcement mechanisms through an integrated PPP approach.

CREATION OF A PHILIPPINE PLATFORM FOR CONSUMER HEALTH, DIET AND PHYSICAL EXERCISE

Create a Philippine platform for consumer health, physical exercise and diet.

The EU food and beverage industry recognizes ASEAN, and the Philippines in particular, as a high growth market with substantial growth potential. Indeed, the food and beverage industry, along with other fast moving consumer goods, has been one of the drivers of Philippine economic growth in the past years. As the sector has expanded, the regulatory and policy frameworks have also been substantially improved. Indeed, the adoption of many of the Codex Alimentarius standards in September 2014 by the FDA and the introduction of e-registration for CPR are notable improvements. However, as the sector continues to grow, operational and policy gaps which serve as a barrier to trade and a threat to consumer safety need to be addressed. Smuggling and parallel importation are highlighted as two of the major concerns for luxury brands, while the need for improvements in the importation and registration process is also a priority. A less burdensome fiscal framework and an increased emphasis on consumer health are also high on the agenda.

The EPBN Food and Beverage Committee has cooperated closely with relevant government bodies, including the FDA, for improvements on the regulatory process and policy framework governing food and beverages, in a constructive public-private partnership. We look forward to continued cooperation, with the following recommendations as guidance to the improvements we hope to achieve.

OPPORTUNITIES FOR EU COMPANIES:

- Importation of European F&B Goods
- Stores outside Metro Manila
- Technology for Food Manufacturing
- GPS+

RETAIL CHANNELS (2011-2014)

36% of FMCG users use modern trade channels

835 new convenience store outlets

97 small format supermarkets

210 supermarkets

CONSUMPTION EXPENDITURE (2015)

PHP 9.8 trillion

6.2% growth

F&B accounted for 40% (PHP4.1 trillion)

FOOD MANUFACTURING

Q1 2015: GAV PHP 326 bn

5.5% (from 2014)

PHL export to EU: EUR 815 mil

PHL imports EU: EUR 849 mil

SECTOR SITUATIONER

MARKET DATA

In 2015, consumption expenditure in the Philippines amounted to over PhP9.8 trillion, registering a 6.2% growth rate. The Philippine retail sector's main growth driver is derived from food consumption. Food and non-alcoholic beverages accounted for 40% of total household consumption expenditure in 2015, amounting to PhP 4.1 trillion.[99]

In 2014, 36% of the population bought Fast Moving Consumer Goods (FMCG) through modern trade channels and concurrently, there has been a rapid expansion of supermarkets and convenience stores (modern trade) but a decline in the demand in wet markets (traditional trade). Large grocery trading still has the largest impact on Philippine retailing for the Food and Beverage (F&B) sector, as major retailers continuously expand nationwide through modern channels. From 2011 to 2014, over 835 new convenience store outlets were opened. Over the same period, over 210 supermarkets and 97 small format supermarkets were also set up.

The Philippines' food and beverage processing industry also opened the following major sectors: fruits and vegetables, meat and poultry, dairy, seafood products, coffee and cacao, condiments and seasonings, fats and oils, bakery products, sugar and confectionery, and beverages. Food manufacturing topped the manufacturing industry sector during Q1 2015 with a gross added value, at current prices, of PhP 326 billion, up by 5.5% from 2014.[100]

Philippine food exports to the EU in 2015 were valued at EUR815 million, up from EUR728 million in 2014. Food imports from the EU were valued at EUR849 million, compared to EUR899 million in 2014.[101]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

In May 2016, the FDA started a new application process for the License to Operate, with the issuance of the Circular "Procedure on the Use of the New Application Form for License To Operate (LTO) thru the Food and Drug Administration (FDA) Electronic Portal (e-portal)" (FDA Circular No. 2016-004). The FDA also issued guidelines on the unified licensing requirements and procedure of the FDA (FDA Circular No. 2016-003).

Additionally, e-registration was expanded to applications for CRP for medium and high risk food products by the FDA in the first half of 2016.

99 PSA (2015). Gross National Income & Gross Domestic Product by Expenditure Shares. Retrieved 20/06/2016. http://nap.psa.gov.ph/sna/2015/4th2015/2015hfce4.asp.

100 PSA (2015). Gross National Income & Gross Domestic Product by Industrial Origin. Retrieved 12/05/2016. http://nap.psa.gov.ph/sna/2015/1st2015/2015mfg1.asp.

101 EU Delegation to the Philippines (13/04/2016). Philippines- Economic and Trade Report 2015. Manila. The Philippines.

ADVOCACY

1. IMPROVEMENT OF THE REGISTRATION AND REGULATION PROCESS

ISSUE DESCRIPTION

The FDA is the government body assigned to regulate the food and beverage industry. The FDA is under the Department of Health (DOH). Within the FDA structure, the Center for Food Regulation and Research (CFRR) is the designated department for food and beverages.

In the past years, there have been commendable improvements in the policy framework and operational efficiency, transparency and technical capacity of the FDA. Most notable is the adoption of standards aligned to Codex Alimentarius through the implementation of the Food Safety Act of 2013, with the issuance of FDA AO 2014-0030, *"Revised Rules and Regulation Governing the Labelling of Prepackaged Food Products Further Amending Certain Provisions of Administrative Order No. 88-B s.1984 or the "Rules and Regulations Governing the Labeling of Pre-packaged Food Products Distributed in the Philippines and For Other Purposes."*

Additionally, the computerization of the registration process for food products, initially for low-risk products and the current transitioning to e-registration for medium- and high- risk products, is an important step towards the improvement of the registration and regulation of the food and beverage sector. The adoption of AO No. 2016-0003, "Guidelines on the Unified Licensing Requirements and Procedures of the Food and Drug Administration," for which the EPBN Food and Beverage Committee participated in industry consultations, will improve the efficiency of the registration process. The creation of a TWG that institutionalized consultation with industry through monthly meetings also ensures transparent consultation with the private sector and sharing of technical expertise.

However, there is still room for improvement. In a survey conducted among EPBN Food and Beverage Committee members in 2015, it was found that there are still substantial delays in the registration process, which go beyond the 60 day timeline provided for in the FDA Citizen's Charter. Identified causes were evaluators' lack of technical capacity and knowledge and shortcomings in the e-registration system, which render it difficult to amend mistakes in the system without having to re-start the registration process. The regulatory enforcement and post-market surveillance of the Food Safety Act of 2013 are also weak, with potential repercussions on consumers' safety.

RECOMMENDATIONS

ADDRESS INEFFICIENCIES IN THE CPR PROCESS TO FACILITATE PRODUCT REGISTRATION.

While the computerization of the registration process for food and beverage products is a much welcomed development, it is important to address structural and procedural inefficiencies within the system. Identification of the major bottlenecks and the consequent implementation of improvements, will further strengthen the e-registration process and ensure that all CPR registrations are completed within the 60 day timeline.

IMPLEMENT AND ENFORCE POST-MARKET SURVEILLANCE.

The adoption of the Food Safety Act of 2013 was a milestone in terms of aligning Philippine food standards to the highest international standards and protecting consumer safety. The results have been notable in the registration process. However, post-market surveillance and enforcement of compliance with the existing policy framework governing food safety is even more important for protecting consumers from the consumption of parallel imported, expired, or wrongly stored, products. We strongly recommend and support the strengthening of post-market surveillance by the FDA.

2. IMPROVEMENTS TO THE FISCAL ENVIRONMENT FOR ALCOHOLIC BEVERAGES

ISSUE DESCRIPTION

An excise tax on alcoholic beverages was introduced at the end of 2012.[102] Since the end of a dispute brought by the EU to the WTO in 2013, the Philippines has applied a hybrid tax system with a specific excise tax and an ad-valorem tax per proof based on the NRP. While the excise tax is non-discriminatory in terms of origin of alcoholic beverage, as local and foreign manufacturers pay the same, it has been observed that champagne and sparkling wines face an uncompetitive level of fixed excise tax compared to other alcoholic beverages. The fixed excise tax per liter on champagne and sparkling wine for 2016 is PhP 787.40, compared to PhP 33.75

102 REP. ACT No. 10351.

table 06 - Excise tax on alcoholic beverages, info to be provided in separate document

	Duties % on CIF	Specific excise tax/ proof liter (spirits), liter (wines)	Ad-valorem tax per proof based on NRP (excl. VAT & Excise tax)
Cognac	10%	PhP 20.80	20%
Vodka	10%	PhP 20.80	20%
Whisky	15%	PhP 20.80	20%
OTH SPI	10%	PhP 20.80	20%
Wine	7%	PhP 33.75	
Champagne	5%	PhP 787.40	
SP. Wine	5%	PhP 787.40	
SP. Wine <500	5%	PhP 281.22	

Source: Bureau of Internal Revenues

for non-sparkling wine and PhP 20.80 for spirits. This is seen as a barrier to trade for EU industry, which is the world leader in that market segment.[103] Not only does it decrease the competitiveness of the products, but it also incentivizes the proliferation of smuggled goods at a much lower cost. In fact, retail stores have been selling champagne and sparkling wine for less than the prescribed excise tax, which most likely means these are not legally imported. This is detrimental for compliant importers and exclusive distributors who cannot compete on the basis of fair market competition. (see table 06)

With regard to alcohol tax stamps, so far only imported alcoholic beverages have been required to apply tax stamps on their products. However, it is understood that the BIR is currently in the planning stages of the application of alcohol tax stamps on all alcoholic beverages, starting early 2017. The EPBN Food and Beverage Committee joined industry consultations with the BIR and the APO Production Unit (APO) in late 2015 and early 2016 on the application of the new alcohol tax stamp. However, some industry concerns pertaining to the application and enforcement process remain unanswered. These primarily relate to the establishment of effective enforcement mechanisms and implementation procedures, which are integral to the successful and fair implementation of the alcohol tax stamp.

103 OIV(2014). OIV's focus – the sparkling wine market. Retrieved 05/06/2016. http://www.oiv.int/public/medias/3098/les-vins-effervescents-en-complet.pdf.

RECOMMENDATIONS

REDUCE THE EXCISE TAX ON CHAMPAGNE AND SPARKLING WINES.

We recommend the review and reduction of the excise tax on champagne and sparkling wines to align with the fixed excise tax levels on other alcoholic beverages and prevent smuggling and unfair competition.

PRIORITIZE THE ENFORCEMENT PROCESS AND OPERATIONAL EFFICIENCY IN THE APPLICATION OF THE ALCOHOL TAX STAMP.

We fully support the application of an alcohol tax stamp to both imported and domestic alcoholic beverages. Further, strict enforcement mechanisms at every stage of the value chain need to be incorporated in its implementation. Operational details, such as the steps and timeline for the issuance of alcohol tax stamps and the application instructions for the alcohol tax stamp on bottles, should likewise be considered. We look forward to consultation and dialogue with the BIR before the application of the alcohol tax stamp is finalized.

3. ENFORCEMENT OF ANTI-SMUGGLING MEASURES AND IMPLEMENTATION OF THE NATIONAL SINGLE WINDOW

ISSUE DESCRIPTION

While there have been improvements in the enforcement of anti-smuggling measures, the proliferation of smuggled and parallel imported alcoholic beverages remains a significant impediment for exclusive distributors and importers.

There have been numerous cases of tampered bottles sold in the market but not imported by their exclusive distributors / importers. In many cases, especially in the champagne and sparkling wine market segment, prices undercut the excise tax.

The entrance of smuggled and parallel imported goods is often due to the lack of coordination between relevant government agencies, such as the BOC, FDA and BIR. Additionally, when brand owners identify non-compliant products being sold, they are often unable to seek removal of products from the market due to weak enforcement mechanisms.

RECOMMENDATIONS

OPERATIONALIZE A NATIONAL SINGLE WINDOW THAT ALLOWS FULL ALIGNMENT BETWEEN THE BOC AND KEY GOVERNMENT AGENCIES.

We strongly support the operationalization of a National Single Window that is fully automated and fully interactive which facilitates efficient and effective alignment and coordination between the BOC and key government agencies, including the FDA and the BIR. The measure will address the lack of coordination between government agencies and combat smuggling and parallel importation of alcoholic beverages.

STRENGTHEN ENFORCEMENT MECHANISMS THROUGH AN INTEGRATED PPP APPROACH.

We believe that the strengthening of enforcement mechanisms through innovative processes and technologies, such as the use of QR codes suggested by the BIR, is integral to addressing the issue on non-compliant goods. Additionally, public-private cooperation is key to identifying gaps in the value chain and in enforcement mechanisms, prevent smuggling and parallel importation. Notably, the UK Intellectual Property Office (IPO) has successfully implemented PPPs to enforce anti-counterfeit measures in the consumer goods segment, which could be adopted as a best practice.

4. PROTECTION OF GEOGRAPHIC INDICATIONS

ISSUE DESCRIPTION

The recognition and protection of GIs is a priority for the EU Food and Beverage sector in the Philippines, as much of the competitive advantage of EU food and beverage products lies in their recognition as GI products.

The Intellectual Property Code of the Philippines (RA No. 8293) provides for the registration of GIs as a collective trademark, but so far there is no established policy framework for the protection of GIs although IPOPhil has been drafting rules and regulations governing the recognition and registration of GIs.

The protection of GIs is a priority for EU food and beverage companies as the lack of a protection framework compromises their competitive advantage due to a proliferation of sub-par products which use the GIs' names. Moreover, the development of a strong GI protection policy framework can also translate to significant benefits for domestic products. Once products hold a GI, their market value rises substantially, and taking into account that the Philippines currently benefits from the EU GSP+ program, they can profit further from market access to EU Member States, whose consumers place a high value on GIs.

Finally, strict protection framework of GIs is a salient feature of EU FTAs in the region, the adoption of a policy framework for the protection of GIs will send a positive message in terms of the commitment of the Philippine Government to conclude negotiations for an EU-Philippine FTA.

RECOMMENDATIONS

IMPLEMENT A GI PROTECTION FRAMEWORK.

We look forward to the adoption of IRR by IPOPhil that will provide for a strict registration and protection framework for GIs in the Philippines, aligned to EU standards. It will protect high quality EU brands that benefit from GIs and simultaneously ensure that Filipino consumers are assured of the authenticity of the products they purchase. Finally, it will realize the profit generation potential of Philippine products looking towards the EU market.

5. CREATION OF A PHILIPPINE PLATFORM FOR CONSUMER HEALTH, DIET AND PHYSICAL EXERCISE

ISSUE DESCRIPTION

The debate on a sugar beverage tax bill during the 16th Congress highlighted the concerning trend of obesity among Filipino consumers, with 31.1% of adults considered overweight in 2013.[104]

One of the "hard" policy measures that is currently being debated extensively in many countries globally, is the use of fiscal measures that tax foods which include nutrients with a potentially detrimental effect on health, such as sugar, salt and fat. Scientific findings on the effectivity of such measures in improving consumer health remain largely inconclusive, with varying opinions on their impact among related literature.

Whether or not fiscal measures do benefit the drive against obesity, they cannot single-handedly address concerns over consumer health in the long term. Therefore, the debate on consumer health should not be limited to the application or not of an excise duty on sugar beverages. Rather, it should foster the creation of a holistic, multi-sectoral approach, which focuses on consumer education and information, a change of consumer attitudes on diet, physical exercise and health, and the availability of healthier products in the market, in order to effectively address obesity and diet- and lifestyle- related non-communicable diseases.

IMPACT ON THE BUSINESS ENVIRONMENT

The EU food and beverage industry recognizes that this is not something that the Government can achieve single-handedly. If we want to see a substantial change in consumer habits, the private sector needs to become part of the solution and work closely with Government to jointly lead the way, by committing to educate consumers, adapt products and packaging and provide viable alternatives that promote healthy lifestyle.

RECOMMENDATIONS

CREATE A PHILIPPINE PLATFORM FOR CONSUMER HEALTH, PHYSICAL EXERCISE AND DIET.

We strongly support the creation of a Philippine platform for consumer health, physical exercise and diet that adopts a multi-sectoral approach, including government entities, the private sector, health groups. This is best led by the DOH, to pro-actively implement actions that will promote consumer health. A best practice that can be used as a blueprint for the operational aspects of the platform is the EU Platform on Diet, Physical Activity and Health.

104 Food and Nutrition Research Institute(2013). Prevalence of overweight population. 8th National Nutrition Survey. Manila. The Philippines.

HIGH PRIORITY SECTOR PAPERS

ICT - BPM - KPM

The ICT/BPM/KPM sector has been the biggest success story of the Philippine economy in the last decade. Following years of exponential growth, it now employs over 1.2 million people and is the second largest contributor to national GDP. [105] If the sector is to continue flourishing, the Philippines' international competitiveness must be maintained through proactive measures that adapt the skillset and policy framework to evolving global trends in the sector. Analytics and artificial intelligence are two of the major growth areas globally, both in new and existing business segments, and they require strong technical skills and a stringent data privacy framework.

In general terms, establishing the competitiveness of the sector is dependent on the following factors- a business friendly regulatory environment, the availability and flexibility of a qualified workforce, quality internet access and the cost of electricity. Through the recommendations included in this paper, we aim to identify measures which will ensure that the Philippine ICT/BPM/KPM industry continues to thrive and bring with it significant benefits to the wider economy.

IMPROVEMENT OF BROADBAND SERVICE
Design and implement a comprehensive reform strategy to improve broadband connectivity to internationally competitive levels.

VAT EXEMPTION FOR ENERGY IN PEZA ZONES
Require building owners to provide direct meters for individual tenants in vertical PEZA zones.

IMPLEMENTATION AND ENFORCEMENT OF THE DATA PRIVACY ACT OF 2012
Implement and strictly enforce the Data Privacy Act of 2012.

SKILLS DEVELOPMENT, WITH AN INCREASED FOCUS ON STEM CAPABILITIES
Implement a national skills development strategy and action plan for the ICT/BPM/KPM sector, with azfocus on STEM skills.

INCENTIVIZIN CONTINUED INVESTMENT IN THE ICT/BPM/KPM SECTOR
Issue an Executive Order to clarify that LGUs cannot override provisions for fiscal incentives included in the Special Economic Zone Act of 1995. Incentivize investment in untapped provincial areas with high growth potential.

105 Information provided by the IT & Business Process Association of the Philippines, Manila, May 2016.

1 globally in VOICE SERVICES

2 to India in NON-VOICE SERVICES

> 1.2 million direct employees

USD 22 billion in revenues (end 2015)

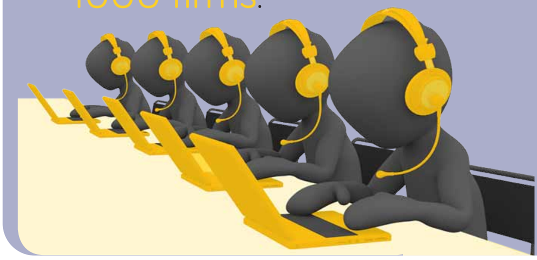
44 million Filipino internet users (end 2014)

2 Telecommunications market player – PLDT and Globe

one of the key economic drivers with 25% average y-o-y growth (2006-2015)

16% growth (2015)

provides services for a wide range of Fortune 1000 firms.



Global Industry Trends

⇒ ANALYTICS
ARTIFICIAL INTELLIGENCE
COMPLEX BUSINESS PROCESSES

- More internet companies increase ↑ competition and cost/quality of broadband services
- value added services
- investment in complex business services
- analytics and artificial intelligence training needed to continue the exponential growth of the sector

Opportunities for EU Businesses

SECTOR SITUATIONER

MARKET DATA

The ICT/BPM/KPM sector is one of the key drivers of the Philippine economy. The global outsourcing industry is growing between 5-7% annually, a figure that the Philippines has been constantly outpacing with an average year on year (y-o-y) growth of 25% from 2006 to 2015. In 2015, the Philippine outsourcing industry recorded an annual growth rate of 16%.[106] In fact, the Philippines is number one globally for voice services, and second only to India for non-voice services.

The ICT/BPM/KPM industry subsectors include contact/ call centers (which is the oldest and largest segment of the industry), back office and knowledge process outsourcing (finance & accounting, human resources, research, analytics), global in-house centers, information technology and engineering services outsourcing, healthcare information management services outsourcing, and creative services (animation and game development).

Overall, the ICT/BPM/KPM industry has grown exponentially over the past decade with direct employees now over 1.2 million and revenues of USD22 billion by the

106 Information provided by the Information Technology (IT) & Business Process Association of the Philippines, Manila, May 2016.

end of 2015. Notably, the IT-BPM industry created 76% of all new jobs in 2015. Second only to OFWs' remittances as an economic driver, the industry creates a bigger ripple effect on the national economy as employees stay and spend their take-home pay in the country, thereby also boosting growth of other sectors, e.g. retail, banking and insurance, automotive, hospitality and tourism, among many. Indeed, it is estimated that every direct job in the sector created an additional 2.5 jobs in indirect sectors.[107] For 2016, the industry is eyeing to surpass the revenue figures earned in 2015 and targets USD25 billion in revenue and 1.3 million direct employment opportunities.[108]

Collectively, the ICT/BPM/KPM sector provides services for a wide range of prominent Fortune 1000 firms in North America, Asia, and European Union. IT-BPMs companies include small firms with less than 500 employees, mid-size companies with up to 9,000 employees, and large to very large multinationals with 10,000 to more than 30,000 full-time agents and knowledge workers. The largest IT-BPM company currently operating in the Philippines, Convergys, now has over 65,000 employees.

Two companies dominate the telecommunication market, namely Philippine Long Distance Telephone (PLDT) Company, with 68.4 million cellular and wireless broadband subscribers and 1.3 million broadband subscribes in Q1 of 2016,[109] and Globe Telecom, Inc., with 57.3 million cellular and wireless broadband subscribers and 1.1 million broadband subscribers[110] in Q1 of 2016.[111]

It is estimated that by end of 2014, 44 million out of 100 million Filipinos use internet, either through subscription or shared access.[112]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The Department of Information And Communications Technology Act of 2015 (RA No. 10844) was enacted on May 23 2016. The Department of Information and Communications Technology (DICT) will hold a developmental role in support of the sector's development and modernization. Several agencies will be abolished and consolidated in the DICT structure, while others, such as the National Telecommunications Commission will be attached agencies.

ADVOCACY

1. INCENTIVIZING CONTINUED INVESTMENT IN THE ICT/BPM/KPM SECTOR

ISSUE DESCRIPTION

ICT/KPM/BPM has generated employment and created economic hubs across the country, with cities such as Cebu, Iloilo, Baguio and Davao being some of the success stories.

BAGUIO CITY | Cagayan De Oro City
DAGUPAN CITY | Dasmarinas City
Dumaguete City | LIPA CITY
Malolos City | NAGA CITY
Sta. Rosa City - Laguna | Taytay - Rizal

If the sector is to continue growing, it is imperative to create a business friendly environment and incentivize investment. Currently, most companies invest as PEZA locators to avail of the competitive investment incentives package offered by PEZA. However, PEZA zones do not exist in many provincial areas of the country which have the potential to become the next ICT/ KPM/ BPM hub. Moreover, many companies often face troubles in securing the investment incentives granted through PEZA, as LGUs impose local government taxes despite the exemptions under the Special Economic Zone Act of 1995 (RA No. 7916, as amended by RA No. 8748).

RECOMMENDATIONS

ISSUE AN EXECUTIVE ORDER TO CLARIFY THAT LGUS CANNOT OVERRIDE PROVISIONS FOR FISCAL INCENTIVES INCLUDED IN THE SPECIAL ECONOMIC ZONE ACT OF 1995.

We strongly recommend that an Executive Order is issued to clarify that LGUs are required to abide by the Special Economic Zone Act of 1995, which is a special law enacted after the Local Government Code of 1991, and as such cannot collect local taxes, from PEZA locators.

107 Ibid.
108 DTI (n.d.). Philippines sustains position as mature regional hub for IT-BPM highlights country as viable investment location, world class services at Global IT fair. Retrieved: 14/05/2016. http://www.dti.gov.ph/dti/index.PhP/news/565-ph-sustains-position-as-mature-regional-hub-for-it-bpm-highlights-country-as-viable-investment-location-world-class-services-at-global-it-fair.
109 PLDT Inc. (2016). Quarterly Report for the three months ending March 31 2016. SEC 17-C form.
110 The mobile subscribers category now also includes mobile broadband subscribers, who were previously included under broadband subscribers.
111 Globe Telecom Inc. (2016). Quarterly Report for the three months ending March 31 2016. SEC 17-C form.
112 Mirandilla-Santos, M. G.(February 2016). Philippine Broadband: A policy Brief. Arangkada Philippines. Policy Brief No.4.p.2. Manila, The Philippines.

INCENTIVIZE INVESTMENT IN UNTAPPED PROVINCIAL AREAS WITH HIGH GROWTH POTENTIAL.

Incentivizing investment by the ICT/BPM/KPM industry in untapped provincial areas with high growth potential, either through the establishment of PEZA zones or the introduction of localized investment packages, will facilitate job generation and subsequent economic development in areas which still lack any significant economic activity. This will ensure inclusive economic growth and open new talent pools to prospective investors.

2. SKILLS DEVELOPMENT, WITH AN INCREASED FOCUS ON STEM CAPABILITIES

ISSUE DESCRIPTION

So far, the exponential growth of the ICT/ BPM/ KPM industry has been due to both voice and non-voice, complex business services. These include engineering, healthcare, legal, financial, creative, and software services, among others, for the energy, banking, investment, insurance, shipping, media, and other industries.[113] However, rapid industry evolvement is shifting towards an increased reliance on higher levels of IT and technology. In fact, new industry segments such as software development and animation are rapidly developing, while tradition business segments such as BPO and contact centers are increasingly relying on robotics, artificial intelligence and analytics. Therefore, the sector needs to steer towards higher value services such as big data analytics. Indeed, one of the two strategic directions identified in the Philippine IT-BPM Roadmap 2016 is to move up the value chain in terms of the complexity of services the Philippines can provide.[114]

However, to make this transition, the necessary skills must be acquired by the workforce. An in-depth study on talent availability in ten regions of the Philippines for the ICT sector, co-published by IT and Business Process Association Philippines (IBPAP) and DOST in 2014, highlighted the existing talent demand and supply gap in size and quality. In fact, 40% of respondents in a survey conducted as part of the study identified the shortage of applicants with the right competencies as the reason behind difficulties in recruiting.[115] Such competencies include both soft and hard skills; important is the lack of STEM skills, which are integral to evolving industry trends such as analytics, robotics and artificial intelligence.

The launch of K to 12 is a laudable reform that will strengthen graduates' basic skills and equip them with a more comprehensive skillset that will render them more employable. Additionally, there have been numerous skills development initiatives conducted by the Government and the private sector, many of which jointly, to develop marketable skills for the ICT/BPM/ KPM sector in the workforce. However, while these individual approaches are effective, there is a need for a comprehensive approach to skills development in high growth areas, such as STEM.

RECOMMENDATIONS

IMPLEMENT A NATIONAL SKILLS DEVELOPMENT STRATEGY AND ACTION PLAN FOR THE ICT/BPM/KPM SECTOR, WITH A FOCUS ON STEM SKILLS.

We recommend the institutionalization of a comprehensive skills development strategy and action plan that responds to the existing and future demand and supply skills gaps for the Philippine ICT/BPM/KPM sector. Given the increasing reliance on data analytics and complex engineering skills in the sector, we believe that the development of STEM skills is an essential part of such a strategy.

3. IMPROVEMENT OF BROADBAND SERVICE

ISSUE DESCRIPTION

It is widely acknowledged that the quality and cost of broadband in the Philippines is not competitive. Indeed, the Akamai state of the internet Q4 2015 report ranked the Philippines 14th out of 15 Asia Pacific Countries and 107th globally in terms of average connection speed. Comparatively, Singapore ranked 16th, Thailand 42nd, Malaysia 73rd, Indonesia 92nd and Vietnam 95th globally. 116 Broadband service in the Philippines also remains one of the most expensive in the world. [117]

113 Virata G., Peña A., Ibrahim M., Versoza-Delfin E. , Pasion A. (May 2014). TALENT DEEP DIVE: An Analysis of Talent Availability for the Information Technology and Business Process Management Industry in 10 Provinces in the Philippines. p.3. Information and Communications Technology Office (ICTO) and IBPAP. Manila, The Philippines.

114 Ibid. Message from the Secretary.

115 Ibid. p.10.

116 Akamai (2015). Akaimai's state of the internet, Q4 2015 report. p.30 https://www.akamai.com/us/en/multimedia/documents/content/state-of-the-internet/q4-2015-state-of-the-internet-connectivity-report-us.pdf.

117 LIRNEasia (2014). Broadband Quality of Service Experience (QoSE) Indicators 2014. http://lirneasia.net/wp-content/uploads/2014/09/BBQoSE-Report_Final.pdf.

The main factors that have led to the current shortcoming in broadband service can be described as follows:

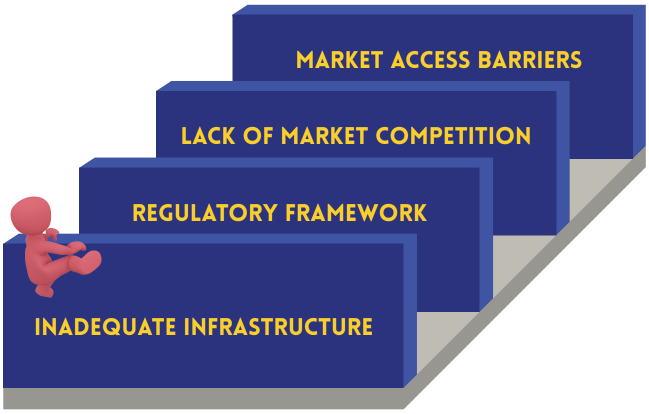
- Ø **Market access barriers** – Under the existing legislative framework, telecommunications are designated as a public utility and are therefore subject to 40% foreign ownership restrictions and a Congressional franchise requirement for a service provider. This limits the injection of capital investment and application of global technological innovations by foreign investors.
- Ø **Lack of market competition** – Fixed and mobile broadband services are dominated by two major market players, which leaves little room for new entrants to compete. The simultaneous purchase by the Philippine Long Distance Telephone Co. and Globe Telecom of telecommunication rights and assets of San Miguel Corporation for around PhP 70 billion this year further cemented the market duopoly.
- Ø **Regulatory framework** – The DICT law abolishes other IT and communications-related agencies [118]nd consolidates the functions into the DICT. The National Telecommunications Commission (NTC), the National Privacy Commission and Cybercrime Investigation and Coordination Center maintain their existence but as attached agencies to DICT. The NTC retains its mandate as the government agency regulating and supervising the provision of broadband services in the country. Despite the existence of state policy and regulations, there is much left to be desired of the present state of telecommunications and broadband services.
- Ø **Inadequate infrastructure** – There is inadequate infrastructure, including fiber optic cables, towers and base stations to meet demand and improve internet connectivity and speed. More capital investment, both by the private and public sectors, is needed to put in place the latest technologies that will facilitate larger and faster coverage. The effects of the infrastructure gaps are further exacerbated by the lack of infrastructure sharing in areas with a low population concentration. [119]

The enactment of the DICT Act is a positive development, but it is only the first step. Its proper implementation is key to better strategic development and policy formulation.

118 These are the Information and Communications Technology Office, National Computer Center, National Computer Institute, Telecommunications Office, National Telecommunications Training Institute, and all operating units of the Department of Transportation and Communications with functions and responsibilities dealing with communications.

119 All points based on information included in the Arangkada Philippines Broadband Policy Brief. Policy Brief No. 4, February 2016. Philippines.

This includes fostering a competitive environment and breaking the duopoly in the industry that has prevented improvement of services.



RECOMMENDATIONS

DESIGN AND IMPLEMENT A COMPREHENSIVE REFORM STRATEGY TO IMPROVE BROADBAND CONNECTIVITY TO INTERNATIONALLY COMPETITIVE LEVELS.

We recommend that a comprehensive reform strategy be developed and implemented by the newly formed DICT with the cooperation of private sector. The strategy should focus on the following components:

- ★ Adopt an open access approach for service providers;
- ★ Update the legislative framework governing broadband, including the Public Telecommunications Policy Act (RA 7925);
- ★ Review the market structure in terms of its adherence to the Philippine Competition Law;
- ★ Improve ICT infrastructure and promote shared infrastructure for better interconnectedness;
- ★ Upgrade and update existing ICT strategies, such as the Philippine Digital Strategy, and develop a national broadband plan.[120]

The improvement of broadband services to internationally competitive cost and quality levels will improve the ease of doing business and safeguard the competitiveness and future growth potential of the booming ICT/BPM/KPM sector.

120 These recommendations are based on information provided in the Arangkada Policy Brief on Broadband. Detailed information on the recommendations can be found here:

4. IMPLEMENTATION AND ENFORCEMENT OF THE DATA PRIVACY ACT OF 2012

ISSUE DESCRIPTION

The Data Privacy Act of 2012 (RA No. 10173) was signed in August 2012 with the objective of protecting the confidentiality of individual information and communication systems in the Government and private sector by penalizing the unauthorized disclosure of private information.

The National Privacy Commission, whose creation was provided for by the Data Privacy Act of 2012 was created in January 2016. The Chairman and Commissioners have also been appointed and the IRR have also been promulgated. However, while the draft IRR have been issued, they have yet to be adopted.

The effective implementation and enforcement of the Data Privacy Act of 2012 is of utmost importance to the economy as a whole and to key industries in particular. It is especially important for the competitiveness and reputation of the ICT/ BPM/ KPM industry, which relies on data protection.

The industry is data-intensive and as global trends continuously move towards more intensive use of data, for example through the use of big data, it becomes vital to set up a strong data protection framework in the Philippines. Without it, international companies face increasing risks of data compromise, which can be detrimental to their business.

RECOMMENDATIONS

IMPLEMENT AND STRICTLY ENFORCE THE DATA PRIVACY ACT OF 2012.

The strict implementation and enforcement of the law and the IRR need to be prioritized in order to ensure that sensitive data is adequately protected, and transgressors are adequately punished. The EU business community stands ready to support such an initiative through public-private cooperation on a dedicated enforcement mechanism.

5. VAT EXEMPTION FOR ENERGY IN PEZA ZONES

ISSUE DESCRIPTION

Majority of investors in the ICT/BPM/KPM sector are located in PEZA-approved IT centers and parks. One of the incentives provided to locators by PEZA is exemption from VAT on purchase of goods and services. However, for companies operating in mixed vertical PEZA zones, which is often the case for corporations operating in the ICT/BPM/KPM sector, this incentive is hard to avail of for electricity.

The EPBN ICT/ BPM/KPM Committee understands that VAT exemptions can be availed of in vertical PEZA zones if the units have their own direct electricity meters. In most cases, such meters have not been installed and retro installation is extremely expensive. The building association is responsible for managing and invoicing the tenants on electricity used. They charge an administration fee for their services, which also hinders their interest in pushing for direct metering.

While EPBN approached several cities within Metro Manila in 2015 in an attempt to establish a pilot project for the installation of direct metering in vertical PEZA zones in their jurisdiction, which could later be used as a best practice, so far no LGU is willing to cooperate.

RECOMMENDATIONS

REQUIRE BUILDING OWNERS TO PROVIDE DIRECT METERS FOR INDIVIDUAL TENANTS IN VERTICAL PEZA ZONES.

We recommend that building owners be required to provide direct meters for individual tenants as part of their accreditation for permit application and renewal to operate in PEZA vertical and horizontal zones.

HIGH PRIORITY SECTOR PAPERS

TOURISM

Tourism is the economic sector with the highest potential to create inclusive growth, through employment generation and economic development in remote areas across the archipelago. The Philippine Government has recognized the tourism sector's potential as a key growth driver and has developed a number of initiatives in the past years to promote tourism development, including the National Tourism Development Plan 2011-2016. However, while international arrivals showed double-digit growth in 2015, the Philippines has a long way to go before it becomes a top tourist destination in the region.

International connectivity and domestic and destination development require improvement in line with international standards. Europe has a long tradition in tourism excellence and therefore investment by European companies can drive the development of tourism infrastructure at par with top international standards. However, they need to be assured of an attractive investment environment. Additionally, improving connectivity with Europe will increase European visitor traffic to the Philippines.

We therefore set out a number of recommendations which aim to improve international connectivity, and domestic and destination infrastructure.

IMPROVEMENT OF INTERNATIONAL AND DOMESTIC CONNECTIVITY

Implement measures to improve international air connectivity.

Develop a two-airport system in Manila, utilizing NAIA and Clark, and improve international airport infrastructure in high priority tourism destinations.

Provide funding for seaports, airports and roads that connect priority tourism destinations.

DEVELOPMENT OF INTERNATIONALLY COMPETITIVE TOURISM DESTINATIONS

Implement the incentives program under the Tourism Act of 2009 for tourism enterprises.

Support the development of soft infrastructure through the implementation of targeted training programs in TEZs.

FACILITATION OF INVESTMENT THROUGH ADEQUATE DATA COLLECTION ON SUPPLY IN THE HOSPITALITY SECTOR

Improve data collection systems for supply side data on tourism and tourist facilities.

Philippine tourism growing faster than global and Asian average.

According to the *WEF's Travel and Tourism Competitiveness 2015 Report*, the Philippines is the *most improved Asia-Pacific economy - #74/141*

ARRIVALS

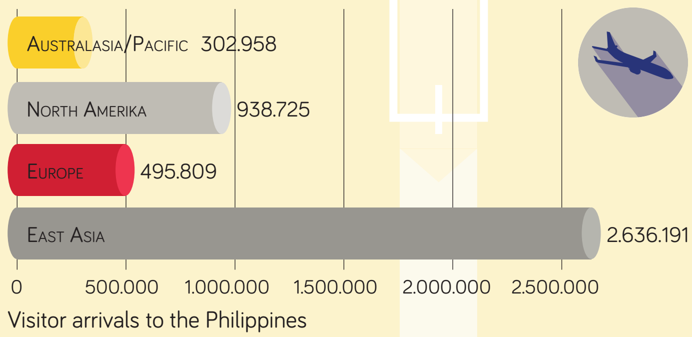
↑ 10% to 5.3 million

generated USD 5 billion in revenues

4.9 million jobs (2015)

Inbound tourism improvements

Europe registered 11% growth



GAPS

DESTINATION INFRASTRUCTURE

domestic &
international connectivity

OPPORTUNITIES FOR EU BUSINESSES

international standard hospitality options

secondary destination services

flights into the Philippines

INTEGRATED TOURIST PACKAGES FOR THE PHILIPPINES

hospitality skills training

SECTOR SITUATIONER

MARKET DATA

The Philippine tourism industry is growing faster than the global and Asian average and is expected to be one of the key economic drivers by 2021. Specifically, in 2015, international arrivals to the Philippines grew by 10% at 5.3 million visitors,[121] while the collective growth of international arrivals to the region[122] was 2.6%, with a total of 96.7 million visitors. At a global level, international travel increased by 4.4% to a total of 1.1 billion travelers.[123]

According to the World Economic Forum's Travel and Tourism Competitiveness 2015 Report, the Philippines is the most improved Asia-Pacific economy in terms of the overall travel and tourism competitiveness index, rising to a rank of 74 among 141 economies from 82 out of 140 in 2013.[124] Tourism will always remain a major global industry, and this sector is recognized by the Government as an important contributor to the generation of foreign exchange earnings, investments, revenue, employment and the country's output growth.

According to the Philippine Statistic Authority, the tourism industry in the Philippines accounts for 1 in every 10 jobs in the economy or 12.7% share in the total employment. Statistics from the Department of Tourism (DOT) showed that the tourism industry was able to generate USD5 billion and generate approximately 4.9 million jobs in 2015.[125]

In 2015, inbound tourism from Europe[126] registered 11% growth in 2015 compared to 2014, with a total of 495,809 visitors that accounted for 9.3% of total international arrivals to the Philippines. The United Kingdom ranked tenth in the top ten visitor market from January to December 2015 with 154,589 arrivals, posting a 15.7% increase versus its arrivals in 2014. In addition to the UK,

121 DOT(2016). Visitor arrivals to the Philippines by country of residence, January-December 2015. Retrieved 22/06/2016. http://www.gov.ph/downloads/2016/Dec2015_Tab2.pdf.

122 The region refers to the South-East Asia classification in the UNWTO travel data 2015 report and includes the 10 ASEAN Member States and Timor-Leste.

123 UNWTO (2015). UNWTO Tourism Highlights, 2015 Edition. Retrieved 06/07/2016. http://www.e-unwto.org/doi/pdf/10.18111/9789284416899.

124 Makati Business Club (2013). Research Report. Retrieved 04/05/2016. http://www.mbc.com.ph/engine/wp-content/uploads/2013/12/RR112.pdf.

125 DOT (03/03/2016). Uninterrupted, robust tourism growth since 2010. Retrieved 21/05/2016. http://www.gov.ph/2016/03/03/tourism-growth-aquino-admin..

126 Calculations include figures provided by the DOT for the following groupings: Western Europe, Northern Europe, Southern Europe and Eastern Europe (only data on Poland has been included in the calculations for use in this document).

In focus: PHILIPPINES - A DESTINATION FOR MEDICAL TOURISM AND RETIREES

A major opportunity which can drive tourism growth in the Philippines is medical tourism. With state-of-the-art facilities in many hospitals, an expanding pool of competent health care professionals with good English communication skills and reasonably priced medical services, the Philippines is bound to be one of the major players of the expanding global medical tourism industry.[129]

More and more foreign retirees are looking to settle in the Philippines. Aside from the affordable cost of living, expats enjoy things the country is known for, such as its beaches, tropical climate, warm and hospitable people, discounts for senior citizens and the duty-free import of household goods. In the Annual Global Retirement Index 2016, the International Living Magazine ranked the Philippines as 17th out of the 23 best countries to retire in. The Annual Global Retirement Index bases its rating on a number of composite factors, namely, real estate costs, special benefits for retirees, cost of living, leisure amenities, healthcare services, infrastructure, and climate. The retirement industry has made considerable contributions to the economy, reflected largely in revenues from visa deposits of Special Resident Retiree's Visa holders. Introduced by Philippine Retirement Authority (PRA) in 1987 to entice foreign nationals and former Filipino citizens to retire in the country, retirees can either apply for multiple entry privileges and rights to stay permanently or indefinitely in the country by way of visa deposits ranging from USD10,000 to USD50,000 and USD1,500 for former diplomatic corps workers. In 2014, PRA enrolled 4,781 new retirees. Total visa deposits of SRRV holders as of December 31 2014 amounted to USD452 million.[130]

other EU countries with substantial growth in inbound traffic in 2015 were: Spain with 24,000 (+24.76%), France with 45, 505 (+16.84%) and The Netherlands with 28,632 (+13.46%).

The East Asian region was the biggest source of arrivals, accounting for 49.18% of total visitor volume (2,636,191 visitors). Arrival from the region grew by 14.65% compared to the 2,299,350 arrivals in 2014. Korea, Japan and China, which belong to the East Asia regional grouping, accounted for more than 43% of the total volume.

The North American region ranked second in terms of arrivals constituting 17.51% of the total visitor volume (938,725 visitors). The region recorded an increase of 7.98% in visitors compared to 2014. ASEAN registered 481,567 arrivals, comprising 8.98% of the total inbound traffic, which recorded a 4.35% increase in inbound traffic compared to 2014. The Australasia/Pacific region recorded a total of 302,958 arrivals with a share of 5.65% to the total and grew by 5.56% compared to 2014.[127]

In terms of supply side data, latest available data (2014) shows that the Philippines has a total of 8,841 existing accommodation establishments and 213,051 rooms, with a total of 189 establishments and 8,435 rooms under construction.[128]

REFORMS AND INDUSTRY DEVELOPMENTS

In March 2016, the DOT completed the National Cruise Tourism Development Strategy. The comprehensive strategy and associated action plans will set a course for the Philippines to become a more prominent cruise destination in the future. The strategy fits into the National Tourism Development Plan (NTDP) and aligns with the country's commitment to enhance its attractiveness to the world's cruise lines.[129]

The Philippine National Tourism Development Plan 2016-2022 is currently being developed as a continuation to the NTDP 2011-2016, to identify new targets for the development of the Philippine tourism sector and enhance its competitiveness.

127 DOT(2016). Visitor arrivals to the Philippines by country of residence, January-December 2015. Retrieved 22/06/2016. http://www.gov.ph/downloads/2016/Dec2015_Tab2.pdf.

128 DOT(2014). Number of accommodation establishments and rooms per region, province and city/municipality 2014. Retrieved 28/06/2016. http://e-services.tourism.gov.ph:8080/didcs/Static%20Documents/Publish_Table%201a1%20Number%20of%20Accommodation%20Establishments%20and%20Rooms%20Per%20Region%20and%20LGU%202014.pdf.

129 Philippine Hotel Owners Association Incorporation (21/04/2016). More port calls seen for cruise tourism. Retrieved: 30/05/2016. https://www.philhotelowners.org.ph/2016/04/21/more-port-calls-seen-for-cruise-tourism.

130 DOT (18/05/2010). Medical Tourism by 2015. Retrieved: 09/05/2016. http://www.tourism.gov.ph/pages/20100519medicaltourismby2015.aspx.

131 DTI (n.d.). BOI positions PH as retirement haven works closely with industry to finalize roadmap. Retrieved: 06/05/2016. http://www.dti.gov.ph/dti/index.PhP/news/514-boi-positions-ph-as-retirement-haven-works-closely-with-industry-to-finalize-roadmap.

ADVOCACY

1. IMPROVEMENT OF INTERNATIONAL AND DOMESTIC CONNECTIVITY

ISSUE DESCRIPTION

International and domestic connectivity have been identified as a priority by the DOT. The NTDP 2011-2016 included as one of its priorities the improvement of market access, connectivity and destination infrastructure. [132] Successful programs, such as the launch of the National Cruise Tourism Development Plan and the hosting of Routes Asia 2016 earlier this year, have indicated the DOT's commitment to realizing that goal.

However, there are still evident infrastructure gaps in terms of facilitating the flow of tourists to top tourist destinations. Shortcomings in international and domestic connectivity can be categorized as follows:

Airport infrastructure and governance – It is estimated that 99% of foreign visitors arrive in the Philippines by air. Manila's NAIA handles approximately 80% of total available national air seats[133] and has a capacity of 31 million passengers per year.[134] However, the airport is already close to full capacity, with constant repercussions on the quality of service provided at the airports' terminals and frequent delays. The lack of a network of airports close to major tourism hotspots across the country, which are capable of meeting growing demand and serving international flights, is also increasing the pressure on NAIA. While the development, operation and management of five airports[135] in two bundles, in tourism destinations with high potential are in the pipeline under the PPP program, the bidding process has not been completed so far. The adoption of pocket open skies as part of ASEAN integration is also conducive to attracting more regional airlines directly to secondary airports across the country.

International air connectivity – A recent study conducted by Asia Pacific Projects showed direct positive correlation between the number of direct flights from Europe to a destination and the number of European tourists visiting such destination.[136] The findings indicate that establishing direct routes with major sources of international tourists, such as the EU market, is essential to the development of the tourism sector through increased arrivals. However, a series of issues in the governance framework of the aviation sector have been identified as bottlenecks to the increase of arrivals from the EU through more direct flights. In fact, currently KLM is the only European company that flies direct from Manila to a European capital, with an intermediate stop. The only non-stop flight between the Philippines and Europe is the Philippine Airlines flight from Manila to London. Impediments that disincentivize European air carriers from developing direct routes from the Philippines to Europe include the fiscal regime for offline carriers, regulatory gaps, higher aviation fuel costs, added costs on the carriage of cargo (overtime costs, Common Carriers Tax and Gross Philippine Billings Tax) and operational concerns, among others.

Domestic connectivity – With the vast majority of international visitors arriving in Manila as port of entry, domestic connectivity is integral to developing the Philippines as an international tourism destination. Domestic air, road, and port infrastructure has improved significantly in the past years, but the infrastructure gaps continue to impact connectivity to tourism destinations. Persistent delays in domestic flights, unreliable and unsafe inter-island boat services and adequate road systems are frequent complaints. Thailand and Malaysia feature as best practices in terms of how integrated transportation systems and high quality infrastructure can expand the economic benefits from tourism across the country, by interconnecting established and new destinations and maximizing visitors' reach to destinations.

RECOMMENDATIONS

IMPLEMENT MEASURES TO IMPROVE INTERNATIONAL AIR CONNECTIVITY.

We recommend the implementation of a comprehensive action plan to improve international air connectivity and increase international flights arriving in the Philippines, especially from high priority markets such as the EU. The business environment should be such as to facilitate EU carriers' operations in the Philippines, through improved governance and infrastructure structures. In this context, we recommend the following specific actions:

- Remove the requirement for offline carriers to

132 DOT(2010). The Philippine National Tourism Development Plan 2011-2016. Manila. Philippines.
133 OBG(Unknown). Increasing connectivity and accommodation will be key to the growth of the Philippines' tourism sector. Retrieved 15/06/2016. http://www.oxfordbusinessgroup.com/analysis/increasing-connectivity-and-accommodation-will-be-key-growth-philippines-tourism-sector.
134 IATA(05/2015). Immediate and long-term priorities for Manila Airports. Retrieved 10/06/2016. https://www.iata.org/about/worldwide/asia_pacific/Documents/IATA-submission-Manila-Airport-May2015.pdf.
135 Bundle 1: Bacolod-Silay Airport and Iloilo Airport. Bundle two: Davao Airport, Laguindingan Airport and New Bohol Airport.
136 Rieder, L. (06/04/2016). Collaboration in developing the European long-haul travel market. Presentation made during the EPBN Tourism Advocacy Forum. Shangri-La Makati Hotel. Manila. The Philippines.

pay income tax;

- Separate the regulator from the operator, currently CAAP executes both functions;
- Enact amendments to the Civil Aviation Authority Act of 2008 (RA No. 9497);
- Modernize and improve human and technological resources of air traffic control;
- Remove general aviation from NAIA and move that traffic to Sangley or Lipa.

DEVELOP A TWO-AIRPORT SYSTEM IN MANILA, UTILIZING NAIA AND CLARK, AND IMPROVE INTERNATIONAL AIRPORT INFRASTRUCTURE IN HIGH PRIORITY TOURISM DESTINATIONS.

The development of a dual-airport system in Manila, with the utilization and aggressive promotion of Clark International Airport as an alternative gateway to the Philippines, will address congestion in NAIA and minimize hurdles to increasing international arrivals. A dual-airport system will also require an integrated transportation system to connect the two airports and Metro Manila. Additionally, upgrading airports in priority destinations around the country will increase direct international routes to tourist destinations, removing the need for international visitors to stop over in Manila. Therefore, we look forward to the implementation of the planned PPP projects for five priority airports across the country and the consideration of other airports which could be eligible for a second round of PPP projects, to further expand the Philippines' international connectivity.

PROVIDE FUNDING FOR SEAPORTS, AIRPORTS AND ROADS THAT CONNECT PRIORITY TOURISM DESTINATIONS.

The DOT's continuous drive to develop the Philippines' tourism sector and its international attractiveness needs to be paired with wider Government commitment to fund infrastructure projects that will enhance domestic and international connectivity. The funding of seaports in support of the National Cruise Tourism Development Plan, the upgrading of regional airports to enhance night landing capabilities and the paving of municipal roads leading to tourism destinations with high potential include examples of where funding can have maximum impact on tourism development.

2. DEVELOPMENT OF INTERNATIONALLY COMPETITIVE TOURISM DESTINATIONS

ISSUE DESCRIPTION

Market research conducted on European market expectations for a tourism destination showed that one of the most important factors is the availability of a "well organized in-destination travel support system, tour products, good quality accommodation, tour agents, credit card services and reliable high speed internet connectivity."[137] Indeed, the development of well-organized travel facilities in priority destinations has been identified as one of the main objectives for the evolution of the tourism sector in the Philippines by the DOT.

One of the tools created to promote the development of internationally competitive destination infrastructure is the Tourism Infrastructure and Enterprise Zone Authority (TIEZA). Created by virtue of the Tourism Act of 2009 (RA No. 9593), TIEZA is mandated to support infrastructure and facilitate investment in tourism enterprise zones (TEZs) nationwide. It is envisioned that investors can apply for fiscal and non-fiscal incentives for investment in tourism infrastructure within and outside designated TEZ zones. Investors can also apply to develop additional TEZ zones. The objective of incentivizing investment in destination infrastructure is to develop destination clusters that meet international visitors' expectations, including accommodation, activities, food and beverage and secondary services.

The TEZs present a unique opportunity to develop tourism clusters that integrate international standard accommodation with exceptional supplementary services and a high level of security. However, the non-implementation of the fiscal incentives for TEZs has proven to be a real hindrance to substantive investments in tourism enterprises. TIEZA's incentives regime is not yet operational due to the failure—if not refusal—of the BIR to issue the corresponding revenue regulations.

In addition to hard infrastructure, security and soft infrastructure are integral to developing attractive tourism destinations. Although the vast majority of the Philippines is safe there is a negative perception of the country as a high-risk destination among foreign travelers, primarily due to the unfortunate incidents of kidnappings in the south of the country. It is thus necessary to address the perceived risk of travelling to the Philippines by developing destinations which are

137 Rieder, L. (06/04/2016). Collaboration in developing the European long-haul travel market. Presentation made during the EPBN Tourism Advocacy Forum. Shangri-La Makati Hotel. Manila. The Philippines.

designed to provide a high level of security to visitors. In terms of soft infrastructure, despite human capital featuring as one of the competitive advantages of the Philippines, it has been observed that hospitality and customer service in tourism destinations is not at par with the level of service found in internationally attractive tourist destinations. Inasmuch as tourism offers an opportunity to generate employment in areas with high instances of un- and under- employment, it is also imperative that employment is matched by targeted training courses to develop the necessary skills in the hospitality industry.

RECOMMENDATIONS

IMPLEMENT THE INCENTIVES PROGRAM UNDER THE TOURISM ACT OF 2009 FOR TOURISM ENTERPRISES.

We commend the DOT and TIEZA's efforts to develop flagship TEZs across the country and look forward to the opportunity to work closely to identify opportunities for investment in TEZ zones for EU companies. However, it is also high time that TIEZA implements the incentives regime. The law has long been enacted and the IRR have been adopted. To allow a government agency such as the BIR to stand as an obstacle to its implementation is unwarranted. Indeed, the law does not require a BIR revenue regulation in order to be effective, therefore there is no reason why so much time has elapsed without the incentives taking effect.

SUPPORT THE DEVELOPMENT OF SOFT INFRASTRUCTURE THROUGH THE IMPLEMENTATION OF TARGETED TRAINING PROGRAMS IN TEZs.

TIEZA should develop and implement targeted training programs for the hospitality sector, in cooperation with TEZ locators, to create a high level skill base within the workforce. The program curricula can be developed in cooperation with Technical Education and Skills Development Authority (TESDA) and patterned after various dual-training programs implemented by Government.

IMPROVE SECURITY AT MAJOR TOURISM DESTINATIONS.

A major factor in the successful development of attractive tourism destinations across the country, and especially in areas in the South, is increasing the security in and around tourism destinations. Recent kidnappings and the ongoing threat that terrorist groups in the South pose, significantly affect the attractiveness of the Philippines as a holiday destination. It is therefore crucial to mitigate future threats to security in tourism destinations across the archipelago by strengthening security and emergency response capacity.

3. FACILITATION OF INVESTMENT THROUGH ADEQUATE DATA COLLECTION ON SUPPLY IN THE HOSPITALITY SECTOR

ISSUE DESCRIPTION

Hotel performance predictability through the evaluation of hospitality supply and demand data is one of the major investment criteria considered by corporations before investing in hospitality infrastructure in a new market.

The Tourism Act of 2009 (RA No. 9593) mandated the DOT and its regional offices to collect, analyze and disseminate data relevant to the tourist industry. Since then, the DOT has been conducting annual surveys on the status of supply and demand in hospitality establishments. Most recent surveys include the "Monthly average occupancy rate and length of stay of hotels in Metro Manila 2015" on the demand side and the "Number of accommodation establishments and room per region, province, city and municipality 2014" on the supply side.

While the above surveys include supply and demand statistics, they only provide a general outline of the market structure and its potential. In the case of supply side statistics, a more in depth analysis of market data is required by potential investors to evaluate hotel performance predictability.

The application of in depth and detailed collection of data in the hospitality sector, especially on the supply side, will provide a complete picture of the Philippine tourism market to potential investors, including top market segments, destinations, market saturation and gaps, trends and growth prospects.

RECOMMENDATIONS

IMPROVE DATA COLLECTION SYSTEMS FOR SUPPLY SIDE DATA ON TOURISM AND TOURIST FACILITIES.

We welcome the institutionalization of data collection that the DOT has achieved in the past years and suggest that data collection systems for the supply side are expanded further to provide more comprehensive information for potential investors. Specifically, we recommend that supply side data is collected on existing lodgings, newly added lodgings, hospitality projects in the pipeline and performance data.

Philippine National Tourism Development Plan (2011-2016)

To develop a highly competitive and environmentally and socially responsible tourism that delivers more widley distributed income and employment opportunities.

— IMPROVE MARKET ACCESS, CONNECTIVITY, AND DESTINATION INFRASTRUCTURES

— DEVELOP AND MARKET COMPETITIVE TOURIST PRODUCTS AND DESTINATIONS

— IMPROVE TOURISM INSTITUTIONAL GOVERNANCE AND HUMAN RESOURCES

HIGH PRIORITY SECTOR PAPERS

TRANSPORTATION INFRASTRUCTURE

Existing infrastructure gaps are handicapping the Philippines' productivity and competitiveness. Traffic congestion in Metro Manila and Metro Cebu is severely reducing the productivity of millions of workers everyday, while international gateways for passengers and cargo, such as NAIA and the Manila port, struggle to keep up with increasing demand. Therefore if economic growth is to be sustained, there is an urgent need for the development of major infrastructure projects that meet high international standards. For that to happen, there is a requirement for capital investment, innovation and knowledge/ technology transfer of the latest international trends. As a global leader in high standard, technologically advanced, innovative infrastructure development, the EU infrastructure sector has the potential and is willing to contribute to the development of vital infrastructure projects across the Philippines. EU companies can help enhance connectivity for international tourist arrivals, minimize cost of transportation of imports and exports. However, certain barriers to EU infrastructure participation must be addressed first.

IMPROVEMENT OF THE PPP PROGRAM

Amend the BOT Law to strengthen the PPP program with emphasis on the Senate version of the 16th Congress and ensure timely implementation.
Update the IRR of the BOT Law and PPP Governing Board policy circulars.
Establish the use of the Swiss challenge for unsolicited proposals.

PCAB LICENSING FOR FULLY FOREIGN OWNED CONTRACTORS

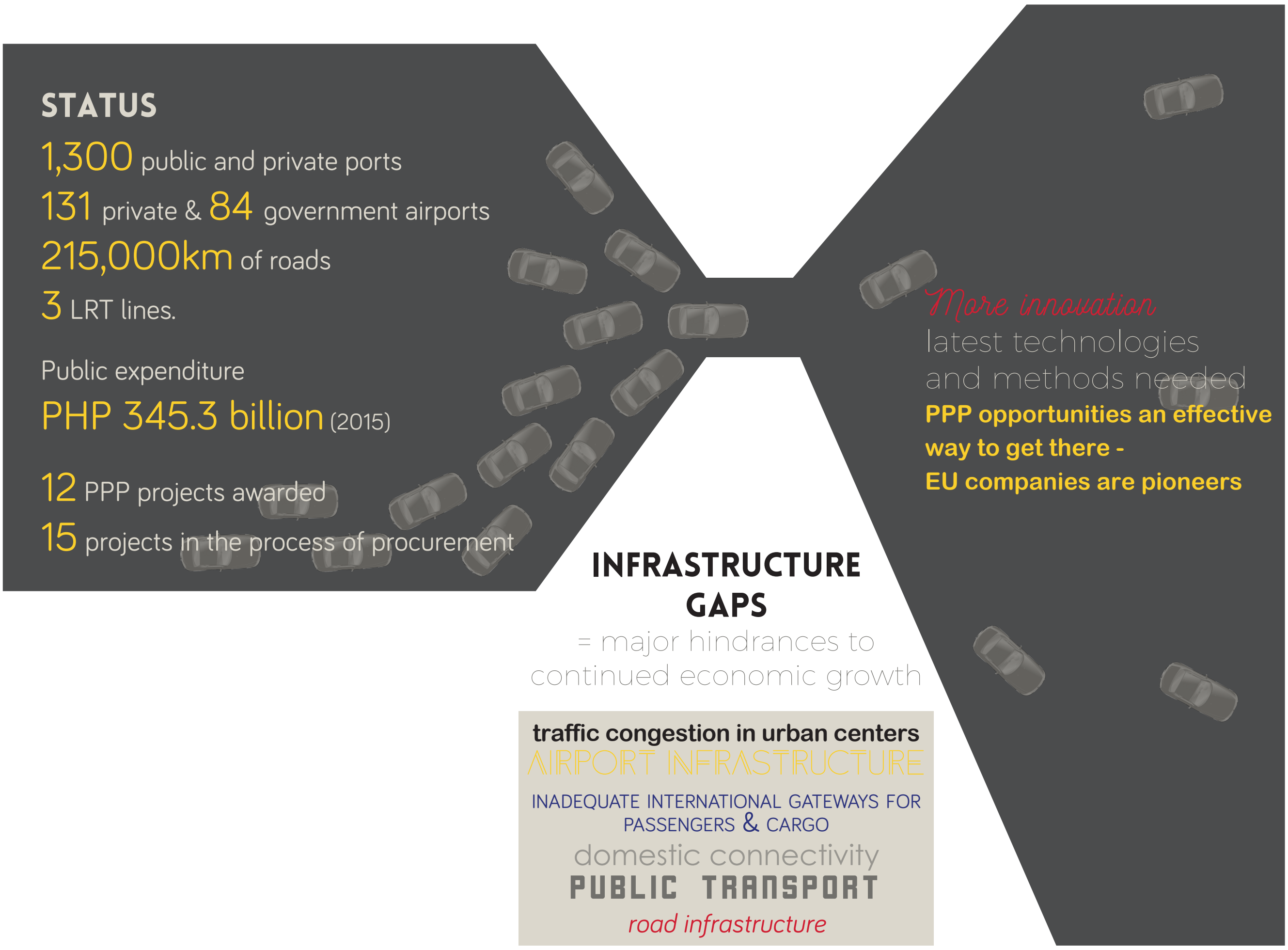
Amend the IRR of PCAB to allow regular licenses to be issued to fully foreign owned contractors.

COMPREHENSIVE, PRO-GROWTH INFRASTRUCTURE DEVELOPMENT

Develop adequate transportation infrastructure across the country that will enhance and sustain economic growth.

REMOVAL OF FOREIGN OWNERSHIP RESTRICTIONS

Revisit the Public Service Act of 1936 to revise and limit the scope of the definition of public utilities.
Reform the Government Procurement Reform Act, to remove provisions subjecting the procurement of goods and services to the Flag Law of 1936 and provide for increased transparency and efficiency in the procurement process.



SECTOR SITUATIONER

MARKET DATA

The transport system of the Philippines consists of road, water, air, and rail transport. Water transport plays an important role due to the archipelagic nature of the country, but road transport is by far the dominant subsector accounting for 98% of passenger traffic and 58% of cargo traffic. Spread across the Philippines is approximately 215,000 kilometers of roads, 1,300 public and private ports, and 215 public and private airports.[138]

Of the 215 airports in the Philippines, 84 are government-owned and controlled and the rest are privately owned and operated. Of the government-controlled airports, 10 are designated as international airports, 15 are Principal Class 1 airports, 19 are Principal Class 2 airports, and 40 are community airports. The busiest airport in the Philippines is the NAIA in Manila, with Mactan International Airport Cebu being the second busiest airport in the country.

138 ADB (2012). Transport Sector Assessment, Strategy and Road Map. Retrieved 06/05/2016. http://www.adb.org/sites/default/files/institutional-document/33700/files/philippines-transport-assessment.pdf.

With regard to water transport, of the approximately 1,300 ports, approximately 1,000 are government-owned and the rest are privately owned and managed. Of the government-owned ports, about 140 fall under the jurisdiction of the Philippine Ports Authority (PPA) and the Cebu Ports Authority; the remainder are the responsibility of other government agencies or LGUs.

The railway system consists of Light Rail Transit (LRT) lines in Metro Manila and heavy rail lines in Luzon. The three LRT lines commenced operations in 1984, 1999, and 2003 respectivley. Two lines are owned and operated by a government-owned corporation, the Light Rail Transit Authority (LRTA), while the third was financed and constructed by a private corporation, the Metro Rapid Transit Corporation (MRTC), and is operated by the Government under a build–lease–transfer agreement. The lines operated by the LRTA carry about 579,000 passengers each day, while the MRTC line carries more than 400,000 passengers daily. Fare structures are distance based, and fare levels are low relative to comparable systems elsewhere in the region.

Public expenditure on infrastructure reached PhP 345.3

billion at end of 2015.
Disbursement improved 25.1% from the PhP 276 billion booked in 2014. As of May 2016, the Philippine Government had awarded twelve PPP projects, worth a total of PhP 197 billion, with about 15 more projects currently in the process of procurement.[139]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The enactment of the *Right-Of-Way Act* (RA No. 10752) on March 7 2016, will facilitate much needed infrastructure development and remove obstacles that have caused long delays to major infrastructure projects in the past. The IRR are yet to be published.

The enactment of *Amendments to the Cabotage Law* (RA No. 10668) on July 21 2015, which allows stops at multiple ports for foreign cargo ships subject to certain conditions, was a concrete step towards integrating the Philippines further in the global value chain, by opening the way for more cost-efficient shipping options for importer and exporters. The EPBN Maritime Committee was also actively involved in the drafting process of the IRR, which were issued in May 2016.

ADVOCACY PAPERS

1. REMOVAL OF FOREIGN OWNERSHIP RESTRICTIONS

ISSUE DESCRIPTION

Foreign participation in the infrastructure sector is governed by a number of restrictions within the legislative framework.

Specifically, the *Government Procurement Reform Act* (RA No. 9184), allows foreign participation in the government procurement process; however, by rendering procurement processes subject to the Flag Law of 1936 (CA No. 138), it gives explicit preference to domestic, over foreign bids.

Additionally, the Philippine Constitution of 1987 restricts foreign ownership of public utilities to 40%. The Public Service Act of 1936 (CA No. 146) goes on to define the scope and list of public utilities under Section 13(b), which includes most transportation infrastructure.

The restrictive legislative framework for foreign participation in infrastructure development, ownership and management form substantial barriers to foreign investment and capital inflow that could play an important role in developing adequate infrastructure to meet the country's needs. EU companies stand ready to drive long-term investment in the Philippines and with that to generate meaningful employment beyond the construction site, and transfer their expertise in innovative infrastructure solutions, technologies and skills. These kinds of contributions will lead to long term benefits in terms of increasing the country's competitiveness as an investment and tourist destination.

RECOMMENDATIONS

AMEND THE PUBLIC SERVICE ACT OF 1936; TO REVISE AND LIMIT THE SCOPE OF THE DEFINITION OF PUBLIC UTILITIES.

We therefore recommend a re-examination of section 13(b) of the Public Service Act of 1936. The definition of "public utility" should be updated in two ways. First, it should only include services that are really serving the public in the present context. In certain jurisdictions, the public utilities are only water and electricity. Second, a distinction has to be made between the supply of services and commodities of public consequence and the physical structure where the services are provided. For example, in the case of a train system, the service of public consequence would be the carriage services. The rail infrastructure as a physical structure would not be public utility. By making this distinction, greater foreign capital can be infused in the construction and maintenance of infrastructure while reserving the provision of services to nationals, thus preserving the public interest that the nationality requirement seeks to protect.

REFORM THE GOVERNMENT PROCUREMENT REFORM ACT TO REMOVE PROVISIONS SUBJECTING THE PROCUREMENT OF GOODS AND SERVICES TO THE FLAG LAW OF 1936 AND PROVIDE FOR INCREASED TRANSPARENCY AND EFFICIENCY IN THE PROCUREMENT PROCESS.

We suggest that the Government Procurement Reform Act be amended to remove provisions that subject the procurement of goods and services to the Flag Law of 1936, and eliminate the preferential treatment to domestic goods and services and opening up government procurement to a fully competitive process. Additionally, we suggest the amendment and inclusion of reforms to provide clear guidelines and mechanisms

139 PPP Center (n.d.). Pipeline of Projects. Retrieved 03/05/2016. https://ppp.gov.ph/?page_id=26075.

that will ensure the transparency and efficiency of the procurement process, in line with international best practices.

2. IMPROVEMENT OF THE PPP PROGRAM

ISSUE DESCRIPTION

The Build-Operate-and-Transfer Law (BOT Law) (RA No. 6957), as amended by the Amended BOT Law (RA No. 7718), forms the legislative framework that governs private sector participation in infrastructure development across the country. As part of the Aquino Administration's drive to promote PPP projects as a vehicle to develop much needed infrastructure across the country, EO No. 8 series of 2010 (as amended by EO No. 136 series of 2013), established the PPP Center in the form it has today, with a mandate to facilitate the implementation of the country's PPP Program and Projects. Among the PPP projects included in the pipeline under the PPP Center, there have been twelve PPP projects awarded,[140] and 15 projects are under procurement.

PPP projects under procurement:

- New Bohol (Panglao) Airport Operations, Maintenance & Development Project
- Laguindingan Airport Operations, Maintenance & Development Project
- Davao Airport Operations, Maintenance & Development Project
- Bacolod Airport Operations, Maintenance & Development Project
- Iloilo Airport Operations, Maintenance & Development Project
- Operation and Maintenance of LRT Line 2
- Davao Sasa Port Modernization Project
- Road Transport Information Technology (IT) Infrastructure Project (Phase II)
- Civil Registry System – Information Technology Project (Phase II)
- New Centennial Water Source – Kaliwa Dam Project, Regional Prison Facilities through PPP
- NLEx-SLEx Connector Road
- LRT Line 6 Project
- North-South Railway Project (South Line)
- Laguna Lakeshore Expressway-Dike Project

140 Awarded projects under the PPP programme include: Bulacan Bulk Water Supply Project, LRT Line 1 Cavite Extension and Operation & Maintenance, Cavite-Laguna Expressway, Mactan-Cebu International Airport Passenger Terminal Building, Automatic Fare Collection System, Modernization of the Philippine Orthopedic Center, PPP for School Infrastructure Project – Phase 1, PPP for School Infrastructure Project – Phase II, NAIA Expressway Project – Phase 2, the Daang Hari-SLEX Link Road, the South Integrated Transport System and the Southwest Integrated Transport System.

The PPP program has the potential to be a game changer for national infrastructure development. While public infrastructure spending has increased in the past years, the influx of capital and expertise that can be brought into infrastructure development by the private sector can be a decisive factor in developing adequate infrastructure to meet current and future demand that will facilitate, rather than hinder economic growth.

The EU business community recognizes the PPP Center as a commendable government agency, which so far has had a significant impact on the improvements of the PPP framework, and is willing to participate in the PPP program to support the development of major infrastructure projects. Unfortunately, the legislative framework and governance structure for PPP projects has led to significant setbacks in the past years, which has affected the implementation of major projects and the interest of private sector to participate. During the 16th Congress, bills were filed in both Houses of Congress to amend the BOT Law and address barriers to the effective implementation of PPP projects. However, although reaching advanced stages in the legislative process, the bill was not passed into law during the 16th Congress.

RECOMMENDATIONS

AMEND THE BOT LAW TO STRENGTHEN THE PPP PROGRAM WITH EMPHASIS ON THE SENATE VERSION OF THE 16TH CONGRESS AND ENSURE TIMELY IMPLEMENTATION.

The 17th Congress should prioritize the amendment of the BOT Law to further strengthen the legislative framework and processes and facilitate an effective and efficient PPP program. Specifically, we recommend that adoption of the Senate version of the 16th Congress, which defines "Implementing Agency" to include any government agencies authorized by the President. Additionally, Sec. 8.a should allow national PPP projects to be approved by the Investment Coordination Committee (ICC), NEDA, or both and not just the NEDA Board. We also strongly support the amendment of Sec. 10 to award contracts based on the lowest financial bid which meets the criteria and the expansion of the PPP Center's functions under Sec. 21 to act as a procurement agency upon the request of an implementing agency and to review PPP contracts for national projects prior to execution.

UPDATE THE IRR OF THE BOT LAW AND PPP GOVERNING BOARD POLICY CIRCULARS.

Meanwhile, we recommend that the IRR of the BOT Law and the relevant policy circulars of the PPP Governing Board are reviewed and updated soonest. This will ensure the efficiency and integrity of the PPP process until the PPP Act is enacted and implemented.

ESTABLISH THE USE OF THE SWISS CHALLENGE FOR UNSOLICITED PROPOSALS.

Unsolicited proposals can fast track the implementation of important infrastructure projects and should therefore be encouraged. We propose that the Swiss challenge be adopted and established as the method used to process unsolicited proposals in order to establish transparency and clear guidelines throughout the process.

3. PCAB LICENSING FOR FULLY FOREIGN OWNED CONTRACTORS

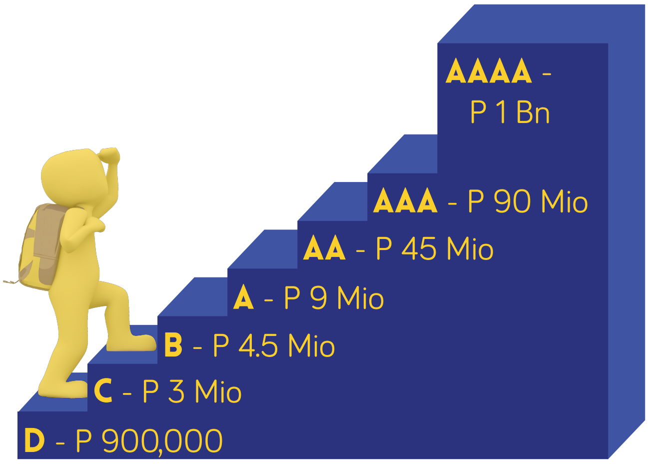
ISSUE DESCRIPTION

Licensing of contractors in the Philippines, both foreign and local, is governed by "Contractors' License Law" (RA No. 4566, as amended by PD No. 1846). The Contractors' License Law provides that PCAB has the authority to issue, suspend and revoke the licenses of contractors.[141]

The law provides only for the following qualifications: (i) at least two years of experience in the construction industry; and (ii) knowledge of the building, safety, health and lien laws of the Republic of the Philippines and the rudimentary administrative principles of the contracting business as the Board deems necessary for the safety of the contracting business of the public.[142]

In an attempt to demonstrate openness to foreign players, the PCAB issued Board Resolution No. 333, s. 2013 "Creating A Quadruple A Or "AAAA" Category Under the PCAB Regular License for Contractors with a Net Worth of At Least 1 Billion Pesos, and Allowing Foreign Contractors to be Licensed Under the said Category." This allows foreign contractors to work on multiple construction projects provided they meet the minimum requirement of Net Worth of PhP 1 billion to qualify for an AAAA license. This amount of minimum investment is quite high, especially if compared to the minimum stockholders' equity of only PhP 90 million for the AAA regular license category. [143] Indeed, the introduction of the AAAA license as a means to open up the industry to foreign entities has been viewed to be more symbolic than real. The licensing restrictions for foreign contractors are not conducive to fair market competition and limit the ability of foreign contractors to enter the market and compete with domestic competitors on the basis of a level playing field. (see graph 10)

graph 10 - Different capital requirements for PCAB license



Source: Philippine Contractors Accreditation Board

This discrimination between foreign and domestic contractors in the licensing process lacks legal basis. RA No. 4566 does not provide for any nationality criteria, but only for minimum requirements related to the technical capacity of the contractor, [144] while Article 48 of the Omnibus Investments Code cited in the PCAB IRR has since been amended and can no longer be used as basis for Rule 3.1. In fact, the DOJ opined in 2011 [145] that there is no law that prescribes the restrictions made to the regular licensing of foreign contractors as stipulated in the IRR of RA No. 4566.

RECOMMENDATIONS

WE THEREFORE RECOMMEND AMENDMENT OF RULE 3.1 TO ALLOW REGULAR LICENSES TO BE ISSUED TO FULLY FOREIGN OWNED CONTRACTORS.

We therefore recommend amendment of to Rule 3.1 of the IRR of RA No. 4566, to allow foreign contractors to be issued regular licenses under the same conditions as those posed to domestic players and align the contractors'

141 Section 5, Article I, REP. ACT No. 4566, "An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes".
142 REP. ACT NO. 4566, sec. 20.

143 PCAB Classification/ Categorisation table. (Retrieved: 20/04/2016). https://ciap.dti.gov.ph/content/philippine-contractors-accreditation-board.
144 Section 20, Article IV, REP. ACT No. 4566, "An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes".
145 DOJ LML M-21111-622 dated 21 September 2011.

licensing process with the principles of fair competition and transparent market practices, consistent with RA 4566, the Foreign Investment Negative List and the policy of the State to rationalize investments. The benefits for infrastructure development, employment generation and innovation, knowledge and technology transfers that increased competition in the infrastructure sector will create, will have a positive spillover effect to the wider economy and will be a significant step towards attracting more FDI in the infrastructure sector and conveying the message that the Philippines is open for business.

4. COMPREHENSIVE, PRO-GROWTH INFRASTRUCTURE DEVELOPMENT

ISSUE DESCRIPTION

With a score of just 3.4 (with 7 as best), infrastructure is the pillar where the Philippines had the lowest score in the Global Competitiveness Index 2015-2016; in fact the Philippines ranks just 90 out of 140 countries in the second pillar: infrastructure, compared to its total ranking of 40 out of 140 countries.[146]

These numbers highlight what has been reiterated by industry and experts in the past years that infrastructure in the Philippines does not adequately meet demand, as the high levels of economic growth in the past years have outpaced infrastructure development. Infrastructure gaps are evident in Metro Manila and increasingly Metro Cebu, where traffic congestion is severely handicapping workers' productivity and access to major international gateways, such as NAIA. The renewed focus by the Administration on traffic congestion and the implementation of definitive actions to create long term solutions to alleviate the burden of increasing traffic in Metro Manila is much welcome.

Beyond urban traffic, infrastructure gaps continue to hinder connectivity and productivity. NAIA cannot operate efficiently or expand flight services to and from the Philippines due to a lack of free slots, effective ground and air traffic management; port congestion in late 2014 and early 2015 also highlighted major infrastructure gaps in ports. At a national level additional road infrastructure and modern air and sea ports are vital to increase investment and tourism into the regions.

In addition to the direct repercussions on end users due to the inadequate infrastructure, whether commuters, investors, exporters, or tourists, more concerning is the wider impact on the economic environment. Instances such as port congestion, daily traffic congestion in Manila and the frequent delays at NAIA impacts productivity of business in the country. Moreover, it affects the competitiveness of exports that carry the added costs incurred by producers due to additional transportation costs and delays. Negative press among business circles at a global level, created by issues such as port congestion, adds to the wider effects on the competitiveness and attractiveness of the Philippines to potential investors, who consider the lack of inadequate infrastructure as an added investment risk.

RECOMMENDATIONS

DEVELOP ADEQUATE TRANSPORTATION INFRASTRUCTURE ACROSS THE COUNTRY THAT WILL ENHANCE AND SUSTAIN ECONOMIC GROWTH.

For high levels of economic growth to be sustained in coming years, it is imperative that decisive actions are taken from both a policy and operational perspective to address infrastructure gaps and develop national transportation infrastructure. Urban planning, with a focus on short- and long- term solutions in urban centers across the country, and especially Manila, should be prioritized. With this in mind, we list below some of the important actions that can create a competitive national transportation infrastructure framework.

6. Develop and implement an urban development policy, aligned to the Administration's drive to address congestion in Manila.
7. Continue existing infrastructure policies and projects.
8. Increase the total infrastructure investment level to above 10% of GDP.
9. Encourage more private sector participation in operations and maintenance of infrastructure assets.
10. Encourage a more competitive environment and faster implementation of Government projects by reforming the Government Procurement Act and creating a level playing field for foreign investors and construction firms.

146 WEF (2016). Global Competitiveness Index 2015-2016.

eccp EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES
BFBC Belgian-Filipino Business Club
British CHAMBER OF COMMERCE PHILIPPINES
CCI FRANCE PHILIPPINES
GPCCI AHK
ICCPI ITALIAN CHAMBER OF COMMERCE IN THE PHILIPPINES, INC.
La Cámara
NBCP NORDIC BUSINESS COUNCIL PHILIPPINES

SECTOR PAPERS

EU-PHILIPPINE ECONOMIC TIES: AS A NEW CHAPTER UNFOLDS

SECTOR PAPERS

AUTOMOTIVE

Vehicle sales in the Philippines continue to register some of the highest increases in the region. Just in 2015, the y-o-y increase of vehicle sales was 23%.[147] Effectively, it becomes ever more important to establish a strengthened governance framework that ensures road safety and the improvement of emissions standards. The adoption of EURO 4 standards in January 2016 was an important measure, which needs to be built upon through its implementation to ensure that objectives for less pollution are met as the number of vehicles on the roads increase. Furthermore, as the retail market continues to grow, so do the opportunities to develop the Philippines as an important automotive manufacturing hub in the region. The improvement of investment programs to incentivize the development of an economy of scale around the industry is key to developing the Philippines' position in the regional supply chain.

The European automotive industry is a global leader in the sector. However, in the case of the Philippines, European vehicles have been successfully establishing themselves as market leaders in the luxury segments, but have been unable to gain significant market share in lower market segments, due to tariff barriers to trade.

The Automotive position paper sets out the following recommendations as action points that can create a level playing field for European automotive vehicles and ensure the long term sustainability of the automotive sector in the Philippines.

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IMPLEMENTATION OF THE MOTOR VEHICLE INSPECTION SYSTEM (MVIS)
Implement the Motor Vehicle Inspection System as a PPP project.

REVIEW OF THE AUTOMOTIVE MANUFACTURING DEVELOPMENT PROGRAMS
Review existing motor vehicle development programs, as provided for by Section 17 of EO No. 182, and institute incentives for companies intending to eventually participate in CARS.

INCLUSION OF AN IMMEDIATE TARIFF REDUCTION SCHEDULE FOR VEHICLES UNDER THE EU-PHILIPPINES FTA
Include the elimination of import tariffs for EU automotive vehicles in the EU-Philippines FTA text, with immediate effect upon ratification of the FTA.

EFFECTIVE IMPLEMENTATION OF EURO 4 STANDARDS
Improve the implementation and enforcement framework of Euro 4 emission standards.

FACILITATION OF THE IMPORTATION OF VEHICLE PARTS
Facilitate the importation of vehicle parts to the Philippines by improving processes and aligning PNS and ICC to international standards.

147 ASEAN Automotive Federation (2016). ASEAN Automotive Federation 2015 Statistics. Retrieved 20/06/2016. http://www.asean-autofed.com/statistics.html.

one of the highest growth rates in ASEAN for vehicle sales - y-o-y 23% (2015)

European cars are *competitive in the luxury car segment*.
- Rolls Royce entered the market
- BMW 80.5% y-o-y sales growth
- Mini 49.3% y-o-y sales growth

European cars are present in *lower market segments - cannot compete* with carsfrom countries with preferential tariffs.
- Volkswagen
- Peugeot
- Volvo

just 1.12% of total vehicle sales (2015)

high growth rates in terms of vehicle production (2015)

11% y-o-y (2015)

auto parts exports amounted to USD 3.3 billion

7% of total Philippine exports (2010)

SECTOR SITUATIONER

MARKET DATA

In 2015 the Philippines registered one of the highest growth rates for vehicle sales in ASEAN with a 23% y-o-y increase.[148] Sales performance has been positive for all vehicle segments, including passenger cars, commercial vehicles, AUVs, SUVs, light duty trucks and buses and heavy duty trucks and buses.[149] European car manufacturers are also benefiting from the substantial growth in vehicle sales in the country, primarily in the luxury vehicle segments. In fact, in 2015, Rolls Royce entered the market, while two of the top five brands in terms of y-o-y sales growth were European, with BMW registering 80.5% y-o-y sales growth and Mini 49.3% (it is noted, however, that total market share still remains low).[150] However, European vehicles' competitiveness, especially in lower market segments, is still handicapped by competitive pricing by brands originating from jurisdictions which are party to multilateral or bilateral FTAs with the Philippines. In addition to Rolls Royce, BMW and Mini, there are a number of other European luxury car brands present in the Philippines, such as Audi, Porsche, Maserati, Lamborghini, and commercial vehicle brands, such as Volkswagen, Peugeot and Volvo.

The Philippines also registered high growth rates in terms of vehicle production for the same year, with a 11% y-o-y increase.[151] Currently, the local automotive part industry is composed of 256 companies producing around 330 different parts and components. The sub-sector has contributed to the country's manufacturing value added (3%) and employment generation (5%). In 2009, it employed a total of 50,858 workers and generated value added of PhP28 billion. In 2010, auto parts exports amounted to USD3.3 billion, accounting for 7% of total Philippine exports.[152]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The Comprehensive Automotive Resurgence Strategy (CARS) Program, signed in May 2015 through EO No.

148 ASEAN Automotive Federation (2016). ASEAN Automotive Federation 2015 Statistics. Retrieved 20/06/2016. http://www.asean-autofed.com/statistics.html.
149 Chamber of Automotive Manufactures in the Philippines, Inc. (2016). Auto Industry Starts 2016 with 27.6 Percent Growth.Retrieved 10/05/2016. http://www.campiauto.org/auto-industry-starts-2016-with-27-6-percent-growth.
150 Tabamo, D. (09/02/2016). 2015 PH car sales: Which brands were the biggest winners and losers? Top Gear Magazine. Retrieved 21/06/2016. http://www.topgear.com.ph/news/industry-news/top-gear-philippines-2015-car-sales-report-a00012-20160209.
151 ASEAN Automotive Federation (2016). ASEAN Automotive Federation 2015 Statistics. Retrieved 20/06/2016. http://www.asean-autofed.com/statistics.html.
152 Board of Investments, Philippine Government.(2016). Auto Parts. Retrieved 11/05/2016. http://industry.gov.ph/industry/auto-parts.

182, aims to attract new investment, stimulate demand and effectively revitalize the Philippine automotive industry as a regional automotive manufacturing hub. The thrust of the CARS program is to provide time-bound and output or performance-based fiscal support to attract strategic investments in the manufacturing of motor vehicles and parts. Other non-fiscal measures already provided by existing laws, rules and regulations shall continue to be systematically implemented by the relevant government agencies.[153]

Since January 1 2016, fuel sold in the Philippines is required to meet Euro 4 standards, while new vehicles sold and introduced in the market are also required to be equipped with a Euro 4 engine and compliant with Euro 4 emissions standards.

ADVOCACY

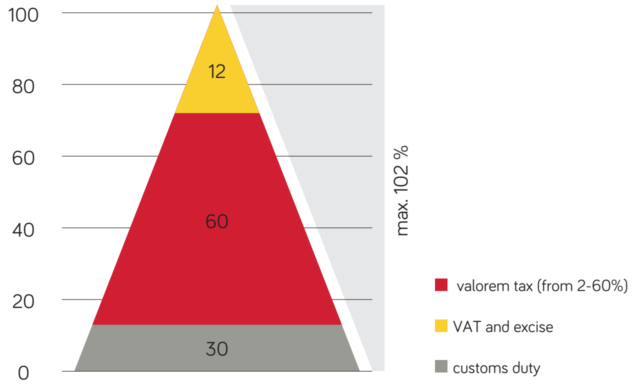
1. INCLUSION OF AN IMMEDIATE TARIFF REDUCTION SCHEDULE FOR VEHICLES UNDER THE EU-PHILIPPINES FTA

ISSUE DESCRIPTION

Growth rates for vehicle sales in the Philippines have hit record highs in the past years, registering some of the highest growth rates in the region.[154] The Philippine market therefore holds significant potential as a high-growth market for EU automotive companies. However, while companies have seen sales growth, they have been unable to enhance their competitiveness in most market segments, with the exception of the luxury market. Indeed, EU vehicles incur 30% customs duty, 12% VAT and excise or ad valorem tax from 2% to 60%, which translates to 102% of the initial retail price. Meanwhile, most competing automotive companies in the market originate from jurisdictions with bilateral or multilateral trade agreements with the Philippines, such as Japan and South Korea, for instance, which provide for preferential tariffs on automotive vehicles.[155] (see graph 11)

The EU automotive sector in the Philippines welcomed the conclusion of the scoping exercise for an EU-Philippines FTA in late 2015 and the completion of the first round of negotiations in May this year. We see an EU-Philippines FTA as an unmatched opportunity to remove fiscal barriers to the competitiveness of the EU automotive industry across all segments of the Philippine automotive market. The schedule of tariff eliminations

graph 11 - Taxes on EU vehicles



Source: Bureau of Internal Revenues, Bureau of Customs

for the automotive industry in the recently concluded FTA between EU and Vietnam can be adopted as a best practice.

RECOMMENDATIONS

INCLUDE THE ELIMINATION OF IMPORT TARIFFS FOR EU AUTOMOTIVE VEHICLES IN THE EU-PHILIPPINES FTA TEXT, WITH IMMEDIATE EFFECT UPON RATIFICATION OF THE FTA.

We strongly suggest that negotiations for the EU-Philippines FTA include provisions for the elimination of import tariffs for EU automotive vehicles to the Philippines with immediate effect upon ratification of the FTA.

2. REVIEW OF THE AUTOMOTIVE MANUFACTURING DEVELOPMENT PROGRAMS

ISSUE DESCRIPTION

The CARS was adopted through EO No. 182, series of 2015, "Providing for a comprehensive automotive resurgence strategy program" on May 29 2015.

CARS sets out parameters for the subsidization of manufacturing of up to three vehicle models with the objective of attracting new investment in the automotive manufacturing sector.[156] So far, two automotive companies have applied for participation in CARS, Toyota and Mitsubishi. European car makers have been unable to apply for participation in the program due to the high production volume threshold required.

153 ASEAN Automotive Federation (2015). Sales 2015: Motor vehicles.
154 REP. ACT No. 8749. Sec. 22. Art 4 Pollution from Motor Vehicles.
155 ASEAN-Australia-New Zealand Free Trade Area (AANZFTA), ASEAN-China Free Trade Area (ACFTA), ASEAN-India Free Trade Area (AIFTA), ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEPA), Japan-Philippines Economic Partnership Agreement (JPEPA), ASEAN-Korea Free Trade Area (AKFTA).

156 Pretrial Service Agency (2016). Total Trade by Month and Year: 2014-2016. Retrieved: 29/05/2016. https://psa.gov.ph/sites/default/files/attachments/itsd/trade/TABLE%201%20%20Total%20Trade%20by%20Month%20and%20Year%20%202014%20-2016_0.pdf.

Under Section 17 of EO No. 182, the existing Motor Vehicle Development program and other incentive schemes should be reviewed within six months and may, among other possibilities, provide new entrants who are intending to eventually participate in the CARS program a set of incentives during a limited transaction period.[157] However, more than one year has passed since the enactment of EO No. 182 but no review has yet been completed.

While certain European automotive companies had high hopes for the CARS program and the potential investment opportunities that it could create for the establishment of manufacturing plants in the Philippines, the production volume benchmarks that were set rendered it prohibitive for European carmakers, who still account for a relatively low market share of automotive vehicles sales in the Philippines. However, European automotive manufacturers still have great interest in investing in manufacturing plants in the Philippines, not least due to the high growth and potential of the domestic market, and some of the ASEAN markets.

RECOMMENDATIONS

REVIEW EXISTING MOTOR VEHICLE DEVELOPMENT PROGRAMS, AS PROVIDED FOR BY SECTION 17 OF EO NO. 182, AND INSTITUTE INCENTIVES FOR COMPANIES INTENDING TO EVENTUALLY PARTICIPATE IN CARS.

We strongly support the implementation of Section 17 of EO No. 182 and the subsequent establishment of time bound incentives that can be availed of by automotive companies intending to participate in CARS, but unable to fulfill yet the production volume requirements. The long term benefits on technology and knowledge transfer, job generation and the development of an economy of scale in the automotive manufacturing sector will more than compensate short term investment by the Government in incentive schemes.

3. FACILITATION OF THE IMPORTATION OF VEHICLE PARTS

ISSUE DESCRIPTION

The DTI-BPS governs the development and implementation of PNS and the ICC, which products entering the Philippine market are required to comply with. In some cases, other government agencies are involved in the regulation of the importation process; for example, lead acid storage batteries are regulated by the Philippine Drug Enforcement Agency.

The testing method by DTI-BPS (and other government agencies where applicable) to assess the conformity of imported vehicle parts is a significant non-trade barrier for EU automotive companies operating in the Philippines, due to the complexity and length of the procedures. Additionally, existing and planned PNS are not fully aligned to international and ASEAN standards, while the ICC process does not recognize international certifications. Effectively, products imported to the Philippines are required to undergo additional processes to establish conformity with the Philippine requirements.

UNECE vehicle regulations are widely recognized across the world. There are 19 UNECE regulations identified as priority regulations for harmonization in ASEAN;[158] the DTI-BPS has harmonized certain PNS standards to UNECE vehicle regulations, however there remain vehicle parts for which standards have not yet been harmonized.[159]

Both the length and complexity of the importation process due to compliance requirements, along with the lack of full alignment with UNECE standards and the recognition of international certificates, are significant non-trade barriers to EU importations of vehicle parts. In the context of intensifying ASEAN economic integration and the ongoing negotiations for an FTA, it is important to facilitate importation of vehicle parts to the Philippines. Indeed, in the recently concluded EU-Vietnam FTA, Vietnam committed to recognizing UNECE standards for vehicle parts.

RECOMMENDATIONS

FACILITATE THE IMPORTATION OF VEHICLE PARTS TO THE PHILIPPINES BY IMPROVING PROCESSES AND ALIGNING PNS AND ICC TO INTERNATIONAL STANDARDS.

157 EXEC. ORDER No. 182, s.2015. Section 17 "Review of EXEC. ORDER NO 156 and EXEC. ORDER NO 877-A. signed May 29,2015.

158 EXEC. ORDER No. 182 (2015), sec. 17.
These UNECE regulations are as follows: ECE R13 Heavy vehicle braking, ECER13H Braking of passenger cars, ECE R14 Safety-belt anchorages, ECE R16 safety-belts, ECE R17 Strength of seats, their anchorages and restraints, ECE R25 Head restraints, ECE R30 Tires for passenger cars and their trailers, ECE R39 Speedometer, ECE R40 Exhaust emission, ECE R41 Noise emissions, ECE R43 Safety glass, ECE R46 Devices for indirect visions, ECE R49 Diesel emission, ECE R51 Noise emissions of M and N categories of vehicles, ECE R54 Tires for commercial vehicles and their trailers, ECE R60 Driver operated controls, ECE R75 Tires for motorcycles/ mopeds, ECE R79 Steering equipment, ECE R83 Exhaust emissions of M1 and N1 vehicles.

159 BPS(n.d.). Road Vehicle Standards: Mandatory and Priority Regulations in ASEAN. Retrieved 16/06/2016. http://pcieerd.dost.gov.ph/images/downloads/presentation_materials/clrv_06142012/07_Road_Vehicle_Standards_Mandatory_and_Priority_Regulations_in_the_ASEAN_Region_MTGR_Davao_2012_06_13.pdf.

We propose the full alignment of PNS for vehicle parts to UNECE standards, which will ensure alignment to the EU and ASEAN markets. Additionally, we believe that international certificates should be recognized in support of the attainment of ICC. Finally, the review and improvement of operational processes for the approval of imports' compliance to standards is crucial to the facilitation of vehicle part imports.

4. IMPLEMENTATION OF THE MOTOR VEHICLE INSPECTION SYSTEM (MVIS)

ISSUE DESCRIPTION

The Clean Air Act of 1999 (RA No 8749)[160] and guidelines issued by the Land Transportation Office (LTO), require all operational vehicles to pass inspection.

The development of a modern network of Motor Vehicle Inspection Centers across the country has the potential to service the growing number of vehicles in the Philippines and ensure full compliance by new and used vehicles with environmental and safety standards, including the recently applied Euro 4 emissions standard. The development of the MVIS has been identified as a PPP project and is currently under development. The implementing agency of the proposed MVIS PPP project is the Department of Transport and Communication (DOTC).

The proposed MVIS will conduct road worthiness and emission tests by setting up inspection facilities for testing heavy duty, light duty, and two wheel-vehicles across the country. The PPP project foresees that the private developer will be responsible for the financing, development, and operation of the inspection centers in line with Government prescribed norms.[161]

RECOMMENDATIONS

IMPLEMENT THE MOTOR VEHICLE INSPECTION SYSTEM AS A PPP PROJECT.

We support the implementation of the MVIS as a PPP project and look forward to the timely completion of the PPP procurement process to establish MVIS. The implementation of MVIS will be a valuable tool in establishing nationwide compliance with Euro 4 and other environmental and safety standards across all vehicle segments.

160 DOE Department Circular No. 2015-06-0004. Signed 08/06/2015.
161 PPP Center (04/02/2014). Motor Vehicle Inspection System. Retrieved: 18/06/2016. https://ppp.gov.ph/?in_the_news=motor-vehicle-inspection-system.

5. EFFECTIVE IMPLEMENTATION OF EURO 4 EMISSIONS STANDARDS

ISSUE DESCRIPTION

Since January 1 2016, fuel sold in the Philippines is required to meet Euro 4 standards, while new vehicles sold and introduced in the market are also required to be equipped with a Euro 4 engine and compliant with Euro 4 emissions standards.[162] However, there still remain some gaps in the implementation of Euro 4 standards. Specifically, it has been reported that testing facilities still use old standards, which are not Euro 4 compliant; thus, while enforcement of Euro 4 standards for fuels has been effective so far, the same cannot be said for emissions standards.

Additionally, old and in-use vehicles are not bound by Euro 4 standards. Even so, the emissions limits provided for under the Department of Environment and Natural Resources (DENR) AO No. 2015-04, register significant discrepancies between the limits for new and in use cars. In the case of Euro 4 standards for new vehicles, the requirements can be further improved by including specific criteria for the equipment of diesel powered light duty vehicles with exhaust devices such as Diesel Particulate Filter (DPF) and Silicon Controlled Rectifier (SCR).

RECOMMENDATIONS

IMPROVE THE IMPLEMENTATION AND ENFORCEMENT FRAMEWORK OF EURO 4 EMISSION STANDARDS.

We recommend that DENR, in cooperation with other relevant government agencies, puts in place measures that will improve the implementation of Euro 4 standards, to ensure its effectivity as a tool to achieve objectives set out in the Clean Air Act of 1999 and ultimately ensure better air quality. We believe that DENR's improvement strategy should focus on better enforcement of compliance with emissions standards, by aligning testing facilities to Euro 4 standards, requiring new light vehicles to be equipped with exhaust devices, such as DPF and SCR, and the gradual introduction of higher emissions standards for old and in-use vehicle systems, complemented by an incentive system to upgrade engines and equip vehicles with exhaust devices.

162 DOE Department Circular No. 2015-06-0004. (8 August 2015).

SECTOR PAPERS

CONSUMER GOODS AND RETAIL

Consumption accounts for nearly 70% of GDP[163] in the Philippines and is one of the key drivers of economic growth. While the retail sector is well-represented by numerous global brands, the restrictive investment environment in the sector has meant that the vast majority of foreign retailers prefer to enter the market under franchise agreements, rather than through direct investment. Therefore, the economic landscape is losing out from the substantial benefits that increased FDI in the sector would bring, while the retail sector is characterized by a lack of healthy market competition.

Meanwhile, substantial non-tariff barriers to trade due to the burdensome customs processes and lack of inter-agency coordination handicap importers' competitiveness.

As consumption continues to drive economic growth, it is important to develop healthy market competition that benefits consumers, improve the importation process and remove restrictions to meaningful foreign investment, which will consequently create a positive spillover effect through knowledge and skill transfer and increased employment generation. The retail sector is one of Europe's important industries and many European brands are already present in the Philippines, mainly under franchise agreements. European companies welcome the opportunity to participate more meaningfully in the Philippine economic landscape through an easier investment regime.

We therefore propose the following:

RETAIL TRADE LIBERALIZATION

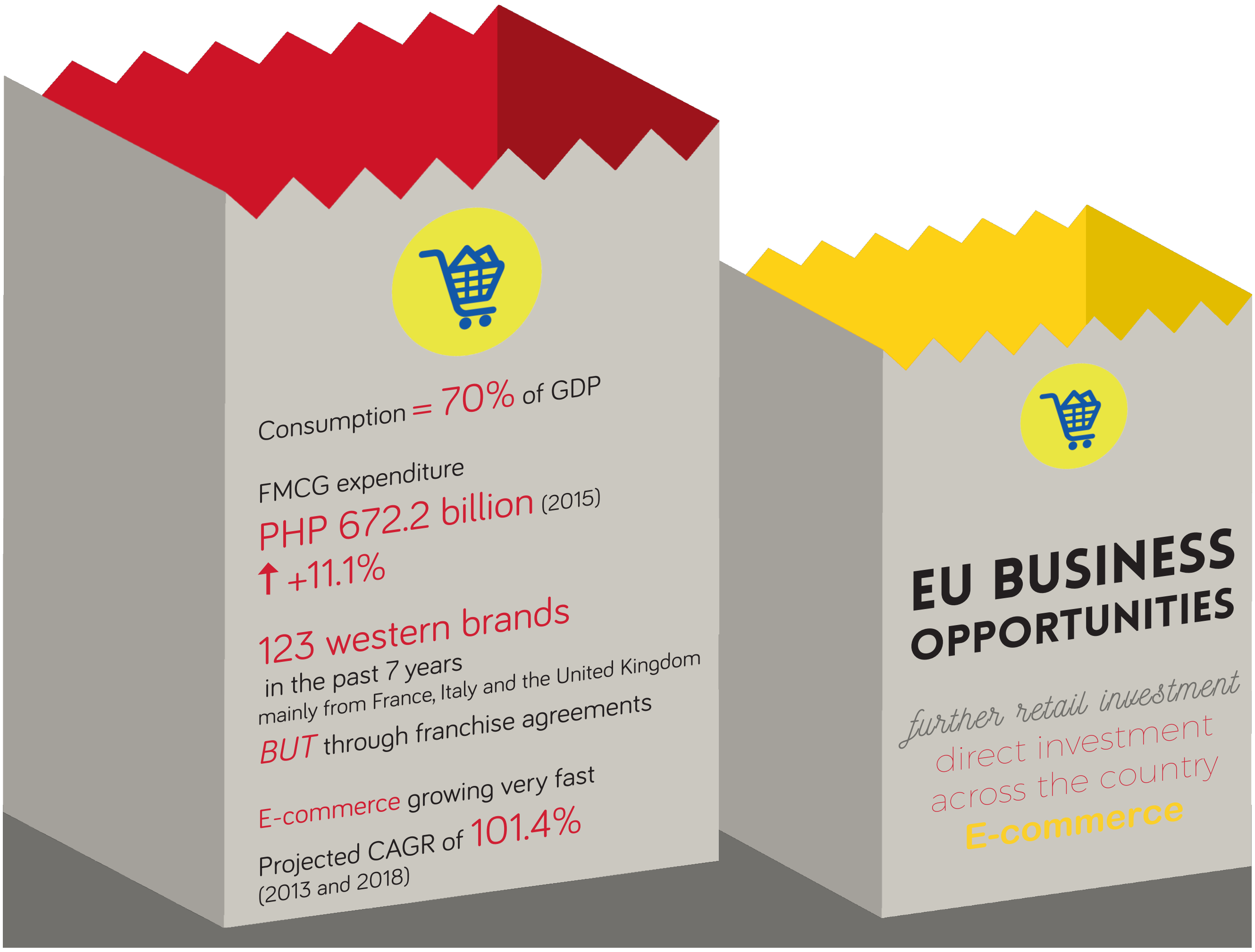
Amend the Retail Trade Liberalization Act to facilitate market access for foreign retail companies and improve competition.

CUSTOMS FACILITATION

Extend participation in the Super Green Lane and Super Green Lane Plus to importers with a strong compliance record, irrelevant of their trade volume.

Operationalize an effective National Single Window that allows full alignment between the BOC and other key Government agencies

163 ADB (2016), Asian Development Outlook 2016: Asia's Potential Growth, p. 220, http://www.adb.org/sites/default/files/publication/182221/ado2016.pdf.



SECTOR SITUATIONER

MARKET DATA

Being a country with consumption-driven growth, consumer goods and retail remains an important and fast-growing sector for the Philippines. This is further affirmed by consumption accounting for nearly 70% of GDP.[164] Given the Philippines' promising economic performance and strong domestic demand, it comes as no surprise that there has been a growing interest in the Philippines as an investment destination. On the FMCG demand side, the Philippines saw a total FMCG expenditure of PhP672.2 billion in 2015, registering 11.1% growth compared to the previous year. Therefore, the country is attractive to foreign retailers seeking new and dynamic markets to grow their brands. 123 western brands entered the Philippine market over the past seven years, primarily through franchise agreements. Majority of these are from France, Italy, and the United Kingdom.[165]

164 ADB (2016), Asian Development Outlook 2016: Asia's Potential Growth, p. 220, http://www.adb.org/sites/default/files/publication/182221/ado2016.pdf.
165 Cushman and Wakefield (2015). How Global Brands are Shaping the Metro Manila Retailer Landscape. Retrieved 23/06/2016. http://www.cushmanwakefield.ph/en-gb/research-and-insight/2015/how-global-brands-are-shaping-the-metro-manila-retailer-landscape.

E-commerce is an emerging and game-changing trend for retail businesses. At USD1.15 billion in 2013,[166] the Philippine e-commerce industry is projected to increase at a compound annual growth rate of 101.4% between 2013 and 2018. Moreover, the business-to-consumer e-commerce market is projected to grow at 107.4% during the same period.[167] The Philippines, considering its young demographic, is thus well-placed to see an increase in online retail in the near future.

Moving in this direction, European brands have penetrated the Southeast Asian consumer markets through marketplace management solution Neteven and Lazada, the leading online shopping destination in Southeast Asia.[168]

166 Demandware and Singapore (2015). Developing eCommerce Market Entry Strategies in Asia-Pacific – Advisory Report 2015. http://www.demandware.fr/uploads/resources/Whitepaper_MarketEntryAsia_ENG.pdf.
167 Gupta, A. (2014). The Philippines E-commerce Market Outlook to 2018 - Driven by Rising Internet Proliferation and Effective Online Payment System. Retrieved 23/06/2016. http://www.news.kenresearch.com/post/101829123338/the-philippines-E-commerce-market-outlook-to-2018#_=_.
168 Evigo (2015). European retailers to sell directly to millions of Asian consumers. Retrieved 23/06/2016. https://evigo.com/19851-european-retailers-to-sell-directly-to-millions-of-asian-consumers.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The enactment of the Philippine Competition Law (RA No. 10667) in July 2015 and the adoption of its IRR earlier this year are important reforms that aim to address anti-competitive practices in the all economic sectors of the Philippine economy. The retail sector is acknowledged as a sector sensitive to healthy market competition, especially in the Philippine context, and can benefit greatly from this reform.

ADVOCACY

1. RETAIL TRADE LIBERALIZATION

ISSUE DESCRIPTION

The *Retail Trade Liberalization Act* (RA No. 8762) was enacted in 2000 and opened the retail sector to foreign participation. It allows retail corporations to be foreign-owned, provided that they have a paid-up capital of at least USD2.5 million and a minimum investment of USD830,000 per store. The minimum requirement for companies considered specialized in high-end or luxury products to be fully foreign-owned with a paid-up capital of USD250,000 per store.[169]

In addition to the minimum capital requirements, foreign owned retail companies are also subject to divestiture requirements,[170] capital requirements, a proven track record and minimum limits to the number of stores in the parent company.[171]

Despite the law's objective to open the Philippine retail sector to foreign participation, in reality there has been little foreign investment primarily due to the restrictive conditions. Thus, although the sector is booming and the significant presence of foreign brands in the market, majority of foreign retailers enter the Philippines under franchise agreements with domestic companies, with only few entering as retailers.

During the 16th Congress, SB No. 2121 was filed, which aimed to amend the Retail Trade Liberalization Act in order to facilitate market access for foreign companies into the retail sector. Salient features of SB No. 2121 include the removal of the minimum capital requirements for foreign owned companies to invest in the Philippines and instead render qualification subject to reciprocity. However, the bill did not progress through the legislative process.

Since the Philippine retail sector is highly reliant on imported goods, the removal of barriers to market access for foreign retailers is key to establishing fair market competition. As in any market, increasing competition in the retail sector is key to ensuring that higher quality goods reach consumers at more competitive prices.

Additionally, by handicapping market access for foreign retailers, the Philippines is losing out on meaningful long-term investment that would have positive spillover effects on direct and indirect beneficiaries. Whereas employment generation under the franchise structure is limited to retail stores and warehousing services, direct investment by retailers would create additional jobs in back office operations and production; which in turn would generate national revenue from a larger tax base. It would also spur long term investment and expansion arising from a higher level of commitment from the market.

RECOMMENDATIONS

AMEND THE RETAIL TRADE LIBERALIZATION ACT TO FACILITATE MARKET ACCESS FOR FOREIGN RETAIL COMPANIES AND IMPROVE COMPETITION.

The Retail Trade Liberalization Act should be amended to remove capital and divestiture requirements and revisit other conditions for foreign owned companies in the retail sector to facilitate market access through direct investment, rather than franchise agreements. The increase in direct investment will promote competition which will benefit Filipino consumers and the competitiveness of the country as a shopping destination.

2. CUSTOMS FACILITATION

ISSUE DESCRIPTION

One of the main trade barriers faced by EU importers of goods to the Philippines is the burdensome customs process. There are two main factors which are most cited as barriers to importation, namely the complicated bureaucracy and lengthy process of customs procedures, and the lack of coordination between the BOC and other government agencies, such as the FDA, FPA, BIR, DTI and BOI.

The Super Green Lane and Super Green Lane Plus were

169 REP. ACT No. 8762. Sec. 5.
170 All retail trade enterprises under Categories B and C in which foreign ownership exceeds 80% of equity are required to offer a minimum of 30% of their equity to the public through any stock exchange in the Philippines within eight years from the start of their operations.
171 REP. ACT No. 8762. Sec. 8.

table 07 - Comparative table of customs processes for each type of customs lane

	SGL & SGL+	Green Lane	Yellow Lane	Red Lane
Electronic Selectivity	Always Super Green Lane	Random selectivity – May not be always green, yellow or red		
Procedure	Cargo release and delivery after payment of duties and taxes	Required to submit necessary documents after payment of duties and taxes prior to release.	Required to submit necessary documents after payment of duties and taxes prior to release.	Required to submit necessary documents after payment of duties and taxes prior to release.
Submission of documents to BOC	Tuesday or 2nd day of the following week after lodgement and customs releasing	Latest next day before noon after e2m lodgement	Latest next day before noon after e2m lodgement	Latest next day before noon after e2m lodgement
Document Inspection by BOC	No document inspection prior to release of goods	No document inspection prior to release	Subject to document inspection prior to release	Subject to document inspection prior to release
Physical Inspection by BOC	No physical inspection prior to release of goods	No physical inspection prior to release of goods	Subject to physical inspection prior to release of goods	Subject to physical inspection prior to release of goods

Source: based on related information gathered from the BOC

established by the BOC to facilitate a more efficient and faster customs process for large scale importers compared to other categories, such as the green, yellow, and red lanes. Some of the benefits that importers under the Super Green Lane scheme enjoy are the paperless release of import cargo at the "earliest possible" time, pre-approval of the list of imported goods, exemption from the Selectivity System (a risk management system for assessing risks of individual imports), no face-to-face interaction with customs personnel from online filing of import entry to release of cargo and physical inspection only when necessary and at the importer's premises.[172] Participation in the Super Green Lane scheme is by invitation or by application and is currently reserved for the top 1000 importers. Additionally, they have to fulfill certain criteria, such as accreditation with the BOC, active engagement with the importation business for at least one year, regular importation of the same types of articles, willingness to undergo voluntary audit, importation of non-regulated goods and be a BOC-registered user of remote lodgment facilities.[173] Only companies registered in the Super Green Lane scheme can apply for the Super Green Lane Plus scheme.[174] (see table 07)

RECOMMENDATIONS

EXTEND PARTICIPATION IN THE SUPER GREEN LANE AND SUPER GREEN LANE PLUS TO IMPORTERS WITH A STRONG COMPLIANCE RECORD, IRRELEVANT OF THEIR TRADE VOLUME.

The Super Green Lane and Super Green Lane Plus are laudable initiatives that serve as best practices in terms of how the Philippine Government can work to support trade facilitation. In order to expand the benefits of this initiative and incentivize compliance within the private sector, the option of participation in the Super Green Lane, and subsequently the Super Green Lane Plus, should be extended to importers with a strong track record of compliance in tax payments and customs procedures,

172 Presentation made by BOC Deputy Commissioner Agaton Teodoro O. Uvero (March 11-12, 2015) Philippines.
Super Green Lane (SGL): Promoting Trade Facilitation & Compliance. 3rd Meeting, SASEC Customs Subgroup (SCS-3). Goa, India.

173 CMO 28-2003.
174 Information provided by BOC officials.

who are therefore low risk importers, irrelevant of their trade volume.

OPERATIONALIZE AN EFFECTIVE NATIONAL SINGLE WINDOW THAT ALLOWS FULL ALIGNMENT BETWEEN THE BOC AND KEY GOVERNMENT AGENCIES.

We believe that the implementation of CMTA should also include the operationalization of a National Single Window. The National Single Window should be a fully automated, fully interactive interface that facilitates efficient and effective alignment and coordination between the BOC and key government agencies, including but not limited to the FDA, the FPA, the BIR, the DTI and the BOI. The implementation of an effective National Single Window will be a decisive step towards facilitating the importation and exportation process for products. It will also serve as an effective tool against corruption within respective agencies and the private sector and will support the enforcement of anti-smuggling and anti-parallel importation measures.

SECTOR PAPERS

FINANCIAL SERVICES

The liberalization of the banking sector in 2014 was a major step towards developing a modern, internationally integrated financial system in the Philippines. However, the Bangladesh bank heist in early 2016 highlighted the need to update and strengthen the sector's legislative framework to improve the international regulation of the country in the financial market. European banks are present in the Philippines and bring with them significant capital, however they are also bound by strict regulation from their jurisdictions, which they benchmark against Philippine regulations.

We therefore recommend the following in support of creating an internationally reputable and reliable Philippine financial services sector.

AMENDMENT OF THE BANK SECRECY LAW

Amend the Bank Secrecy Law to include exemptions in the case of investigation of tax fraud and Evasion.

AMENDMENTS TO THE ANTI-MONEY LAUNDERING ACT OF 2001

Amend AMLA to expand the scope of coverage of its provisions to better enforce anti-money laundering measures in the Philippines.

SENATE CONCURRENCE TO THE FOREIGN ACCOUNT TAX COMPLIANCE ACT

Implement FATCA in the shortest possible timeframe.

IMPROVEMENTS TO THE EDST SYSTEM

Improve the eDST technical system and put in place safeguards to support smooth operations in the case of system malfunctions.

Services account for 57% of total GDP and financial services contribute 7% to the sector.

69% of Filipinos did not have bank accounts (2014)

Full liberalization of the banking sector in 2014.
Since then there are 23 foreign banks authorized to operate.
Share of foreign banks in the total assets of the Philippine banking system 8.2% (end 2015).

Insurance industry +44.23% increase in total net income (2015)
PHP 23.7 billion
total premiums: PHP224.3 billion

Foreign insurance companies already here
eg Ageas Insurance International Life of Belgium & Allianz AG of Germany

Top 5 Philippine banks
- BDO
- BPI
- Metropolitan Bank and Trust co.
- Philippine National Bank
- Land Bank of the Philippines

Liberalization of
- lending companies
- insurance
- finance companies & investment houses

in July 2016 opens the way for more foreign investment:

Still space in the market in the growing insurance industry and banking sector
expandion of client base (thanks to the high number of Filipinos without a bank account)

SECTOR SITUATIONER

MARKET DATA

Services are the biggest sector of the Philippine economy and account for 57% of total GDP, with financial services contributing 7% to this sector. In the first quarter of 2016, the services sector expanded by 7.9%, with financial intermediation registering 9.1% growth.[175]

The Philippine financial sector comprises a variety of institutions, including banks (commercial banks whose operations include investment banking, thrift banks, rural banks, and development banks) and non-bank institutions (insurance companies, finance companies, pension funds, and the securities markets). The sector is highly dominated by banking, which itself is highly concentrated, with the six largest commercial banks controlling around 60% of all bank assets.[176]

In 2014, about 69% of Filipinos did not have bank accounts of their own or maintained one with someone else, according to a study by the World Bank. Likewise, neither did this group hold accounts in other formal financial institutions. The figure is far higher than the global average of 38%, the developing economy median of 46%, and the East Asia and Pacific average of 31%. It was also found that the Philippines is one of a few countries around the world where more than 10% of adults seek loans from private informal lenders. The world average stands at only 5%. Likewise, the study reported that money-transfer operators were the main avenues of remittances in the country instead of banks.[177]

The SM group's banking arm BDO Unibank Inc. has kept its bragging rights as the Philippines' top bank in the Top 1,000 Global Banks Ranking 2015 report of British publication, The Banker. Twelve Philippine banks landed in the global list. The top five out of the twelve Philippine banks on the list were: BDO, which placed 255th, followed by Bank of the Philippine Islands (338th), Metropolitan Bank and Trust Co. (345th), Philippine National Bank (478th) and Land Bank of the Philippines (566th).[178]

The full liberalization of the banking sector in 2014 opened the way for more foreign banks to set up operations in the Philippines. As of end-December 2015,

175 Rida Husna (19/05/2016). Philippines GDP Annual Growth Rate. Retrieved 01/05/2016. http://www.tradingeconomics.com/philippines/gdp-growth-annual.
176 USAID Policy Paper (05/08/1988). A Market for Reforms. Retrieved 02/05/2016. http://pdf.usaid.gov/pdf_docs/PNADH946.pdf.
177 WB (01/05/2015). The Global Findex Database 2014. Retrieved 09/05/2016. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/10/19/090224b08315413c/2_0/Rendered/PDF/The0Global0Fin0ion0around0the0world.pdf.
178 WB (01/05/2015). The Global Findex Database 2014. Retrieved 09/05/2016. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/10/19/090224b08315413c/2_0/Rendered/PDF/The0Global0Fin0ion0around0the0world.pdf.

there were 23 foreign banks which were authorized to operate in the Philippines, four of which started operations with full banking authority in 2015, namely: Sumitomo Mitsui Banking Corporation, Cathay United Bank Co. Ltd., Shinhan Bank Co. Ltd., and Industrial Bank of Korea. Total resources of foreign banks at PhP987.8 billion went down by 4.5% compared to the previous year, due to the slowdown in investing and lending activities. As a result, the share of foreign banks in the total assets of the Philippine banking system as of end 2015 slipped to 8.2% from 9.3% at end of 2014.[179]

In 2015, the insurance industry registered a 44.23% increase in total net income, at PhP23.7 billion, compared to PhP16.4 billion in 2014. Total premiums rose to PhP224.3 billion from PhP189 billion in 2014, registering 18.7% y-o-y growth.[180] Life insurance registered a total net income of PhP20.4 billion in 2015,[181] while non-life insurance registered a total net income of PhP3 billion in the same year. [182] Over the past years, new players entered the industry, reflecting continued interest in the multi-billion-peso sector. These include Ageas Insurance International Life of Belgium and Allianz AG of Germany, one of the world's biggest insurance and financial institutions. Certain players have introduced health insurance products while others offered health insurance through riders. The Philippine life insurance industry was ranked second to Singapore out of the ten ASEAN Member States in the Liberalization Index, in a 2015 study conducted by Milliman.[183]

ADVOCACY

1. AMENDMENT OF THE BANK SECRECY LAW

ISSUE DESCRIPTION

The Bank Secrecy Law (RA No. 1405 as amended by RA No. 7653) and Foreign Currency Deposit Act of the Philippines (RA No. 6426) govern the disclosure of bank account information in the Philippines. They explicitly prohibit disclosure of or inquiry into deposits in the Philippines by any person, government official, bureau or office. Disclosure of bank account information can only be granted upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.[184] On the other hand, foreign currency deposits are absolutely confidential and may only be disclosed upon written permission of the depositor.[185] The list of exceptions is exclusive and the requisites for obtaining such exceptions are not easy to comply with. For instance, a court order can only be obtained after going through the proper legal process, which usually takes time. Mere investigations for commission of crimes or tax evasions do not qualify as exceptions.

The Philippines is considered as one of the most secretive banking systems in the world due to its strict policy on bank secrecy. At the height of the Bangladesh Bank heist,[186] this issue was underscored as the laws on bank secrecy were heavily relied on by the implicated financial institutions and individuals as basis to avoid answering Senate inquiries on the involved bank accounts and transactions that led to the transfer of the stolen money into the Philippine banking system and eventually to casinos and junket operators. This demonstrated to the legislators first-hand how the bank secrecy regime in the Philippines can frustrate investigations of serious financial crimes.

The Philippines' strict bank secrecy laws have become impediments to the development of an internationally reputable financial sector. At a time when the fight against terrorist financing continues to intensify globally and nations are increasing international cooperation to combat tax evasion and fraud, it is important that the Philippines shows commitment to develop a strict policy framework against these crimes.

At the domestic level, it is imperative to create a favorable investment environment for EU and other foreign banks, which are governed by stricter regulations by their

179 BSP (12/2015). Universal and Commercial Banking System. Retrieved 30/06/2016. http://www.bsp.gov.ph/banking/bspsup_ukbs_psoc.asp.
180 Insurance Commission (n.d.). Insurance Industry Performance as of the Quarter Ending December 31. Retrieved 23/06/2016. http://www.insurance.gov.ph/_@dmin/upload/statistics/IIP31Dec2015.pdf.
181 Insurance Commission (n.d.). Tentative Ranking of Life Insurance Companies According to Net Income as of December 31,2015. Retrieved 23/06/2016. http://www.insurance.gov.ph/_@dmin/upload/statistics/Ranking_Life_NetIncome2015.pdf
182 Insurance Commission (n.d.). Tentative Ranking of Non-Life Insurance Companies According to Net Income (Loss) as of December 31 ,2015. Retrieved 23/06/2016. http://www.insurance.gov.ph/_@dmin/upload/statistics/Ranking_NL_NetIncome2015.pdf.
183 Milliman (23/07/2015). Potential Implications of ASEAN Economic Community for the Life Insurance Industry. Retrieved 03/05/2016. http://www.milliman.com/uploadedFiles/insight/2015/20150724_Potential%20implications%20of%20the%20ASEAN%20Economic%20Community.pdf.

184 REP. ACT No. 1405 (as amended by REP. ACT NO. 7653), sec. 2.
185 REP. ACT No. 6426 (as amended by Pres. Dec. No. 1035, and Pres. Dec. No.1246), sec. 8.
186 In early February, authorities of Bangladesh Bank found out that its account with the Federal Reserve Bank of New York had been hacked and $100 million was illegally withdrawn thru an interbank messaging system (SWIFT). Of this amount, around $81 Million was wired to foreign currency accounts in Rizal Commercial Banking Corporation (RCBC) in the Philippines. The stolen money was then consolidated into two foreign currency accounts linked to a Filipino-Chinese businessman and then moved to three casinos in the Philippines. Part of the funds was converted into Philippine currency by a remittance company which then delivered the funds partly in cash to junket operators. The funds were used for gambling and payment of debt. The money received by one junket operator as payment for debt and front money was returned.

jurisdictions, by removing the risk of becoming party to financial crimes. From a wider economic perspective, the amendment of the bank secrecy laws to allow disclosure of information to government agencies in cases concerning serious tax fraud and evasion could increase the Government's revenue generation from taxes.

While DOF, spearheaded the filing of bills amending the bank secrecy laws to facilitate tax fraud and evasion investigations in the 16th Congress, the bills did not progress.

RECOMMENDATIONS

AMEND THE BANK SECRECY LAW TO INCLUDE EXEMPTIONS IN THE CASE OF INVESTIGATION OF TAX FRAUD AND EVASION.

We strongly recommend the prioritization of amendments to the Bank Secrecy Law in the 17th Congress. The amendments should include additional exceptions to confidentiality as well as ease the requirements for the current exceptions that balance the interests of the bank depositor and the state's interest in combatting crime and tax evasion.

2. AMENDMENTS TO THE ANTI-MONEY LAUNDERING ACT OF 2001

ISSUE DESCRIPTION

The *Anti-Money Laundering Act* of 2001 (RA 9160)[187] sets the legislative framework for the enforcement of anti-money laundering measures in the Philippines and criminalizes money laundering, consistent with international law and best practices. It also created the Anti-Money Laundering Council (AMLC), the Philippines' Financial Intelligence Unit. Mandated to implement the Anti-Money Laundering Act of 2001, the AMLC has the duty to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines is not used as a money laundering site.

The law has undergone several changes, specifically with respect to the threshold amounts and list of covered institutions. Currently, the threshold amount for covered transactions is PhP500,000.

The institutions covered by AMLA are:

1. Banks, non-banks, quasi-banks, trust entities, and all other institutions and their subsidiaries and affiliates supervised or regulated by the Bangko Sentral Ng Pilipinas (BSP)
2. Insurance companies and all other institutions supervised or regulated by the Insurance Commission
3. Securities dealers, brokers, salesmen, investment houses and other similar entities managing securities or rendering services as investment agent, advisor, or consultant; mutual funds, close-end investment companies, common trust funds, pre-need companies and other similar entities; foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities; and other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised or regulated by the Securities and Exchange Commission
4. Jewelry dealers in precious metals or stones; for transactions in excess of PhP1 million
5. Company service providers which, provide any of the following services to third parties: (i) acting as a formation agent of juridical persons; (ii) acting as (or arranging for another person to act as) a director or corporate secretary of a company, a partner of a partnership, or a similar position in relation to other juridical persons; (iii) providing a registered office, business address or accommodation
6. Correspondence or administrative address for a company, a partnership or any other legal person or arrangement; and (iv) acting as (or arranging for another person to act as) a nominee shareholder for another person
7. Persons who provide any of the following services: (i) managing of client money, securities or other assets; (ii) management of bank, savings or securities accounts; (iii) organization of contributions for the creation, operation or management of companies; and (iv) creation, operation or management of juridical persons or arrangements, and buying and selling business entities.[188]

187 As amended by RANos. 9194, 10167, and 10365, as well RA No. 10168, otherwise known as the "Terrorism Financing Prevention and Suppression Act of 2012".

188 REP. ACT No. 10365, sec. 1.

Notably, covered institutions do not include casinos. The recent money laundering case in early 2016 involving a well-known Philippine bank and casino corporation highlighted the gap in legislation that these exceptions create.

The non-inlcusion of casinos and other organizations possibly targeted by money launderers, from the list of covered institutions serves as a backdoor for launderers. While casinos are regulated by the gaming authority (Philippine Amusement Gaming Corporation) to safeguard the integrity of their gaming systems, casinos are not subject to the same regulations as financial institutions in terms of the day-to-day monetary transactions. This is despite the fact that the amount of cash that flows in and out of casinos is comparable if not even more sizeable than financial institutions. With the exclusion of casinos from the coverage of AMLA, they can become laundering havens for dirty money which could later find its way into general circulation and the banking system.

This threatens to compromise the Philippines and its banking system's international reputation which impacts the Philippines' ratings by major ratings agencies and the willingness of international lenders to participate in transactions in the Philippines. That such large sums can easily infiltrate casinos underlies the weakness of the anti-laundering regime, which could result in the Philippines being reinstated into the "gray list" of the Financial Action Task Force.

This has ripple effects on business as capitalization relies on both foreign and local lending and investments. Further, it unduly introduces an element of instability in commercial transactions. Therefore, addressing shortcomings in the existing legislation is vital to cementing the international credibility of the Philippines. A stable and reputable financial system is imperative for a steady macroeconomic environment and stock exchange and capital liquidity in the market.

RECOMMENDATIONS

AMEND AMLA TO EXPAND ITS COVERAGE TO BETTER ENFORCE ANTI-MONEY LAUNDERING MEASURES IN THE PHILIPPINES.

We strongly support the amendment of AMLA as a priority during the 17th Congress to include casinos, and other organizations that may be used as vehicles for money-laundering. If there is a need to adjust the threshold amounts in order not to stifle the concerned industry or cause inefficiency in administration, then this must also be studied and considered.

3. SENATE CONCURRENCE OF THE FOREIGN ACCOUNT TAX COMPLIANCE ACT

ISSUE DESCRIPTION

The Foreign Account Tax Compliance Act (FATCA) was enacted in the US in March 2010. FATCA aims to improve tax compliance of US persons who are evading US tax. It requires all non-US financial institutions, referred to as Foreign Financial Institutions, including those in the Philippines, to report relevant information on financial accounts held by US persons to the US International Revenue Service. There are two types of Inter-Government Agreements (IGAs) which countries can opt for – Model 1 IGA (Government-to-Government exchange of information) and Model 2 IGA (financial institutions report directly to the US International Revenue Service).

The Philippines negotiated a Model 1 IGA, under which Philippine financial institutions are required to report information on US accounts to the BIR and signed a reciprocal agreement with the US on July 13 2015.[189]

Although the measure was designated as a priority by the BIR, as it is seen as an effective anti-tax evasion tool, it has not yet been implemented in the Philippines, due to the pending concurrence by the Philippine Senate.

The implementation of FATCA Model 1 IGA in the Philippines will be a powerful tool to stem tax evasions and increase the revenue collection of the Philippine Government. It will also allow international financial institutions in the Philippines to ensure their international credibility by preventing their use as vehicles for tax evasion.

Implementation of FATCA can also be seen as a test run towards committing to the adoption and implementation of the OECD's Common Reporting Standard.

The implementation of international anti-tax evasion agreements, such as FATCA and the Common Reporting Standards, will establish the Philippines as a reputable financial market and allow international banks to comply with regulatory requirements set by their Headquarters.

189 Agreement between the Government of the United States of America and the Government of the Republic of the Philippines to Improve International Tax Compliance and to Implement FATCA. Signed 13 July 2015.

RECOMMENDATION

IMPLEMENT FATCA IN THE SHORTEST POSSIBLE TIMEFRAME.

We strongly recommend immediate Senate concurrence of FATCA and implementation of FATCA Model 1 IGA by the BIR. As a second step, the Philippine Government should also commit to the adoption of the Common Reporting Standard.

4. IMPROVEMENTS TO THE EDST SYSTEM

ISSUE DESCRIPTION

In 2009, the BIR issued BIR Revenue Regulation (RR) No. 7-2009, which provided for the implementation of the Electronic Documentary Stamp Tax (eDST) System as a replacement of Documentary Stamp Tax Electronic Imprinting Machine (DSEIM).

Since RR No.7-2009 took effect in October 2009, there have been frequent malfunctions and intermittent operation of the system. The system is often disabled and banks and insurance companies are obliged to resort to the use of constructive DST stamping procedures.

While in principle the financial services sector welcomes the automation of the DST payment system, in practice the operational malfunctions affect the ability of banks to comply, and cause operational errors and inefficiencies. Banks and insurance companies encounter increased costs and operational difficulties due to duplicated allocation of funds for DST payments (manual credits to BIR via constructive DST Stamping procedure on top of prepaid DST in the eDST system) and monitoring of the eDST system. Recent events have proven that mere issuance of delayed advisories, which provide inadequate lead times for compliance, do not help resolve problems encountered with the eDST system, nor alleviate the operational difficulties.

RECOMMENDATIONS

IMPROVE THE eDST TECHNICAL SYSTEM AND PUT IN PLACE SAFEGUARDS TO SUPPORT SMOOTH OPERATIONS IN THE CASE OF SYSTEM MALFUNCTIONS.

Improvement of the eDST system to address the current issues with the system is necessary to facilitate payment of DST by banks and insurance companies. In addition to long term operational improvements to the system, it will help users if due notice is given of system downtimes and the use of constructive DST stamping procedures is made possible for authorized users. Finally, it is suggested that the BIR refrains from penalizing end users when payment delays are due to eDST system downtimes or technical problems.

SECTOR PAPERS
HEALTHCARE

The Universal Healthcare program launched in 2010 is a milestone for the Philippine healthcare sector as it provides healthcare access to the most vulnerable segments of the population across the country. An integral part of achieving universal healthcare access is the development of supportive policy infrastructure, both in terms of regulation and delivery systems, which facilitates the delivery of innovative and lifesaving medicines to all patients. While there have been great strides towards achieving effective regulation and delivery of medicines to patients since the launch of UHC, there is still room for further improvements.

The Philippine National Formulary and the Maximum Drug Retail Price mechanism, both instrumental in the delivery of medicines to patients, can be improved to better serve patients and increase their transparency and efficiency. Improvements to the regulatory body also feature as an important reform for European healthcare companies, who see patient safety as non-negotiable. Similarly, compliance to ethics standards in the marketing of products has to be enforced in support of patient protection.

EU pharmaceutical companies are known for their innovative, life-saving medicines which should be made available to all the patients who most need them. We therefore propose the following actions as vehicles to ensure the successful implementation of UHC and access to innovative, life-saving and safe medicines.

FACILITATION OF PATIENT ACCESS TO LIFE-SAVING MEDICINES

Improve the application process and institutionalize interaction with the private sector in the determination of the medicines that are included in the PNF.

Institutionalize consultations with the private sector to increase the effectiveness of the MDRP mechanism.

IMPLEMENTATION OF THE MEXICO CITY PRINCIPLES

Enforce the implementation of the Mexico City Principles by all industry players.

CONTINUATION OF INITIATIVES TO STRENGTHEN THE HEALTHCARE SECTOR AND UNIVERSAL HEALTHCARE

Strengthen primary healthcare and improve Philhealth services and coverage of out-patient medicines.

Continue the improvement of the FDA in support of better regulation and anti-counterfeit enforcement.

Create a comprehensive disease and patient register.

INSTITUTIONALIZED PUBLIC-PRIVATE SECTOR DIALOGUE

Institutionalize a monthly dialogue between Government and private sector.

The Pharmaceuticals industry is *one of the fastest-growing sectors.*

Projected to become a PHP 164 billion industry (by 2018)

fastest growing segment Generics market

Foreign drug firms primary players approximately 75% of the market

Total health expenditure stood at 4.7% GDP

only 34.3% financed by Government (2014)

Pharmaceuticals, drugs and medicines account for 46% of the total medical out-of pocket expenses of Filipino householdes.

61.5% of healthcare expenditure comes from the private sector.

Services from private providers are used by only 30% of the population.

1800 hospitals

98,155 beds (2010)
(+- 1 bed per 1,000 population/
WHO recommends 2 per 1,000 population)

Almost 100% of medical equipment is imported

> 65% of medical disposables are imported

EU BUSINESS OPPORTUNITIES

Healthcare is a Government priority, but can only expand universal coverage through PPP.

continued investment in the Philippine market

disruption in pharmacies
(currently dominated by few big companies)

SECTOR SITUATIONER

MARKET DATA

The Philippine Healthcare market is largely dependent on imports. Medical equipment, devices, diagnostics, medical disposables are primarily imported into the Philippines, with almost all medical equipment (close to 100%) and more than 65% of medical and disposables are imported healthcare market. Local manufacturing in the medical disposable segment primarily consists of gloves, syringes, needles, hospital beds and hospital furniture.[190]

The Philippines has 1800 hospitals, of which approximately 721 (40%) are managed by LGUs, 70 are under the DOH and the remaining are private owned. In 2010, there was a total of 98,155 beds, of which 50% were in government hospitals. The World Health Organization (WHO) recommends 2 hospital beds per 1,000 of population, however the Philippine average rate is just 1 per 1,000 population.[191] In 2014, total health expenditure stood at 4.7% of GDP.[192] This is below the minimum 5 percent of GDP that the WHO recommends. Of that, only 34.3% percent was financed by the Government, which means that majority of health expenditures continues to be paid out of patients' own pockets.[193]

The Philippine Institute for Development Studies has shown that the pharmaceutical industry is one of the country's fastest-growing sectors. Likewise, BMI's Q1 2015 report notes that pharmaceutical output, drugs, and medicines account for 46% of the total medical out-of-pocket expenses of Filipino households. For impoverished populations, the percentage rises to 55% of expenses.

In the Philippines, foreign drug firms are the primary players, accounting for approximately 75% of the pharmaceutical market. Sanofi, GlaxoSmithKline (GSK), Roche, Astra Zeneca, Pfizer, Novartis and NovoNordisk are some of the biggest foreign drug firms in the Philippines. Large domestic pharmaceutical firms include Natrapharm, United Laboratories, Pascual

190 MORULAA (n.d.). Philippines Healthcare Market – An Overview. Retrieved 27/05/2016. http://www.morulaa.com/medical-device/philippines-healthcare-market-an-overview-morulaa.

191 WHO and DOH (2012). Health service delivery profile, Philippines 2012. Retrieved 01/07/2016. http://www.wpro.who.int/health_services/service_delivery_profile_philippines.pdf.

192 WB (n.d.). Health expenditure, total (% GDP). Retrieved 01/07/2016. http://data.worldbank.org/indicator/SH.XPD.TOTL.ZS.

193 WB(n.d.). Health expenditure, public(% total health expenditure). Retrieved 01/07/2016. http://data.worldbank.org/indicator/SH.XPD.PUBL?view=chart.

Laboratories and GV International. For both foreign and local manufacturers, the segment with the most rapid growth in the Philippines is the generics market.[194]

A study commissioned by Pharmaceutical & Healthcare Association of the Philippines (PHAP) and conducted by Singapore-based IMS Consulting Group showed that generics accounted for 65% of the market in 2014 while originator products accounted for only 35%. The study revealed that the generics market in the Philippines has been growing by 6% annually since 2010. The DOH reports that 69% of Filipinos have turned to generic drugs, which are at least 50% cheaper than their branded counterparts.

While majority (61.5%) of healthcare expenditure comes from the private sector, services from private providers are used by only 30% of the population, primarily those who are economically stable enough to afford fee-for-service treatment. With a private sector comprising both large health corporations and smaller providers, Philippine multinationals, according to BMI's Q1 2015 report, are more into drug trading, marketing, and distribution rather than manufacturing.

As of 2014, the industry employed 60,000 people, and manufacturers, wholesalers and retailers within the industry had contributed some PhP119 billion in taxes from 2006 to 2012. Overall, the PHAP-IMS study sees the country's pharmaceutical sector growing to become a PhP164 billion industry by 2018 from PhP146 billion in 2014.[195]

The launch of the AEC in late 2015 and the ongoing regional integration in line with the AEC objectives is especially relevant for the healthcare sector, in terms of proposed regulatory harmonization with other ASEAN Member States.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The EU and the Philippines signed the Philippines Health Sector Reform Contract in 2014, the third EU funded program to support the Philippine Health Sector Reform Agenda. Under this agreement, the EU will provide a EUR30 million or PhP1.8 billion grant to support Philippine Government initiatives in developing the country's health sector. Of the EUR30 million, the grant covers a budget support of EUR20.5 million directly channeled to the National Treasury, a complementary component of EUR9.5 million aimed at funding various technical assistance and capacity building programs to strengthen the DOH's health delivery systems.[196]

There have been reform initiatives on the Philippine National Formulary (PNF) which started in 2015. Review and updates on the list of essential drugs in the PNF is spearheaded by the DOH–Pharmaceuticals Division (formerly National Center for Pharmaceutical Access and Management, NCPAM). To keep the public informed and provide transparent and comparative price information of over 120 basic essential medicines from leading drug stores and public hospital pharmacies nationwide, the DOH also launched the Drug Price Watch website in 2015. This was also in accordance to "An Act Providing for Cheaper and Quality Medicines," (RA No. 9502) which mandates pharmaceutical chains to upload the updated price lists of their drugs on a monthly basis.[197]

ADVOCACY PAPERS

1. FACILITATION OF PATIENT ACCESS TO LIFE-SAVING MEDICINES

ISSUE DESCRIPTION

An important goal for Universal Health care is to ensure that every Filipino has sustainable access to safe, quality, cost-effective medicines and technologies. Medicines are made accessible to every Filipino primarily through the use of the PNF which is the basis for Philippine Health Insurance Corporation (PHIC) support as well as government procurement. Patients who rely on government support through the UHC programmes to access medicine cannot avail of innovative, lifesaving medicines until they are included in the PNF. There is also no option to improve access by providing an option to co-pay for innovative medicines even if it was medicine that was more appropriate for the patients' conditions. Thus, the PNF must be made consistent with recommended treatment guidelines, so as to allow public Healthcare Professionals (HCPs) to manage their patients effectively and to help improve access from the patients' perspective.

It has been noted that guidelines, systems, processes and timelines for application to be included in the PNF need to increase in transparency and clarity in order to minimize significant delays in the inclusion of innovative

194 Pacific Bridge Medical (07/01/2014). 2014 Philippines Pharmaceutical Market Update. Retrieved 24/05/2016. http://www.pacificbridgemedical.com/publication/2014-philippines-pharmaceutical-market-update.

195 PHAP (2015). Partnering for Nation Building- The Contributions of the Philippine Pharmaceutical Industry to Health and Economy. Retrieved 22/05/2016. http://www.phap.org.ph/files/downloadables/54_1.pdf.

196 European Union (12/08/2014). EU and the Philippines sign financing agreement providing for € 30million grant(PhP 1.8billion) for health sector regorm. Retrieved 10/05/2016. http://eeas.europa.eu/delegations/philippines/documents/press_corner/20141208.pdf.

197 Drug Price Watch. (2015, July 31). Retrieved August 25, 2016, from http://www.ncpam.doh.gov.ph/index.PhP/en/drug-price-watch.

products including those that are specified in clinical practice guidelines. It has been observed that it can take up to three years for the inclusion of an innovative medicine in the PNF. Therefore, the EU business community welcomes the current revision and update of the PNF list that the DOH is undertaking, with the support of Philippine Health Sector Reform Contract, the EU Technical Assistance project for the DOH in the Philippines. An institutional mechanism where key stakeholders are involved in developing the list will also help make the process of drug inclusion more transparent and effective.

The MDRP mechanism was launched by EO No. 821,[198] in line with provisions in "The Universally Accessible Cheaper and Quality Medicines Act of 2008" (RA No. 9502) and its IRR allowing for the President of the Philippines, following recommendation by the Secretary of the DOH, to impose maximum retail prices on any of the medicines prescribed in the law.[199] The objective of MDRP is to improve the affordability and access of medicines for illnesses identified as the leading causes of morbidity and mortality. However, reported studies[200] have demonstrated that notwithstanding the significant reduction of drug prices under the MDRP mechanism, this has not resulted in the improvement of access to medicines amongst households, especially among the poor.

The systemic inefficiencies observed in both mechanisms have led to a negative impact on business, without compensating by notably improving patient access to medicines. The EU pharmaceuticals industry in the Philippines is committed to providing affordable medicines to every patient. Therefore, we stand ready to support the Philippine Government in addressing the bottlenecks halting the effective operation of both the PNF and the MDRP mechanisms in order to ensure that both support the Philippine Government's efforts to provide universal access to patients, in line with UHC and Millennium Development Goals (MDG).

RECOMMENDATION

IMPROVE THE APPLICATION PROCESS AND INSTITUTIONALIZE INTERACTION WITH THE PRIVATE SECTOR IN THE DETERMINATION OF THE MEDICINES THAT ARE INCLUDED IN THE PNF.

198 EXEC. ORDER No. 821. signed on 27 July 2009.
199 REP. ACT No. 9502, Chapter 3, Section 17.
200 De Guzman, E. and Adoracion Fausto, M. (2014). The Impact of the Cheaper Medicines Act on Households in Metro Manila: A Qualitative Study. Discussion Paper Series No. 2014-20, Philippine Institute for Development Studies. March 2014.

In a meeting with the DOH in May 2016, it was highlighted that the revised PNF list will be characterized by a more transparent and efficient application process, the establishment of a new formulary executive council which will now cover medical devices, a special focus on cost-effectiveness and the integration of the PNF and PhilHealth. We welcome these developments and laud the DOH and the EU Technical Assistance (TA) team for their work on this important revision. We look forward to being part of the PNF consultation process and recommend the adoption of an institutionalized approach for consultation with the private sector on the medicines that shall be included in the PNF.

INSTITUTIONALIZE CONSULTATIONS WITH THE PRIVATE SECTOR TO INCREASE THE EFFECTIVENESS OF THE MDRP MECHANISM.

We are of the opinion that the technical inputs and market knowledge that the private sector possesses can be invaluable in addressing the factors that have led to the lack of major success by MDRP in improving patient access. Therefore, we strongly support the institutionalization of evidence-based, transparent stakeholder discussions and comprehensive industry consultation, to ensure equitable participation in the process. This will support the Government to adapt the MDRP mechanism in order to make it more effective and sustainable, while ensuring full transparency in the influence that industry has on the medicine pricing and discounting policy of the MDRP.

2. CONTINUATION OF INITIATIVES TO STRENGTHEN THE HEALTHCARE SECTOR AND UNIVERSAL HEALTHCARE

ISSUE DESCRIPTION

The healthcare sector in the Philippines has undergone major positive reforms in the past years. The launch of UHC in 2010, which prioritized improvements in health financial risk protection, health service delivery, and the attainment of the Philippine MDGs, was a milestone in terms of ensuring patient access to health services and medicines for the most underprivileged across the country.

The Philippine Health Sector Reform Contract, the EU Technical Assistance project for the DOH in the Philippines that was launched in November 2014, has also supported the DOH, FDA and Philhealth towards the successful implementation of UHC by providing technical assistance and capacity building.[201] Indeed, the EPBN Healthcare Committee has welcomed the opportunity in the past year to conduct frequent trilateral discussions with the DOH Office for Health Regulation and the EU TA team in support of better policy alignment and cooperation towards the completion and sustainability of key healthcare reforms.

Despite these laudable improvements in the healthcare sector, continued improvement of healthcare regulation and delivery system can further benefit patent owners and patients alike.

In the case of regulation, the FDA has taken noteworthy steps in the past years to improve transparency and efficiency. Notably, the computerization of the agency and the disbursement of funds for the first stage of the FDA's 5 year business plan have increased the efficiency of processes and the number of staff. However, additional improvements could be achieved through further modernization of the systems, equipment and processes and extended capacity building of the workforce in support of a higher level of technical capacity, better data collection and importantly, better enforcement of anti-counterfeit measures.

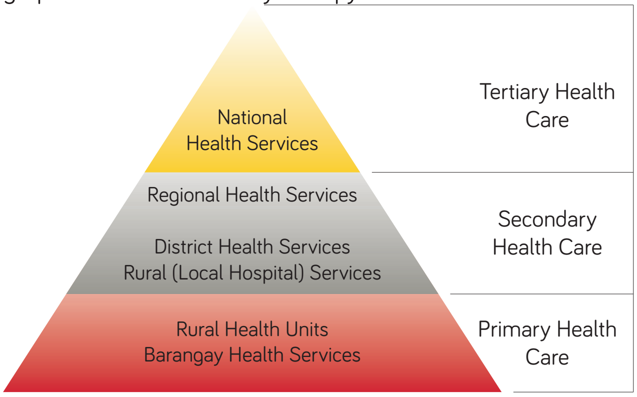
With regard to healthcare delivery, there are shortcomings in the planning and delivery of healthcare packages by Philhealth, effectively impacting the ability of patients to access healthcare services and medicines. One major issue is the inadequate focus on prevention within Philhealth healthcare packages, which include very limited or no coverage of out-patient and primary care. Additionally, there is a lack of dedicated patient databases and intranets that can be shared nationally in support of more efficient delivery of healthcare packages and better pharmacovigilance. Moreover, the Local Government Code of 1991 (RA No. 7160) mandates LGUs to handle health services in their respective jurisdictions, however many of them are unable to deliver adequate health services to their constituents due to a limited budget with competing priorities and a lack of technical capacity. (see graph 12)

RECOMMENDATION

STRENGTHEN PRIMARY HEALTHCARE AND IMPROVE PHILHEALTH SERVICES AND COVERAGE OF OUT-PATIENT MEDICINES.

201 The TA is oriented towards five key result areas and foci of TA intervention: Strengthening the service delivery system; Strengthening the institutional capacity of the PhilHealth to become the primary payer in the health system; Improving the governance of the health sector; Enhancing the regulatory capacity for provision of quality services, medicines and supplies; Ensuring equitable distribution of human resources for health (HRH).medicines and supplies; Ensuring equitable distribution of human resources for health (HRH).

graphic 12 - Healthcare system pyramid



Source: The Philippine Health Care Delivery System. (n.d.). Retrieved August 24, 2016, from https://www.scribd.com/doc/33544041/The-Philippine-Health-Care-Delivery-System.

A strong primary health care and outpatient system should focus on prevention rather than cure of critical illness. It will also enable the public health system to be more efficient and cost-effective in the delivery of health care services to all Filipinos. The majority of disease burden, with the advent of high prevalence of chronic, non-communicable diseases, is in the primary setting, but primary health management at the out-patient setting is currently with very limited coverage or not covered at all by PhilHealth – hence the financial burden is shouldered by patients. We believe that targeted capacity-building towards delivery of out-patient health care services, investment for automated patient databases, and the introduction of KPIs for the workforce are all measures that will strengthen Philhealth's capacity to deliver healthcare and expand its reach to more members across the country. It will also freeup services in the more expensive tertiary care settings as well as help prevent disease complications that can cost more to treat. Likewise, capacity building among LGUs is also integral to ensuring adequate delivery of healthcare services, including hospital facilities, to all patients. Where Philhealth and LGUs can benefit from technical expertise and capacity-building from the private sector on processes, management structures and healthcare delivery systems, the EPBN Healthcare committee members stand ready to provide such support.

CONTINUE THE IMPROVEMENT OF THE FDA IN SUPPORT OF BETTER REGULATION AND ANTI-COUNTERFEIT ENFORCEMENT.

We welcome the positive reforms that have taken place in the FDA in the past years and look forward to further reforms and capacity building under the auspices of the new Administration and the continuation of the EU TA program. In this light, we will continue to support the improvement of processes, further automation and capacity building of personnel to ensure that the FDA can effectively regulate the sector and enforce anti-counterfeit measures, in line with industry developments and the introduction of new pharmaceutical products into the market.

Indeed, with the rapid changes in the industry and intensifying global and regional market integration in mind, we believe that it is more important than ever for Government to step up in the anti-counterfeit fight by increasing criminal penalties for those caught manufacturing, supplying, or selling counterfeit medicines. Additionally, the institutionalization of partnerships between the government agencies and patent holders in the industry to jointly address the weaknesses in the supply chain that allow the proliferation of counterfeit products in the market is an effective market mechanism to enforce anti-counterfeit measures.

CREATE A COMPREHENSIVE DISEASE AND PATIENT REGISTER.

We recommend that a comprehensive disease and patient register is created under the DOH, or specifically Philhealth. The development of an online, interactive nationwide database will facilitate Philhealth's ability to deliver the right care to patients across the country that will help facilitate Philhealth's ability to deliver the right care. It can also be a system to improve pharmacovigilance and help ensure delivery of quality medicines and services.

3. IMPLEMENTATION OF THE MEXICO CITY PRINCIPLES

ISSUE DESCRIPTION

EU pharmaceutical companies operate within a strict regulatory framework covering the ethics of product marketing and interactions with healthcare professionals.[202] Until recently, the Philippines had no regulatory framework for the regulation of ethics in the pharmaceuticals sector, which has compromised the ability for EU companies to operate on the basis of a level playing field.

In 2011, President Aquino signed "an APEC Leader's declaration of the Mexico City Principles, signifying the support of the Philippines to the standardization of business ethics". The Mexico City Principles (MCPs) govern the ethical marketing, distribution, promotion and advertising of pharmaceutical products in ASEAN. Subsequently, the FDA released Circular No. 2014-024, expressing the country's adoption of the MCP, and the DOH Circular No. 2014-0389 for the Creation of a Committee for the Adoption of the Mexico City and Kuala Lumpur Principles.[203][204]

Through DOH Administrative Order "Implementing Guidelines on the Promotion and Marketing of Prescription Pharmaceutical Products and Medical Devices," the IRR for the implementation of the MCPs were published by the DOH in late December 2015[205] with full implementation expected to commence by early 2017.

RECOMMENDATION

ENFORCE THE IMPLEMENTATION OF THE MEXICO CITY PRINCIPLES BY ALL INDUSTRY PLAYERS.

We strongly support the strict enforcement of the Mexico City Principles by the Government on all industry players, and stand by the DOH and FDA in supporting this effort. We believe that effective implementation of the measure will require healthcare organizations and companies to certify their compliance annually or risk sanctions. It is also important to create a multi-stakeholder, non-Government, independent body that will oversee the adherence to the guidelines among various industry groups, in addition to adjudicating over complaints for non-compliance by healthcare companies, organization and professionals. Moreover, developing a clearly defined roadmap will help continuously raise the adherence of the various bodies in the Philippine healthcare ecosystem to the highest standards of ethical conduct as observed by advanced nations with well evolved healthcare systems.

4. INSTITUTIONALIZED PUBLIC-PRIVATE SECTOR DIALOGUE

ISSUE DESCRIPTION

In the past year, the EPBN Healthcare Committee was privileged to establish an institutionalized monthly PPP dialogue with the DOH through the Office for Health Regulations. The bilateral dialogue was an avenue to share innovative proposals and solutions for bottlenecks

202 As prescribed by the Code on the Promotion of Prescription-Only Medicines to, and Interactions with, Healthcare Professionals (the HCP Code) and the Code of Practice on Relationships between the Pharmaceutical Industry and Patient Organisations (the PO Code).

203 FDA Circular No. 2013-024 (5 September 2013), Adoption and implementation of the Mexico City Principles for Voluntary Code of Business Ethics in the Biopharmaceutical Sector.

204 DOH Circular No. 2014-0389 (2 October 2014), Creation of a Committee for the Adoption of Mexico City and Kuala Lumpur Principles.

205 DOH AO No. 2015-0053. signed 21 December 2015.

in the healthcare sector, an opportunity for the private sector to offer technical expertise and both parties to remain updated in the relevant activities by the private and public sector respectively.

The monthly PPP dialogues between EPBN and DOH have been mutually beneficial and created an avenue for collaboration, sharing of best practices, experiences and proposals between private sector and the Government. As global policy trends move ever more towards public-private cooperation as the most effective method of creating sustainable policies,[206] we believe that this initiative is vitally important for the cooperation between private sector and Government to achieve ambitious and sustainable goals for the achievement of UHC goals, MDGs and Sustainable Development Goals (SDGs).

RECOMMENDATION

INSTITUTIONALIZE A MONTHLY DIALOGUE BETWEEN GOVERNMENT AND PRIVATE SECTOR.

We respectfully request that the monthly dialogues between the EPBN and the DOH leadership are continued in the new Administration, so we can continue to work together in support of joint goals to the benefit of the Filipino patient.

206 See for example, the World Economic Forum's global projects, such as Grow Asia in the agriculture sector.

SECTOR PAPERS
HUMAN CAPITAL

SKILLS DEVELOPMENT
Establish a more pragmatic immersion program for K-12 as a PPP with DEPED and support the Apprenticeship bill to be refiled in the 17th Congress.

EASING OF RESTRICTIONS ON THE EMPLOYMENT OF FOREIGN NATIONALS
Relax limits on foreign employment in PEZA zones. Create a one-stop shop for renewals and facilitate the employment of foreign nationals in priority sectors.

RETENTION AND PROTECTION OF INVESTMENTS IN HUMAN CAPITAL
Protect and incentivize employers who invest in competitive training programs.

DEVELOPING A PRO-BUSINESS, PRO-EMPLOYEE CONTRACTUALIZATION FRAMEWORK
Strengthen enforcement of the laws against the abuse of contractualization and address loopholes, at the same time allow a more flexible work environment.

Human capital is acknowledged as one of the competitive advantages of the Philippines. A skilled workforce, young demographic and English proficiency are driving factors behind the exponential growth of the ICT/BPM/KPM industry and continue to fuel remittances from overseas workers. Indeed, the human capital talent is one of the decisive factors for many European corporations choosing the Philippines as an investment destination. Meanwhile, one of the major benefits that foreign direct investment can bring to the country is the transfer of knowledge and skills.

European companies are heavy investors in human capital development. However, the existing legislative and administrative framework often serves as a barrier to the full leverage of the economic benefits that can be gained through investment in human capital. Facilitation of the employment of foreigners, especially in PEZA zones, will open the way for increased transfer of knowledge and skills and the creation of a culture of innovation across industries. In the case of the ICT/BPM/KPM industry it will provide the foundations on which the sector can build upon to diversify into high value added and complex services, based on high level skills such as analytics and robotics. Incentivizing investment in training is also an important measure to ensure that companies continue to invest in high quality training programs, despite high attrition rates. Finally, as avid protectors of workers' rights, we strongly support measures that will address the abuse of contractualization, without compromising the competitiveness of major sectors such as ICT/BPM/KPM, among others.

If implemented, the following recommendations will create a policy framework that is conducive to human capital development, competitiveness and the protection of workers' rights.

The Philippines ranked 2nd to Singapore among ASEAN Member States in the *Human Capital Index 2015.*

MARKET GAPS

Training & skills transfer/development

International education & on the job training

To continue basing economic growth
→ workforce needs to remain competitive

Human capital intensive sectors a
business opportunity.

Human capital is highly competitive:
English skill | hard-working | high-literacy rate

Employment rate: 93.9% (April 2016)

Unemployment rate: 6.1% (NCR 7.7%)

Ilocos Region 7.5% | CALBARZON 97.5% | Central Luzon 7.1%

IT/BPM/KPM sector and remittances from OFWs two of the main economic drivers.

SECTOR SITUATIONER

MARKET DATA

In the World Economic Forum Human Capital Report 2015, the Philippines ranked second only to Singapore out of ASEAN Member States in the Human Capital Index, ranking 46 out of 124 countries (Singapore ranked 24th). Comparatively, among the remaining ASEAN-6 countries, Malaysia ranked 52, Thailand 57, Vietnam 59 and Indonesia 69.[207]

One of the drivers of the high levels of economic growth enjoyed by the Philippines is its human capital. This is evident in the exponential growth of the BPM/KPM industry of the country. At present, the country has outdone India for being the top offshore destination for voice services and is second to India in non-voice services. The industry, along with remittances from overseas Filipino workers, continues to sustain the country's economy.[208]

The number of OFWs was estimated at 2.4 million for the period of April to September 2015. Overseas Contract Workers (OCWs) or those with existing work contracts comprised 97.1% of the total OFWs during the same period. The remaining 2.9% worked overseas without a contract.[209]

The total remittances sent by OFWs during the period April to September 2015 was estimated at PhP180.3 billion. These remittances included cash sent home (PhP135.6 billion), cash brought home (PhP37.3 billion) and remittances in kind (PhP7.4 billion). The majority of OFWs sent their remittances through banks (62.2%) or through other means (31.4%).[210]

Among occupation groups, laborers and unskilled workers (33.2%) was the biggest group of OFWs. One in every three OFWs was a laborer or unskilled worker. About 17.6% worked as service workers and shop and market sales workers. OFWs who worked as plant and machine operators and assemblers comprised 12.8%, and trades and related workers, 11.8%. More than half of

207 WEF (n.d.). Human Capital Index 2015. Retrieved 22/06/2016. http://reports.weforum.org/human-capital-report-2015/rankings.
208 Magellan Solutions (2016). The Philippines BPO industry: Progress projections for 2016. Retrieved 4/5/2016. http://www.magellan-solutions.com/blog/the-philippine-bpo-industry-progress-projections-for-2016.

209 PSA (n.d.). Total Number of OFWs Estimated at 2.4 Million (Results from the 2015 Survey on Overseas Filipinos). Retrieved 6/22/2016. https://psa.gov.ph/content/total-number-ofws-estimated-24-million-results-2015-survey-overseas-filipinos-0.
210 Ibid.

the female OFWs were laborers and unskilled workers (54.5%). Among male OFWs, the largest group were plant and machine operators and assemblers (23.2%) and trades and related workers (23.0%).[211]

According to the results from the April 2016 Labor Force Survey conducted by the Philippine Statistics Authority (PSA), the employment rate in April 2016 was estimated at 93.9%. Four regions, namely, National Capital Region (NCR) (92.3%), Ilocos Region (92.5%), CALABARZON (92.5%), and Central Luzon (92.9%) had the lowest employment rates. The labor force participation rate in April 2016 was estimated at 63.6%. Workers in the services sector comprised the largest proportion of the population who are employed.[212]

The unemployment rate in April 2016 was estimated at 6.1%. Among the regions, NCR (7.7%), Ilocos Region (7.5%) CALABARZON (7.5%), and Central Luzon (7.1%) were the regions with the highest unemployment rates. Among the unemployed, in April 2016, 63.2% were males. Of the total unemployed, the age group 15 to 24 years comprised 50.1%, while the age group 25 to 34, 28.3%. By educational attainment, 23.1% of the unemployed were college graduates, 13.1% were college undergraduates, and 31.4% were high school graduates.[213]

The K to 12 school program was universally launched in the school year starting in June 2016. It is a major reform to the Philippine education system and introduces an additional two years of mandatory basic education, in line with common international practices.

The issuance of a new Department Order by Department of Labor and Employment (DOLE) (DO No. 146-15, series of 2015) introduced revised requirements and processes for the employment of foreigners in the country, including the requirement for the publication of extensive information on the foreign national's position in the Philippines prior to granting the AEP. Finally, the Philippine Green Jobs Act of 2016 (RA No. 10771) was enacted in April 2016 with the purpose of developing green jobs.

211 Ibid.
212 PSA (2016, June 9). Employment Rate in April 2016 is Estimated at 93.9 Percent. Retrieved 6/ 23/ 2016. https://psa.gov.ph/content/employment-rate-april-2016-estimated-939-percent.
213 Ibid.

ADVOCACY

1. SKILLS DEVELOPMENT

ISSUE DESCRIPTION

The skills, size and average age of the Philippine workforce are widely considered as one of the country's major assets in attracting foreign investment. Proficiency of the English language, a hard-working culture and a high literacy rate are some of the competitive advantages of the workforce. However, as the country continues to move up the international value chain, it is essential to develop a skilled workforce that can adapt to higher value added economic activities, whether high value added manufacturing, more complex business services in the ICT/BPM/KPM sector or other high value added services. Skills development, both soft and hard, is therefore an integral component of the country's continued economic growth.

The introduction of K to 12 this school year is an important step towards aligning the national education system with international standards. Indeed, the identified subject tracts provide opportunities for a wide set of skills development for students, including soft and hard skills, effectively increasing their employability, either straight after senior high school or after further studies.

To accomplish the goals of K to 12, DepEd also incorporated in the K to 12 curriculum an immersion program for Grade 11 and 12 students. The program requires 80 hours of hands-on experience and work simulation to expose students to the workplace situation and gain competencies. It will be implemented in partnership with local government, national government, and private companies. [214]

In a fast developing economy, based on rapidly evolving technologies, techniques and skillset requirements, immersion in the working environment is the most effective way to ensure young graduates are adequately equipped to compete in the job market or to make choices for their further education that will ensure their marketability after graduation. However, 80 hours of job immersion is not sufficient to achieve that goal.

An additional policy measure which can support the development of marketable skills in the workforce through on the job training is the enactment of an Apprenticeship law. Countries such as Germany feature as best practices in terms applying apprenticeship

214 DepEd, DO No. 40, s. 2015.

programs as a tool to develop necessary skills through on the job training. ECCP worked closely with DOLE and the Senate during the 16th Congress to develop a policy framework to ensure all participating companies comply with measures to safeguard apprentices' rights and maximize the skills attainment through apprenticeship programs. Sadly, the Apprenticeship bill was not passed in the 16th Congress.

RECOMMENDATIONS

ESTABLISH A MORE PRAGMATIC IMMERSION PROGRAM FOR K TO 12 AS A PPP WITH DEPED AND SUPPORT THE APPRENTICESHIP BILL TO BE REFILED IN THE 17TH CONGRESS.

We invite DEPED to join us in establishing an immersion program as a PPP, which goes beyond the 80 hour immersion program, to provide in depth, on-the-job quality training for students. The program will keep the protection of students and their skills development as core objectives, with stringent compliance frameworks and work programs to identify the skills gained during the program and avoid any abuse by the private sector. Ideally, the immersion process will interlink with a modernized apprenticeship system, which is also advocated to be passed in the 17th Congress, in line with provisions included in the Apprenticeship bill filed in the 16th Congress.

2. EASING OF RESTRICTIONS ON THE EMPLOYMENT OF FOREIGN NATIONALS

ISSUE DESCRIPTION

The employment of foreign professionals in the Philippines is governed by strict legislative and administrative guidelines. Most recently, DOLE issued a Department Order (DOLE DO 146-15, s. 2015) which revised the requirements for the employment of foreign nationals.[215]

In the case of PEZA locators, companies are subject to a restriction on employment of foreign nationals to 5% of the total workforce. If companies wish to employ foreign nationals beyond the 5% ceiling, they are required to secure no-objection certificates from DOLE.[216]

Industry groups have observed that the employment process of foreign nationals is a burden for companies due to the lack of transparency, clear guidelines and timelines in the application process. Additionally, it is noted that inter-corporation mobility of foreign nationals within the country is especially difficult as they are required to leave the country and re-apply for a new Alien Employment Permit when changing employers.

RECOMMENDATIONS

RELAX LIMITS ON FOREIGN EMPLOYMENT IN PEZA ZONES.

We recommend that the 5% limit on foreign employment for PEZA locators is lifted to allow PEZA locators, especially in the ICT/BPM/ KPM sector, to remove the burden on their operation caused by such restrictions. In recognition of the reform as a pro-business measure, not to be taken advantage of by any non-compliant locators, we recommend that the lifting of the ceiling is accompanied by strict compliance guidelines and criteria for the employment of foreign nationals in PEZA zones. This will allow locators, especially in sectors such as ICT/ BPM/KPM to increase their global operations with direct benefits for the Philippines' competitiveness. It will also support knowledge transfer in priority sectors such as ICT/BPM/KPM and manufacturing.

CREATE A ONE-STOP SHOP FOR RENEWALS AND FACILITATE THE EMPLOYMENT OF FOREIGN NATIONALS IN PRIORITY SECTORS.

The creation of a one-stop shop service for renewals or changes to AEPs and visas for foreign nationals employed in the Philippines will be an important measure to facilitate business for foreign investors and the employment of foreign nationals. The service should also be expanded to foreign nationals moving to a new employer in designated sectors where there is an identified skills gap in the domestic market, such as the ICT/BPM sector. Additionally, we recommend that foreign nationals working in designated priority sectors can simply amend their AEP before starting at their new job, rather than having to leave the country. This will have a positive impact on the ease of doing business in the Philippines and its competitiveness for foreign investors, who rely heavily on international expertise in the first stages of investment in a new jurisdiction.

215 DOLE. DO 146-15, s.2015.
216 REP. ACT No. 7916 (1995), Implementing Rules and Regulations (IRR), Part VII, Rule XIV, sec. 1.

3. RETENTION AND PROTECTION OF INVESTMENTS IN HUMAN CAPITAL

ISSUE DESCRIPTION

For the past 30 years, there has been a steady stream of Filipinos leaving the country to work abroad. According to statistics provided by the Philippine Overseas Employment Agency (POEA), more than one million land- and sea- based overseas workers have been deployed by the agency every year, since 2010.[217]

As a direct outcome of the large outflow of workers, remittances by overseas workers have become one of the drivers of economic growth in the country. The development of the Philippines' competitiveness as an investment destination is equally if not more important as a source of long term sustainable economic growth in the country. The supply of adequate skills in the workforce is also a key factor in the determination of the Philippines as a competitive investment destination for foreign corporations. As many highly skilled professionals leave the country to work abroad, there is a demand and supply gap in skills found within the workforce. In order to address this issue, many international investors have injected substantial capital into the development of training programs that are aligned to international standards in core technical and soft skills. Indeed, there are a number of notable examples of EU companies in the Philippines which operate world class training centers in skills such as aircraft maintenance and vehicle assembly.

However, it is observed that there is little incentive for companies to invest in such training programs due to the difficulty they face in retaining personnel who, after training, opt for more lucrative positions abroad.

The two-pronged challenge employers face in the employment of Filipinos --- the skills gap in the workforce on the one hand and the high attrition rate of trained workers on the other --- is a serious disincentive for companies to invest in the workforce. While knowledge transfer remains a priority for the EU business community in the Philippines, it is imperative that companies are assured of a return on their investments in training employees.

In a wider economic perspective, high attrition rates are compromising the competitiveness of the Philippines as an investment destination, due to the increased costs for labor because of the need to continuously invest in training.

RECOMMENDATIONS

PROTECT AND INCENTIVIZE EMPLOYERS WHO INVEST IN COMPETITIVE TRAINING PROGRAMS.

To encourage companies to continue investing in basic and high quality training programs for the workforce, employers require some protection against high attrition rates following significant investment in training programs.

At very least, training of the workforce should be incentivized. Therefore, we propose that the Government implements an incentive system to cover the training costs incurred by employers. Similar systems have been implemented in Germany in the past with high success rates, as companies are incentivized to train more workers than required, thus supporting the development of a high level of skills within the workforce. The allowable deduction of training expenses from tax payable by PEZA locators should be extended even to non-PEZA locators who provide such high-level training to employees.

As far as basic training is concerned, we are referring to dual education, and hopefully soon an apprenticeship program that can run up to two years, trusting that the 17th Congress will approve the Apprenticeship Bill.

Regarding high technical training, we trust that the Government will assist in convincing highly trained employees to fulfil their committed minimum employment period.

4. DEVELOPMENT OF A PRO-BUSINESS, PRO-EMPLOYEE CONTRACTUALIZATION FRAMEWORK

ISSUE DESCRIPTION

Under the Labor Code of the Philippines, hiring and firing of employees is exceptionally difficult. On the other hand, circumvention of the right to security of tenure is prevalent through the so called 5-5-5 or End of Contract (ENDO) contractualization.[218]

Recognizing contracting and subcontracting as

217 POEA (n.d.). 2010-2014 overseas employment statistics. Table 2. Retrieved 10/06/2016. http://www.poea.gov.ph/ofwstat/compendium/2014.pdf.

218 Under the existing legislative framework, the maximum probationary period for workers is 6 months after which the employee is either regularized or terminated. As a way to circumvent regularization which would entitle the employee to certain rights and benefits under the law, there is a trend of workers being hired for a 5-month contract to avoid regularizing them, and then rehired again for another 5-month contract, and so on.

legitimate, DOLE issued regulations on job contracting, implementing Articles 106 to 109 (DO No. 18-A). It sets forth the requirements for legitimate job contracting and prohibits "labor only" contracting and other job contracting practices not done in good faith and not justified by the exigencies of the business. With these regulations in place, the challenge is enforcement especially against the phenomenon of 5-5-5 or ENDO. Notably, in the booming ICT/BPM/KPM sector, due to fast evolving industry trends in analytics and AI, among others, there is a need for people with different technical backgrounds for short- to mid-term jobs, through contractualization, in order to maintain the competitiveness of the sector. The industry relies on the use of short-term engagements, not just in the Philippines but at a global level.

EU business holds fair workers' rights as one of the core values for operation both in the EU and abroad. Therefore, the EU business community in the Philippines supports the thrust of the new Administration in curbing abuse of contractualization of workers in the Philippines. Not only will the end of the abuse of contractualization protect workers' rights, but also remove the unfair competition posed on compliant players.

However, complete prohibition of legitimate contracting will be damaging to the competitiveness of the country and job generation prospects, with long-term repercussions on the wider economic landscape. Notably, the ICT/ BPM/ KPM industry, which is the largest employer in the country and continues to register high growth prospects, will be affected as a substantial portion of its staff is hired under contractual arrangements. Therefore, it has to be assumed that BPM, and especially KPM companies that rely more and more on ever-changing expertise of specialists, contracted for relatively short- to mid-term periods, would have to leave the country, with detrimental effects on the country's economic landscape.

RECOMMENDATIONS

STRENGTHEN ENFORCEMENT OF THE LAWS AGAINST THE ABUSE OF CONTRACTUALIZATION AND ADDRESS LOOPHOLES, AT THE SAME TIME ALLOW A MORE FLEXIBLE WORK ENVIRONMENT.

Contractualization needs to be addressed not by prohibiting it, but by enforcing the laws and regulations and addressing the loopholes in the current policy framework governing labor and contractualization. There must be a strong political will especially against big companies and industry players engaged in this illegal practice. The loopholes in the legislative and administrative framework governing contracting should be plugged so that job contracting can be prevented without compromising compliant trilateral contracting that is necessary for the competitiveness of key economic sectors, such as ICT/ BPM/ KPM.

SECTOR PAPERS

MANUFACTURING

While foreign investment in manufacturing has surged in ASEAN, so far the Philippines has not benefited to the extent it should have. As the country seeks to diversify its economic base and build up higher value industries, it is important to take measures that will support the development of industry clusters and eventually economies of scale.

Manufacturing is an economic sector which is conducive to inclusive growth and has the potential to generate employment in areas with the highest instances of un- and under- employment across the country. European manufacturers are increasingly looking towards ASEAN for investment opportunities; so far the Philippines has attracted very little of that investment. Therefore it is important that existing Government initiatives and best practices, such as the DTI's Manufacturing Resurgence Program and PEZA, are expanded to incentivize the development of a competitive manufacturing sector.

This paper outlines some of the major initiatives that can improve the potential of the Philippines as the next regional manufacturing hub..

1. DEVELOPMENT OF DOMESTIC/ EXPORT ECONOMIC ZONES

Establish D/EEZs in areas with the highest instances of un- and under- employment.

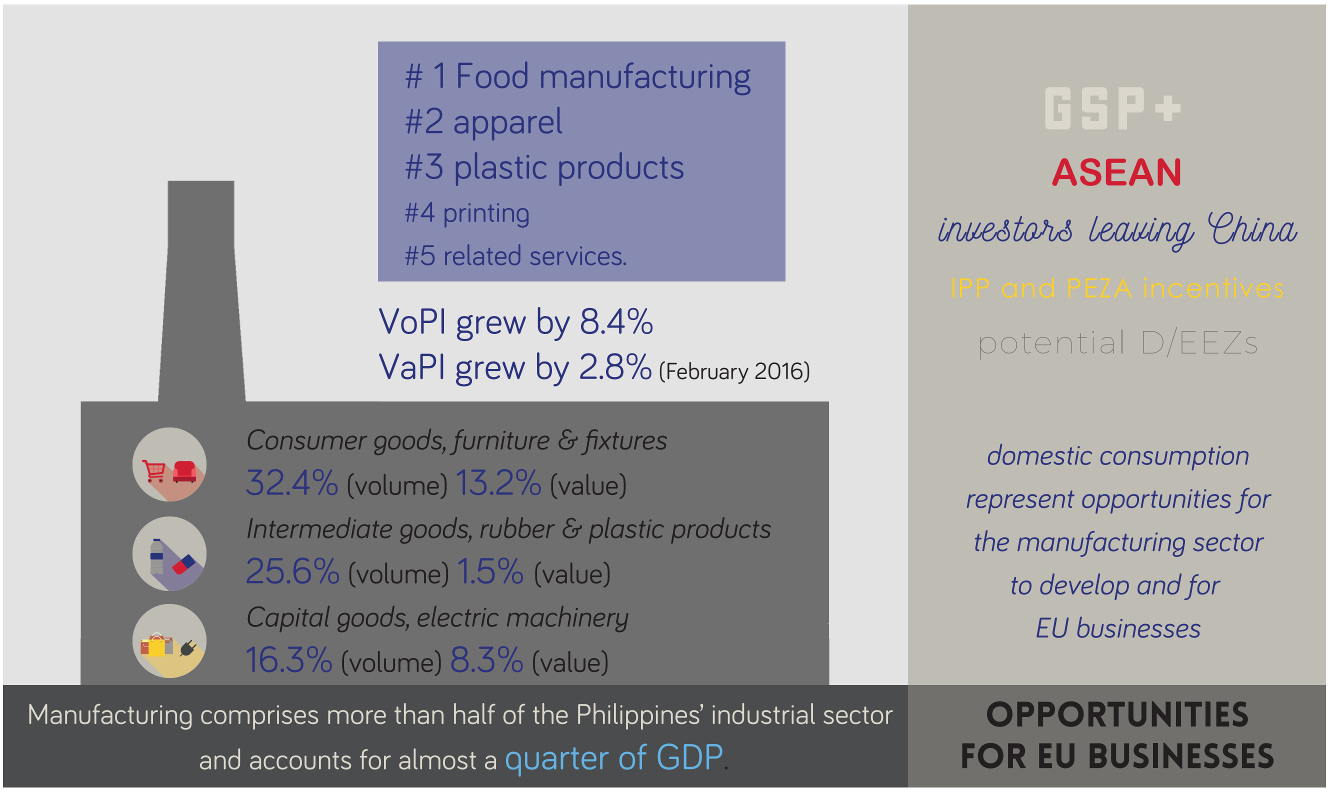
2. REDUCTION OF THE COST OF ELECTRICITY FOR MANUFACTURERS

Exempt manufacturers in priority sub-sectors and areas from VAT on electricity.

Expand incentives for investment in energy efficiency technologies by end users.

3. EXPANSION OF THE MANUFACTURING RESURGENCE PROGRAM

Adopt manufacturing resurgence programs, with a focus on incentivizing new investment that generates employment.



SECTOR SITUATIONER

MARKET DATA

Manufacturing comprises more than half of the industrial sector and accounts for almost a quarter of the country's GDP.[219] The Philippines' manufacturing industry is composed of over 20 sub-sectors, some of which have several components. Food manufacturing is the largest of all the sub-sectors in terms of the number of establishments. The second largest is apparel, followed by plastic products and printing and related services. Other top industries include furniture, fabricated metal products, metal works, non-metallic mineral products, paper and paper products, chemical products, and grain mill, starch and starch products. The electrical machinery sub-sector, particularly the semi-conductor devices and other electronic components is the largest in terms of employment.[220]

According to NEDA, the manufacturing sector grew in the first months of 2016 as a result of increased production of furniture, food products, and rubber, but fell towards the middle of the year following a significant drop in leather, chemical and petroleum products production. The drop was caused by the high level of inventories in leather goods, drugs and medicines built up in the beginning of the year, which continued to meet demand. In the Philippine Statistics Authority's Monthly Integrated Survey of Selected Industries for May 2016, the Volume of Production Index (VoPI) declined by 1.2%, almost the same as the 1.1% decline recorded in May 2015. Similarly, the Value of Production Index (VaPI) recorded a 4.9% decline, which was however, an improvement from the 8.0% decline registered in May 2015.[221]

Industrial production averaged 8.8% from 1986 until 2016, reaching an all-time high of 68.6% in April of 1988 and a record low of -26.6% in January of 2009.[222] Some major foreign investors in the sector include Nestle, Unilever, C.S. Garment, Christ, Schneider Electric and Continental.

219 DTI (n.d.). Manufacturing. Retrieved 14/05/2016. http://industry.gov.ph/category/manufacturing.
220 De La Salle University (n.d.). Industry career guide-manufacturing. Retrieved 18/05/2016. http://www.dlsu.edu.ph/research/centers/aki/participant/trainings/workingPapers/2015-19.pdf.
221 NEDA (12/07/2016). Manufacturing slightly declines in May 2016. Retrieved 28/07/2016. http://www.neda.gov.ph/2016/07/12/manufacturing-slightly-declines-in-may-2016.
222 Trading Economics (n.d.). Philippine Manufacturing Production. Retrieved 01/05/2016. http://www.tradingeconomics.com/philippines/industrial-production.

ADVOCACY

1. DEVELOPMENT OF DOMESTIC/ EXPORT ECONOMIC ZONES (D/EEZs)

ISSUE DESCRIPTION

PEZA stands as a best practice for attracting foreign investment to the Philippines. In addition to a number of tariff and non-tariff incentives, it also offers locators a “red carpet” service instead of layers of red tape, through streamlined business processes, such as a one-stop shop. PEZA zones are reserved for investors, both foreign and local, who are primarily export oriented. Eligibility for foreign investors is subject to the production of 70% of their good or service for export, with the respective threshold for domestic companies at 50%.

There have been plans by the business community and PEZA to set up similar zones for investors interested in the production of goods and services oriented for the domestic market, named the D/EEZ. Those plans have not yet been approved by the PEZA Board, due to reluctance by the BIR.

The establishment of D/EEZs with competitive incentives can be used as an effective tool to drive domestic production, thus reducing the Philippines’ trade deficit and eventually supporting the development of an economy of scale in the manufacturing sector. Additionally, the D/EEZs are foreseen to be established in areas of the country where there is a high density of un- and under-employment and economic development; therefore D/EEZs have the potential to generate employment and inclusive growth in the areas of the country that most need it.

RECOMMENDATIONS

ESTABLISH D/EEZS IN AREAS WITH THE HIGHEST INSTANCES OF UN- AND UNDER-EMPLOYMENT.

The establishment of D/EEZs with a competitive investment incentive regime in areas with the biggest need for capital injection and employment generation should be prioritized by relevant government agencies. D/EEZs have the potential to substantially increase the competitiveness of the Philippines as an investment destination for manufacturers and further complement government initiatives such as industry roadmaps, while increasing prosperity among those that most need it.

2. REDUCTION OF THE COST OF ELECTRICITY FOR MANUFACTURERS

ISSUE DESCRIPTION

One of the factors that handicaps the Philippines’ competitiveness as an investment destination for the manufacturing sector is the cost of electricity, which is one of the highest in Asia. As manufacturing is an energy intensive industry, the cost of electricity can significantly increase the cost of operations in the Philippines for potential and existing investors. One way of reducing is energy efficiency and conservation.

In 2015, in close cooperation with ECCP’s Energy SMART program, PEZA issued Resolution No. 15-239, which introduced tax- and duty- free importation for certain energy efficiency technologies for locators, with the potential to further extend the list of technologies in the future following further consultation with other government agencies and ECCP. [223] This is a laudable initiative that, if mirrored at a nationwide level, has the potential to substantially reduce concerns related to the cost of electricity for existing and potential investors.

An Energy Efficiency and Conservation Bill, which planned to introduce energy efficiency and conservation requirements and incentives for energy users, was deliberated in the House of Representatives during the 16th Congress. However, it did not progress into law.

RECOMMENDATIONS

EXEMPT MANUFACTURERS IN PRIORITY SUB-SECTORS AND AREAS FROM VAT ON ELECTRICITY.

We recommend that investors in manufacturing sub-sectors or areas that have been identified as high-priority by relevant government agencies, such as the BOI, NEDA and DTI, are exempted from VAT on electricity. Effectively, the lower cost of production will incentivize increased foreign investment and subsequently support technology and knowledge transfer in priority sub-sectors and employment generation in priority areas.

EXPAND INCENTIVES FOR INVESTMENT IN ENERGY EFFICIENCY TECHNOLOGIES BY END USERS.

We commend PEZA for incentivizing the use of energy

223 PEZA Board Resolution No. 15-239.

efficiency technologies and see it as an important measure to neutralize the high cost of electricity in the country. We strongly support the expansion of the measure through:

a. An expanded list of technologies exempted from import duties for PEZA locators;
b. Expansion of the measure at a nationwide level to cover all manufacturing activities, even those that are not located in PEZA zones; and,
c. Enactment of the EEC law to ensure the institutionalization and nationwide coverage of incentives for the installation of technology in support of energy efficiency and conservation.

In addition to the cost reduction that this will create for intensive energy users, the environmental benefits are also an important consideration.

3. EXPANSION OF THE MANUFACTURING RESURGENCE PROGRAM

ISSUE DESCRIPTION

In the past years, DTI has spearheaded the Comprehensive National Industry Strategy (CNIS), including the MRP and the Manufacturing Industry Roadmaps (MIR), which aim to upgrade the Philippines' manufacturing sector and its integration in global value chains, with strong cooperation between the private sector and Government. As part of the CNIS, the DTI has focused on the creation of industry roadmaps in 19 priority sectors,[224] through extensive collaboration with the private sector, which has been in the driver's seat.

The enactment of EO No. 182 providing for a CARS Program is the first program to be implemented, with incentives for both the production of parts and the assembly of vehicles. However, the CARS program so far favors existing manufacturers, rather than attracts new investors.Effectively, while the CNIS and the MIR programs are laudable initiatives by the DTI to create a competitive manufacturing base in the Philippines, more sectoral incentives programs, based on the MIRs need to be adopted. Moreover, manufacturing programs need to be more attractive to potential investors, by temporarily providing lower entry-conditions for availing of the incentives packages.

RECOMMENDATIONS

ADOPT MANUFACTURING RESURGENCE PROGRAMS, WITH A FOCUS ON INCENTIVIZING NEW INVESTMENT THAT GENERATES EMPLOYMENT.

We recommend the enactment of additional sector investment incentive programs such as CARS, with conditions and incentives that are clearly targeted at attracting new local and foreign investment. The benefits will be exponential both for the competitiveness of the Philippine manufacturing sector, through the creation of an economy of scale, technology and knowledge transfer and investment in innovation; and the wider economy, through employment generation, an increase of exports and spillover effects on indirect sectors.

19 INDUSTRY ROADMAP SECTORS

- Aerospace
- Automotive
- Auto Parts
- Biodiesel
- Ceramic Tiles
- Chemicals
- Copper
- E-vehicles
- Electronics
- Furniture
- Iron and Steel
- Metalcasting
- Motorcycle
- Natural Health Products
- Petrochemicals
- Plastics
- Paper
- Rubber
- Tool and Die

227 DTI. Manufacturing. Retrieved June 20, 2016. http://industry.gov.ph/category/manufacturing.

SECTOR PAPERS
MARITIME

ESTABLISHMENT OF AN OBJECTIVE, TRUSTWORTHY CLAIMS SYSTEM
Review and reform the seafarers' claims process to ensure objectiveness in rulings.
Safeguard compensation fees until appeal is final.
Enforce the Anti-Ambulance Chasing Act.

ENACTMENT OF LEGISLATION TO STRENGTHEN MARINA'S CAPACITY TO DEVELOP THE PHILIPPINES AS A MARITIME NATION
Enact legislation that empowers MARINA to implement international maritime conventions and thus develop the Philippines as a maritime nation.

REORGANIZATION OF POEA FUNCTIONS FOR SEAFARERS
Create a separate body for the recruitment of Filipino seafarers, focused on a developmental rather than regulatory role.
Allow contact between foreign principals and prospective crews during the recruitment process.

IMPROVEMENT OF PORT INFRASTRUCTURE AND THE BOC PROCESSES
Develop port and ancillary infrastructure to meet current and future demand in Manila and the provinces.
Improve and automate administrative and customs processes.

DEVELOPMENT OF THE PHILIPPINES AS AN ATTRACTIVE SHIP REGISTRY
Create a modern, attractive Philippine ship registry.

European shipping lines are the biggest employers of Filipino seafarers globally, preferring Filipinos for their high level of skills, proficiency in the English language and work ethic. However, the competitiveness of the Filipino seafarer is being compromised due to the pro-claimant trend in National Labor Relations Commission (NLRC) rulings, which has led to substantial financial losses for shipowners and an increased perception of risk in employing Filipino seafarers. Additionally, the employment of Filipino seafarers is subject to lengthy processes which are not aligned to the industry's needs for fast deployment of crews. Addressing these concerns will guarantee the competitiveness of Filipino seafarers for years to come.

Moreover, with its strategic geographical location, archipelagic nature and internationally integrated value chain, the Philippines has the opportunity to position itself as a regional hub for the maritime sector. A legislative framework which is conducive to developing the sector, such as the adoption of legislation that empowers MARINA to implement international maritime conventions and legislation that modernizes the Philippine Ship registry, are integral to achieving the country's full maritime potential.

In this paper we outline recommendations that aim to develop the Philippines as a leading maritime nation, with direct and indirect benefits on the wider economic environment.

4 shipbuilding nation in the world in capacity

The Amendments to the Cabotage Law opens the way for more opportunities for EU shipping lines.

top supplier of seafarers glovally
(2013 - 20% of 1.2 million seafarers were Filipinos)

EU = largest employer
of Filipino seafarers (2014)

Majority of domestic vessels
60% passenger
28% cargo ships

The Philippines is *ready to become a maritime nation.*

⇒ establishing strong back-office services is a natural step as it is a major shipbuilding nation + seafarers source

OPPORTUNITIES FOR EU BUSINESSES

TRAINING
outsourced services
ship management

As a result of the Philippines' unique geography, the nation's socioeconomic progress has largely been affected by the maritime industry. The Philippine economy is growing rapidly and the maritime industry is among the key contributors to the country's growth. The sector encompasses a wide range of activities from shipbuilding to shipping and ports, to fisheries and aquaculture, to recreational activities and tourism, to offshore energy exploration and extraction and to a large number of related economic services, which are all significant contributors to the national GDP and job creation.[225]

The Philippines is currently the fourth largest shipbuilding nation in the world in capacity, following Japan, Korea, and China. Moreover, according to a 2015 study conducted by the International Chamber of Shipping and the Baltic and International Maritime Council, the Philippines ranks as the top supplier of seafarers globally, particularly ratings.[226] In 2013, it was reported that roughly 20% of the 1.2 million seafarers are Filipinos.[227]

In 2014, the EU was declared as the largest employer of Filipino seafarers. In the same year, Filipino seafarers manning European ships were able to remit USD3.35 billion back to the county, making the EU the second largest source of remittances to the Philippines.[228]

The majority of the domestic vessels are passenger (60%) and cargo (28%) ships, which are mostly imported to the Philippines. Almost 80% of the shipping operators are single proprietors, while 20% of the ships are operated by corporations. Port services account for 6% of logistics costs in the Philippines and the logistics market is expected to grow 3–10% a year during the next decade.[229]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The enactment of Amendments to the Cabotage Law (RA No. 10668) on July 21 2015, which allows stops at multiple ports for foreign cargo ships subject to certain conditions opened the way for more cost-efficient shipping options for importer and exporters. The EPBN Maritime Committee was actively involved in the drafting of the IRR, which were issued in May 2016.

Additionally, the passage of the Seafarers' Protection Act (RA No. 10706), otherwise known as the Anti-Ambulance Chasing Act, on November 26 2015 is a positive step towards addressing the problems that employers of Filipino seafarers face due to the shortcomings of the

225 National Convention on Statistics (05/10/2010). Towards A Satellite Account on The Maritime Sector in The Philippine System of National Accounts: Preliminary Estimates. Retrieved 14/05/2016. http://nap.psa.gov.ph/ncs/11thNCS/papers/contributed%20papers/cps-05/02_Towards%20a%20Satellite%20Account%20in%20the%20Maritime%20Sector%20in%20the%20Philippine%20System%20of%20National%20Accounts%20Preliminary%20Estimates.pdf.

226 International Chamber of Shipping (2015). Manpower Report: The global supply and demand for seafarers in 2015. Retrieved 23/05/20016. http://www.ics-shipping.org/docs/default-source/resources/safety-security-and-operations/manpower-report-2015-executive-summary.pdf?sfvrsn=14.

227 International Labour Organization (2014), Decent Work for Seafarers. Retrieved 21/-05/2016. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-manila/documents/publication/wcms_173266.pdf.

228 Delegation of the European Union to the Philippines (2015). EU – Philippines Trade at record high of 12.5 billion euros. Retrieved 28/06/2016. http://eeas.europa.eu/delegations/philippines/documents/press_corner/20151506a.pdf.

229 PPA (2015). PPA Highlights of Accomplishment. Retrieved 30/05/2016. http://www.ppa.com.ph/AnnualReport/PPA_AR_2015.pdf.

claim system and protection of seafarers' rights. However, it has to be complemented by additional legislative and administrative reforms in order to be effective in addressing the serious concerns that the manning industry faces and the subsequent repercussions of this issue on the competitiveness of Filipino seafarers.

Earlier this year, in July 2016, amendments to Chapter VI Part A Regulation 2 of the SOLAS Convention took effect, requiring the shipper of a packed container to verify the Verified Gross Mass (VGM) of a container and indicate this to the carrier or port operator before the box is loaded onto a vessel. PPA has been mandated to implement the regulation.

ADVOCACY

1. ESTABLISHMENT OF AN OBJECTIVE, TRUSTWORTHY CLAIMS SYSTEM

ISSUE DESCRIPTION

Under Philippine law, seafarers whose work has led to an injury or worsening of existing injury or illness are entitled to compensation by their employer. The government body for adjudicating such claims is the NLRC, with few cases being heard at the National Conciliation and Meditation Board (NCMB). Appeals can be made to the Court of Appeals and the Supreme Court.

NLRC rulings show a pro-claimant trend, with most cases being ruled in favor of the seafarer and granting high levels of disability benefits, even when objective medical evidence would indicate otherwise. NLRC rulings are "final and executory" even if subject to appeal. Thus, employers are obliged to pay the required compensation while the appeal is pending. Where the decision is overturned by the Courts of Appeals, it is often impossible to retrieve the amount from the seafarer as the money is already spent.

The IG P&I Club is one such example. Out of USD11.25 million which was due back to employers as of November 2014, only USD 27,925.05 had been retrieved through restitution; an additional USD92,703 had been recovered under three Memorandum of Agreements (MOAs), according to which funds had been held in escrow.[230] The three MOAs present a best practice in terms of securing the return of unjustly received compensation by seafarers to employers; however, they are the exception rather than the rule due to the lack of a legislative framework. HB No. 5430, "An Act amending Article 223 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines and for other purposes" was filed during the 16th Congress to address this issue, but did not progress.

Furthermore, the pro-claimant/labor policy has led to a flourishing industry of "ambulance-chasing" lawyers who receive anything between 25% and 40% of compensation received by claimants. To address this, the "Seafarers' Protection Act" or the "Anti-Ambulance Chasing Act" (RA No. 10706) was enacted in November 2015. The law is a commendable piece of legislation and if enforced correctly has the potential to counter a phenomenon that is damaging for seafarers and shipping companies alike.

The claims system's prejudice in ruling in favor of seafarers, even absent or insufficient objective medical evidence, is seriously damaging the Philippines' international competitiveness as a source of seafarers. International shipping lines now perceive the employment of Filipino seafarers as high-risk, due to the frequency of incidents where shipping lines pay high costs for legal fees and compensation, with very little chance of retrieving compensation if rulings are overturned following appeal. EU companies hold labor rights at the core of values and operations. However, there must be a balancing of interest between rights of labor and fairness to employers in order to preserve the long term competitiveness of the country as a seafarer nation.

RECOMMENDATIONS

REVIEW AND REFORM THE SEAFARERS' CLAIMS PROCESS TO ENSURE OBJECTIVENESS IN RULINGS.

We strongly recommend the review of the NLRC and NCMB rulings process by an independent third party and the subsequent publication of a report outlining the main shortcomings of the process in terms of establishing a fair, objective ruling process on seafarer claims, which can then be acted on by relevant government authorities. Additionally, we believe that the qualifications of the voluntary arbiters in NCMB need to be re-examined for both competency and integrity. The grounds for delisting an arbitrator should also be scrutinized and the voluntary arbitrators face more serious penalties in being made accountable for wrong and unjust decisions they issue. This will be key to addressing the flourishing of pro-claimant rulings and the consequent multitude of uncalled for claims, which are seriously affecting the international competitiveness of Filipino seafarers.

230 IG Position Paper-Garnishment-ESCROW proposal contained within position paper filed with en-banc – 3rd October 2013, 26th November 2014.

SAFEGUARD COMPENSATION FEES UNTIL APPEAL IS FINAL.

The rules on execution pending appeal should be amended so as not to render nugatory the final decision of the highest court in the event that it is in favor of the employer. The immediately executory nature of rulings pending appeal which results in garnishment of employer's funds should be revisited so that dissipation of funds by either the employer or the employee is prevented. Such funds should be held for safekeeping for the party ultimately prevailing in the case (e.g. put in escrow), whether it is the employer or the employee.

ENFORCE THE ANTI-AMBULANCE CHASING ACT.

We once again commend the enactment of the Anti-Ambulance Chasing Act and look forward to the strict implementation and enforcement of its provisions. The EU maritime industry stands by the Government and we look forward to actively supporting the enforcement of this important piece of legislation that will protect Filipino seafarers from manipulation and render them more competitive internationally.

2. ENACTMENT OF LEGISLATION TO STRENGTHEN MARINA'S CAPACITY TO DEVELOP THE PHILIPPINES AS A MARITIME NATION

ISSUE DESCRIPTION

MARINA was created by virtue of P.D. No. 474, otherwise known as the Maritime Industry Decree of 1974, as the government agency tasked with the development, promotion and regulation of the maritime industry and is attached to the DOTC.

The Domestic Shipping Development Act of 2004 (RA No. 9295) mandated MARINA to regulate domestic shipping, while RA No. 10635, otherwise known as *"An Act establishing the Maritime Industry Authority (MARINA) as the Single Maritime Administration responsible for the implementation and enforcement of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended, and International Agreements on Covenants related thereto,"* mandated MARINA as the single responsible agency for the implementation of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for seafarers.

MARINA has greatly improved the regulation of the maritime industry in the past years, most notably by taking important steps towards addressing concerns raised in the European Maritime Safety Agency (EMSA) seafarers' qualifications audit. However, these need to be sustained in the future. In the last EMSA inspection in 2014, the Philippines was understood to be in a transition toward the transfer of relevant functions to MARINA as the implementing agency in support of further improvements (e.g. monitoring of maritime schools by CHED was regarded to be an important deficiency).

In fact, the Philippines still remains unable to become internationally competitive, due to failure to enforce international conventions, with detrimental effects on the international reputation of Philippine-registered ships. Notably, the Philippines has also been placed on the Gray List of the Tokyo Port State Control Memorandum of Understanding (Tokyo MOU) which bases such classification on the performance and detention rate of ships in our registry during port State control inspections among Tokyo MOU members. Similarly, the 2009 Voluntary IMO Member State Audit Scheme (VIMSAS) which the Philippines volunteered for, highlighted the inability of the Philippines to effectively implement and enforce international maritime conventions.

The Philippines is already party to The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74), The International Convention for the Prevention and Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL 73/78), The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS), The International Convention on Load Lines 1966 (Load Line) and The International Convention on the Tonnage Measurement of Ships 1969 (Tonnage). However, these are yet to be enforced as there is no government agency mandated to implement and enforce them.

There is therefore a need for the enactment of legislation that will clearly mandate MARINA to fully implement and enforce international maritime conventions in support of developing the Philippines as an internationally reputable and competitive maritime nation.

RECOMMENDATIONS

ENACT LEGISLATION THAT EMPOWERS MARINA TO IMPLEMENT INTERNATIONAL MARITIME CONVENTIONS AND THUS DEVELOP THE PHILIPPINES AS A MARITIME NATION.

We therefore recommend that legislation be enacted to mandate MARINA with the full implementation and enforcement of international maritime conventions that the Philippines is or becomes party to. Other international maritime conventions include the SOLAS Protocol of 1988, the MARPOL Protocol of 1997 and the Load Lines Protocol of 1988, as amended in 2003.

3. REORGANIZATION OF POEA FUNCTIONS FOR SEAFARERS

ISSUE DESCRIPTION

The recruitment of Filipino seafarers by international ship owners and managers is managed by POEA. POEA was created by virtue of Presidential Decree No. 797 in 1982 with the mandate to promote the overseas employment program and protect the rights of OFWs, both land- and sea- based. Subsequent legislative measures since POEA was created have further enhanced its capacity and responsibility as a regulatory body for the recruitment of OFWs.[231]

However, it has been observed that international ship owners and managers face lengthy processes and excessive administrative burden in order to register the recruitment of Filipino crews with POEA. In fact, it takes approximately 12 days to register a crew. Although the recruitment of seafarers is already highly regulated at an international level through international conventions such as the Maritime Labour Convention of 2006, and therefore affords protection to workers, the structures and processes focus on extensive and burdensome regulation, which uses up capital and human resources that could be better utilized on the development and promotion of Filipino seafarers.

Additionally, under POEA guidelines, foreign principals are not allowed to have contact or interview applicants; rather, only Philippine manning agencies can interview recruits.

231 EXEC. ORDER No. 247 (1987): regulate private sector participation in recruitment and overseas placement maintain registry of skills, secure best terms of employment for OFWs; REP. ACT No. 8042 (1995): tripartism, full disclosure, deregulation, selective deployment, dynamism in systems and information technology; REP. ACT No. 9422 (2007): · reinforced regulatory function, protect the rights of OFW as a worker and human being.

The burdensome process of registering Filipino crews handicaps their recruitment by international ship owners and managers. Indeed, as the maritime sector is a highly unpredictable and fast moving sector, last minute recruitment is often required. However, the length and burden of the process to register crews with POEA has often meant that Filipino crews cannot be deployed fast enough that such ship owners resort to crews from other nationalities.

RECOMMENDATIONS

CREATE A SEPARATE BODY FOR THE RECRUITMENT OF FILIPINO SEAFARERS, FOCUSED ON A DEVELOPMENTAL RATHER THAN REGULATORY ROLE.

We recommend the creation of a separate body for the recruitment of seafarers that focuses specifically on the needs of seafarers, in line with international conventions and agreements for the protection of seafarers with a focus on a developmental, rather than regulatory role. The establishment of such a body will ensure that seafarers' rights are protected while increasing the international competitiveness of the Filipino seafarer and facilitating every stage of the recruitment process by international shipping lines, through more streamlined processes that respond to the specific needs and nature of the maritime industry.

ALLOW CONTACT BETWEEN FOREIGN PRINCIPALS AND PROSPECTIVE CREWS DURING THE RECRUITMENT PROCESS.

There should be amendments made to relevant legislative and administrative frameworks to allow the inclusion of foreign principals in the recruitment process, while observing the restriction on foreign ownership in manning agencies. This will facilitate the process of recruitment and reduce the perceived risk of ship owners when selecting a Filipino crew.

4. IMPROVEMENT OF THE PORT INFRASTRUCTURE AND THE BOC PROCESSES

ISSUE DESCRIPTION

The port congestion that affected the Philippines in late 2014 and early 2015 highlighted the need for long-term solutions to the infrastructure and process shortcomings, in support of trade facilitation. Imports have shown record levels of growth in the past years. Effectively, the need for progressive solutions to create adequate hard infrastructure and efficient processes is crucial to ensuring continued economic growth in the coming years.

In terms of infrastructure, there is a lack of access roads to the ports in Manila; the traffic congestion and implementation of truck bans on the roads of Manila render access to the port difficult for carriers and customs forwarders. As an alternative to road transportation, International Container Terminal Services, Incorporated (ICTSI) is currently developing the use of rail transportation of goods to and from the port and their bonded warehouse in the Cavite area. Another development in the beginning of 2016, in response to traffic congestion in Manila and as an action designed to avoid future port congestion, was the establishment of the TABS system in the ICTSI port. TABS is a booking system for trucks to pick up or drop off cargo from the port at an allotted time, to balance the flow of trucks and avoid surges and congestion that have affected port congestion in the past.

At a nationwide level, while there are some projects in the pipeline, such as the PPP project for the Davao Sasa port, most provincial ports across the country still only have basic infrastructure and cannot accommodate growing demand.

Burdensome and inefficient processes are also a cause for concern. Notably, it has been observed that thousands of shipping lines' containers are held up in Philippine ports, due to the inefficient process adopted by BOC to dispose of overstaying shipments. Additionally, the administrative burden for port and customs operations also leads to delays and additional costs for importers and shipping lines alike.

RECOMMENDATIONS

DEVELOP PORT AND ANCILLARY INFRASTRUCTURE TO MEET CURRENT AND FUTURE DEMAND IN MANILA AND THE PROVINCES.

We recommend that key infrastructure projects are undertaken to create competitive port infrastructure across the country. In Manila, that includes the "connect the connectors" project, to connect North Luzon Expressway (NLEX) and South Luzon Expressway (SLEX), with a direct link to the port; the further expansion and improvement of the Terminal Appointment Booking System (TABS) program, with the full cooperation of Manila cities to remove truck bans for trucks with an appointment in the TABS system; the expansion of the use of rail transportation. In the provinces, the expansion and modernization of facilities to render ports more competitive can have substantial benefits on local industries and can ensure that Philippine industries and consumers benefit from cheaper intra-country and international shipping costs following the enactment of the Cabotage Law Amendments last year. Such infrastructure development projects can be undertaken under the PPP program.

IMPROVE AND AUTOMATE ADMINISTRATIVE AND CUSTOMS PROCESSES.

The full automation of administrative port and customs processes, including the establishment of a National Single Window, will alleviate excessive delays and additional costs incurred by shipping lines. Additionally, the review of the system used by BOC to dispose of overstaying shipments and the subsequent development of a more efficient system will greatly benefit shipping lines by reducing the costs incurred due to the delay in retrieving containers and will ensure that the presence of too many containers does not lead to port congestion. A new process can include private sector in the efficient disposal of cargos by auctioning off unclaimed containers.

5. DEVELOPMENT OF THE PHILIPPINES AS AN ATTRACTIVE SHIP REGISTRY

ISSUE DESCRIPTION

For the Philippines to become a truly competitive maritime nation, a modernized, attractive ship registry must be developed. The Philippines has approximately only 100 ocean going ships (international fleet) with a total tonnage of 3.1million GRT registered.[232] This is despite the country's expansive pool of national crew, its excellent geographical location and its high level of integration in international supply chains.

The ship registry in the Philippines is currently governed by the Tariff and Customs Code of the Philippines (RA No. 1937). The Act came into effect in 1957 and limits its scope to the registration of domestic vessels. PD No. 760, as amended by PDs Nos. 866 and 1711, instituted the scheme for bareboat chartering ocean-going ships and their registration under the Philippine flag. An incentives

232 Research, Education, and Institutional Development (REID) Foundation, Inc., 2013. Philippine Maritime Industry and Its Role in the Economy. Ortigas.

scheme granted to the sector through the enactment of RA No. 9301 in 2004, expired in 2014. Effectively, the current policy framework governing the Philippine ship registry, does not provide sufficient flexibility and incentives to registered ships to render it attractive to ship owners in the current day context of the global maritime sector.

Numerous countries have open registries, either as a second registry or their main registry. Open registries offer fiscal and non-fiscal incentives to shipping lines, such as flexibility in the nationality of the crew, tax exemptions (increasingly in the form of collection of tonnage tax instead of corporate income tax) and the creation of maritime hubs servicing shipping lines. Norway, Denmark and Singapore are some of the renowned international flags of choice.

While many open registries are considered as flags of convenience, this is not the ambition for the Philippines. Rather, what is envisioned is a ship registry that will become more competitive and thus strengthen the genuine link between ships and the flag state, by using Filipino crew, Philippine management and following the Philippine rule of law, in line with international maritime agreements, such as Maritime Labor Convention of 2006 (MLC 2006).

RECOMMENDATIONS

CREATE A MODERN, ATTRACTIVE PHILIPPINE SHIP REGISTRY.

We support the enactment of legislation to create a modern, attractive Philippine ship registry, with competitive incentives for registered ships and strengthened ties between ship and flag state. The registry will provide set benefits for EU ship owners and strengthen the Philippine maritime sector, fulfilling the vision of the Philippines as a maritime nation.

SECTOR PAPERS

WATER AND ENVIRONMENT

Effective environmental and water management are becoming increasingly important for the Philippines. Growing water demand in urban and rural areas is heightening the pressure on water sources, while instances of severe flooding threaten communities during the rainy season.

European water technology companies are leaders in innovation for water solutions and are willing to support the Philippines in effectively managing the water sector. However, in order to develop sustainable solutions, a long term approach to water management is required. Therefore, it is important to establish effective procurement processes which ensure the development of resilient and efficient water management projects that can continue to meet demand in the future. It is also necessary to develop a legislative and regulatory environment that will protect and develop water sources across the country through a coordinated and strategic approach.

We therefore recommend the following measures, which we believe will create a policy framework that is conducive to the effective management of water needs in the Philippines for years to come.

IMPROVEMENT OF THE TECHNICAL SPECIFICATIONS FOR GOVERNMENT WATER INFRASTRUCTURE PROJECTS

Develop specific technical procurement documents and TORs for water infrastructure projects.

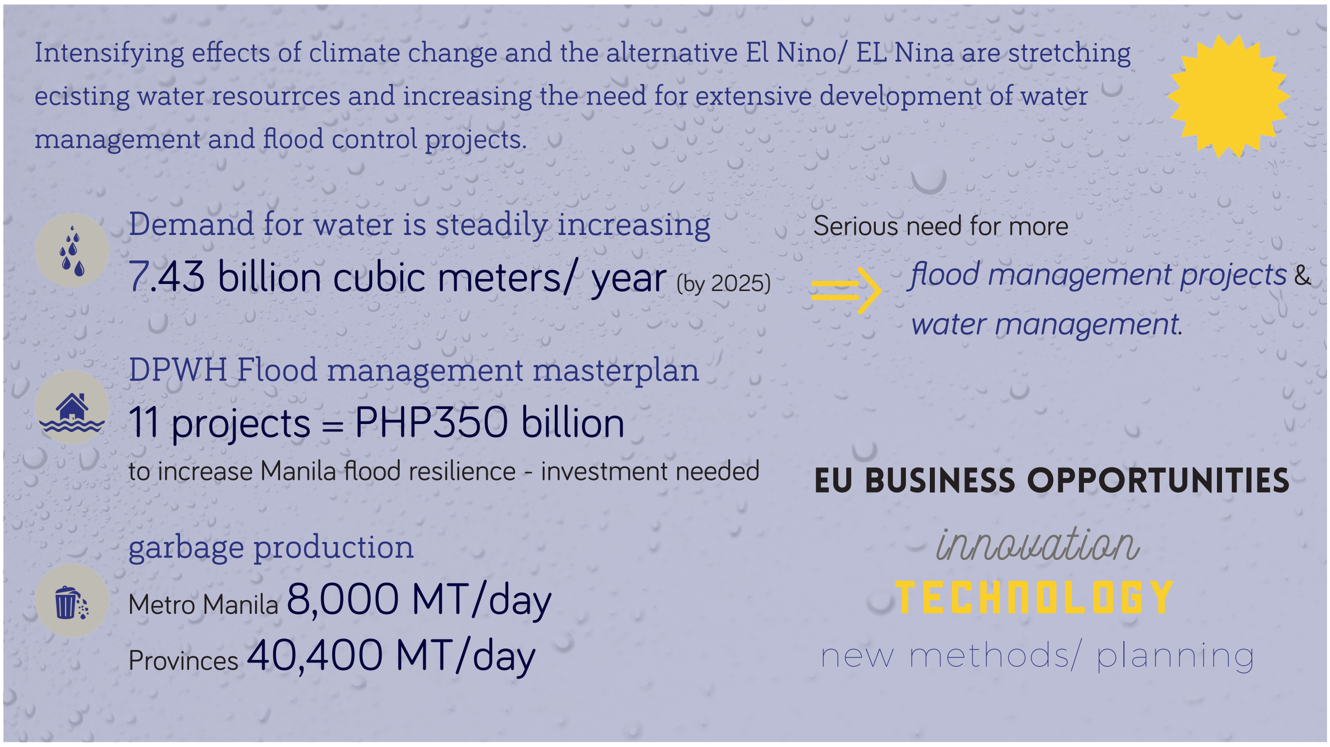
IMPROVEMENT OF GOVERNANCE AND FORMULATION OF A LONG TERM VISION FOR THE WATER SECTOR

Develop a long term national development roadmap for a centralized approach to water management and enact true sectoral reform for the whole water sector.

Enact legislation to strengthen the legislative and institutional framework for the development and regulation of the water sector.

Improve the operational efficiency and capacity of LGUs in the water sector.

Involve the private sector through more PPPs.



SECTOR SITUATIONER

MARKET DATA

Demand for water is steadily increasing. Total domestic consumption is projected to be 7.43 billion cubic meters (BCM)/year by 2025. Demand in major water using sectors, namely agriculture and industry, is also increasing. In the agriculture sector, the economic sector with the highest water demand, the consumption rate is estimated to intensify to 72.97 BCM/year by 2025; industrial demand is set to be 4.99 BCM/year by 2025.[233]

The intensifying effects of climate change and the alternating El Niño and La Niña are stretching existing water resources and increasing the need for extensive development of water management and flood control projects. Under a WB-AusAID Technical Grant, the Department of Public Works and Highways (DPWH) completed a flood management masterplan for Metro Manila and its surrounding areas. DPWH has determined that eleven projects are needed at a total amount of PhP 350 billion to increase flood resilience in Manila, forecasted to be completed by 2035. The master plan also encompasses the Pasig-Marikina River Basin, Malabon-Tullahan, Meycauayan, South Parañaque-Las Piñas and Laguna Lake Basins, including drainage basins. An estimated 1.6 million people will directly benefit from the mitigating structural measures for the Pasig-Marikina River Basin and adjacent areas and approximately PhP 43 billion will be saved from direct damages as a result of flooding.[234]

According to Metro Manila Development Authority (MMDA) statistics, Metro Manila's waste is composed of kitchen waste at 45%, paper and plastic at 17% and 15% respectively, while other waste products account for 23%. At least 74% of the total waste from Metro Manila is collected from households, 17% from the commercial sector, and 9% from other sectors. In the whole of Metro Manila, garbage production is estimated at 8,000 Metric Tons (MT)/day while provinces are estimated to produce 40,400 MT/day, annually amounting to about 3 million MT in Metro Manila and 15 million MT in the provinces.[235]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The Flood Management Master Plan, worth approximately PhP52 billion, has been approved by the Government through the NEDA Board. An initial amount of PhP5 billion has been allocated for the immediate implementation of proposed investments and substantial investment plans are under preparation. Some PhP5 billion priority high-impact flood control projects have also begun implementation by DPWH. The rehabilitation of the twelve existing pumping stations in Metro Manila has likewise been approved and released to MMDA.

233 The Water Dialogues. (n.d). The Philippine Water Situation. Retrieved 04/05/2016. www.waterdialogues.org/documents/PhilippinesCountryContext.pdf.

234 OECD. (2012). Australian Aid to the Philippines: Mid-term evaluation of the Australia-Philippines Development Assistance Strategy 2007-11. Retrieved 04/05/2016. https://www.oecd.org/countries/philippines/50024746.pdf.

235 Atienza, V. (2011). Review of the Waste Management System in the Philippines: Initiatives to promote Waste Segregation and Recycling through Good Governance. Retrieved 04/05/2016. www.ide.go.jp/Japanese/Publish/Download/Report/2010/pdf/2010_431_05.pdf.

ADVOCACY

1. IMPROVEMENT OF THE TECHNICAL SPECIFICATIONS FOR GOVERNMENT WATER INFRASTRUCTURE PROJECTS

ISSUE DESCRIPTION

Under Government procurement rules, companies participating in the procurement process for water infrastructure projects are required to submit financial and technical documents at the pre-qualification stage. Currently, technical specifications and TORs are patterned after bidding documents for infrastructure projects, which primarily focus on technical requirements for transportation infrastructure, such as roads and bridges, where generally a large component of the scope is civil works.

Water infrastructure projects are largely dependent on the use of advanced technology, where the major scope of works consists of highly specialized mechanical and electrical systems and instrumentation and controls. Thus, the rapid technological advances in the past years and the increased capability of new, complex technology should be used in water infrastructure projects in the Philippines as a tool to effectively implement water source management and flood control strategies. However, the existing technical specifications and standards included in bidding documents and TORs for Government water infrastructure projects are not sufficient to establish stringent criteria for bidders, which will ensure that only highly qualified bidders with the appropriate technical capability are pre-qualified. Additionally, the procurement process does not include life-cost analysis, therefore the competitiveness of bids is only considered based on their immediate, rather than long-term, cost efficiency.

Consequently, public water infrastructure projects are not always effective in terms of meeting project objectives and are not resilient. Meanwhile, highly qualified bidders which offer advanced technologies and systems that meet international standards and offer a more competitive life-cycle cost, have lower chances of success in such bids as the criteria for award is mainly cost-driven.

RECOMMENDATIONS

DEVELOP SPECIFIC PROCUREMENT DOCUMENTS AND TORS FOR WATER INFRASTRUCTURE PROJECTS.

We recommend that revisions to procurement documents be adopted by the Government Procurement Policy Board, in coordination with the National Water Resources Board and other relevant government agencies and in consultation with the private sector experts, for water infrastructure projects. The revisions should focus on the incorporation of technical and engineering specifications appropriate to water infrastructure projects and technologies. Additionally, there should be a requirement for a life cycle-cost analysis to be included as part of the bid submission. Procurement guidelines on water infrastructure projects used by multilateral organizations, such as the Asian Development Bank (ADB) which has extensive experience in the procurement of water infrastructure projects across the region, can be considered as best practices.

Improvements to the procurement process for water infrastructure projects should also be complemented by technical capacity building among evaluators within the Government, to ensure that they fully understand the technical characteristics and requirements of water infrastructure and technologies. The EPBN Water and Environment Committee welcomes the opportunity to support capacity building workshops with industry experts to this extent.

2. IMPROVEMENT OF GOVERNANCE AND FORMULATION OF A LONG TERM VISION FOR THE WATER SECTOR\

ISSUE DESCRIPTION

The Water Code of the Philippines (PD No. 1067), signed in 1976, instituted an overarching governance framework for the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources. Tasked to implement the Water Code is the National Water Resources Board, a quasi-judicial agency attached to the DENR. It is also tasked to advise the NEDA on matters pertaining to water resources development projects and programs and recommend general policies and guidelines and short/long range plans and programs for water resources development.

The Clean Water Act of 2004 (RA No. 9275) created the National Sewerage & Septage Management Program (NSSMP) with the objective to improve water quality and protect public health in urban areas of the Philippines by 2020. The lead implementing agency of the NSSMP is the Department of Public Works and Highways, in coordination with the DENR.

For water supply in Metro Manila, Metropolitan Waterworks and Sewerage System, which was privatized in 1995 under "The Water Crisis Act" (RA No. 8041), transferred its operational responsibilities to two concessionaires, Manila Water Company, Inc. (for the East Zone) and Maynilad Water Services, Inc. (for the West Zone). However, MWSS continued to perform its legally mandated function of facilitating the exercise by the concessionaires of its agency powers. Outside Metro Manila, the Local Water Utilities Administration is mandated by law to promote and oversee the development of water supply systems in provincial cities and municipalities. It is also a GOCC created through "The Provincial Water Utilities Act of 1973 (PD No. 198) and oversees local water districts. The responsibility of addressing the El Niño phenomenon was given to the DOST.

While the Philippine Water Code is clear on the ownership of all Philippine waters by the State and the utilization, exploitation, development, conservation, and protection of water sources lodged with the NWRB, no single government agency/unit/entity is mandated to handle the development of policies, plans and programs, monitor related data, operations, regulation, etc. of the very precious water resources of the country.

With such a complex organizational structure, focus on the development of technical skills and expertise of people responsible for such a scarce/limited resource is almost always placed on the back burner; competition relative to mandates is almost always implied in discussions; and functions and regulatory authority sometimes overlap creating more confusion among stakeholders.

Likewise, lack of appropriate funding for water and waste water infrastructure projects is a concern. Financial capacity on loan applications for such projects is a major hurdle for water districts and LGUs. Customers' willingness to pay for these services is also undetermined.

The Aquino administration designated the Secretary of Public Works and Highways as the water czar to focus on efficiently carrying out the Government's water-related mandates, power and functions. Several bills advocating for the reform of the water sector were filed in the 15th and 16th Congresses, while several PPPs were in the pipeline for the water sector (Bulacan Bulk Water Supply Project was already awarded), among others.

However, until the water sector is reorganized holistically, such issues will continue.

RECOMMENDATIONS

DEVELOP A LONG TERM NATIONAL DEVELOPMENT ROADMAP FOR A CENTRALIZED APPROACH TO WATER RESOURCE MANAGEMENT AND ENACT TRUE SECTORAL REFORM FOR THE ENTIRE WATER SECTOR.

Sectoral reform, focusing on structuring the whole water sector, should be prioritized. The structure of the water sector has been one of the leading causes of institutional fragmentation. This involves the different competing uses of water, hydrological boundaries of each and within each use of water, prioritization of the use of water during water scarcity periods, among others. These matters should be addressed first before moving on to reforming the regulatory aspect of the water sector. Likewise, organizing the sector must be undertaken before looking into matters involving development planning, resource management, tariffs, raw water value, etc. The development of a comprehensive national development roadmap for a centralized approach to water management, which encompasses long term objectives for the Philippine water sector and short- to mid- term targets for government agencies mandated with the development and regulation of the water sector, is imperative to ensuring water security and sufficiency in the long term.

ENACT LEGISLATION TO STRENGTHEN THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR THE DEVELOPMENT AND REGULATION OF THE WATER SECTOR.

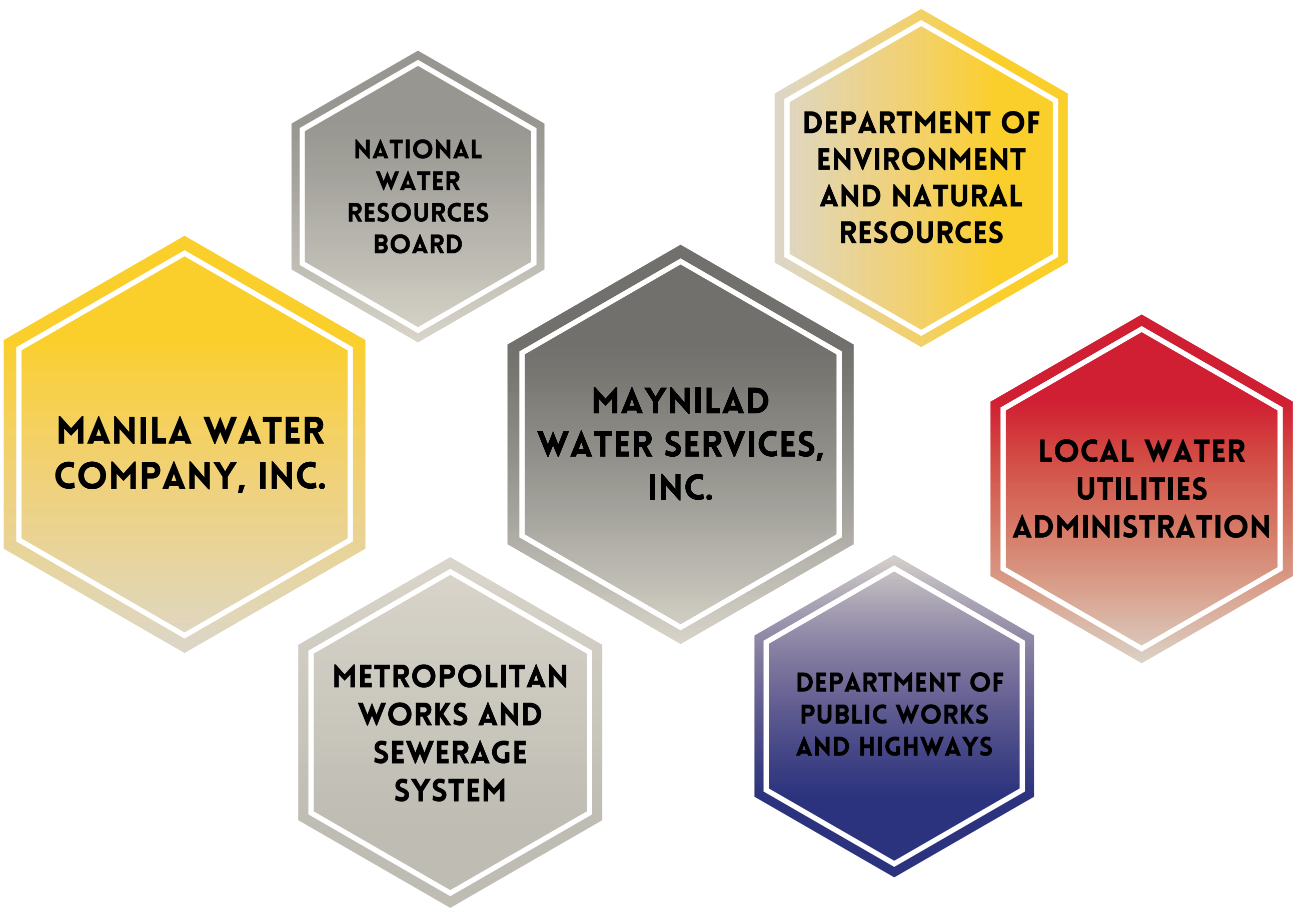
We recommend the enactment of a Water Reform Act during the 17th Congress that will update the 4-decades old Water Code and pave the way for a legal and institutional framework that will modernize the water sector throughout the country. A clear and integrated policy on water resource management will chart the country's future with respect to this increasingly scarce resource. We support the enactment of a bill that rationalizes regulation and establishes a Water Regulatory Commission as the primary regulatory agency and streamlines the water sector bureaucracy, in line with the proposed *Water Regulatory Commission Act of 2013* bill filed in Senate during the 16th Congress, to develop and regulate the country's water system and address institutional fragmentation. These legislative measures will complement and strengthen the operationalization of a centralized approach gained through the implementation of a long term roadmap and sectoral reform.

IMPROVE THE OPERATIONAL EFFICIENCY AND CAPACITY OF LGUS IN THE WATER SECTOR.

We believe that strengthened cooperation between the private sector and LGUs can improve LGU capacity and address operational obstacles which impede them from playing an effective role in the development of the water sector. EU companies are leaders in technologies and processes for innovative water sector management and are willing to engage with and support LGUs to develop integrated water resource management systems.

INVOLVE THE PRIVATE SECTOR THROUGH MORE PPPs.

With its financial capabilities, private sector involvement bridges the gap of the financial needs for infrastructure of the water sector. This, in turn, removes the financial burden of the Government for the sector, frees such resources, and could be focused on other priority sectors such as programs for education infrastructure and alleviation of poverty. Moreover, private sector involvement could result in the tapping of skills and expertise in the management, expansion, maintenance and operation of water and used water infrastructure projects and programs with a high efficiency rate. Also, such skills and expertise minimize red tape, which is generally considered as excessive bureaucracy, consisting of redundant processes that hinder timely decision-making outputs that the Government has been trying to eradicate for years.



AANZFTA	ASEAN-Australia-New Zealand Free Trade Agreement
ACFTA	ASEAN-China Free Trade Agreement
ADB	Asian Development Bank
ADR	Alternative Dispute Resolution
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Agreement
AHKFTA	ASEAN-Hong Kong FTA
AIFTA	ASEAN-India Free Trade Agreement
AJCEPA	ASEAN-Japan Comprehensive Economic Partnership Agreement
AKFTA	ASEAN-Korea Free Trade Agreement
AMLA	Anti-Money Laundering Act
AMLC	Anti-Money Laundering Council
AO	Administrative Order
APEC	Asia-Pacific Economic Cooperation
APO	APO Production Unit
ASEAN	Association of South East Asian Nations
B2B	Business to business
BAFS	Bureau of Agriculture and Fisheries Standards
BCM	Billion Cubic Meters
BIR	Bureau of Internal Revenue
BOC	Bureau of Customs
BOI	Board of Investments
BPM	Business Process Management
BPO	Business Process Outsourcing
BSP	Bangko Sentral Ng Pilipinas
CA	Commonwealth Act
CAAP	Civil Aviation Authority of the Philippines
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension with Reforms
CCT	Common Carriers' Tax
CFRR	Centre for Food Regulation and Research
CMTA	Customs Modernization and Tariff Act
CO2	Carbon Dioxide
COP21	21st Conference of the Parties to the United Nations Framework Convention on Climate Change
CPI	Consumer Price Index
CPR	Certificate of Product Registration
DENR	Department of Environment and Natural Resources
DepEd	Department of Education
DICT	Department of Information and Communications Technology
DO	Department Order
DOE	Department of Energy
DOH	Department of Health
DOLE	Department of Labor and Employment
DOST	Department of Science and Technology
DOT	Department of Tourism
DOTC	Department of Transport and Communication
DPF	Diesel Particulate Filter
DPWH	Department of Public Works and Highways
DTI	Department of Trade and Industry
DTI-BPS	Department of Trade and Industry - Bureau of Product Standards
DU	Distribution Utility
ECCP	European Chamber of Commerce of the Philippines
eDST	Electronic Documentary Stamp Tax
EFTA	European Free Trade Association
EMSA	European Maritime Safety Agency
EGA	Environmental Goods Agreement
ENDO	End of Contract
EO	Executive Order
EPBN	EU-Philippines Business Network
EPIRA	Electric Power Industry Reform Act
ERC	Energy Regulatory Commission
EU	European Union
EUR	Euro
F&B	Food and Beverage
FDA	Food and Drugs Administrations
FDI	Foreign Direct Investment
FIT	Feed In Tariff
FIT-All	Feed In Tariff Allowance

FMCG	Fast Moving Consumer Goods
FPA	Fertilizer and Pesticide Authority
FTA	Free Trade Agreement
G24	Group of 24
G7	Group of 7
GATS	General Agreement in Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GI	Geographical Indication
GOCCs	Government Owned and Conrolled Corporations
GPA	Agreement on Government Procurement
GPBT	Gross Philippine Billings Tax
GSP	Generalized System of Preferences
HB	House Bill
HCP	Healthcare Professionals
IBPAP	IT and Business Process Association Philippines
ICC	Import Commodity Clearance
ICC	Investment Coordination Committee
ICTO	Information and Communications Technology Office
ICTSI	International Container Terminal Services, Incorporated
IGA	Inter-Government Agreement
IMF	International Monetary Fund
INDC	Intended Nationally Determined Contributions
IPO	Initial Public Offering
IPOPhil	Intellectual Property Office of the Philippines
IPP	Investment Priorities Plan
IPR	Intellectual Property Rights
IRR	Implementing Rules and Regulations
IT	Information Technology
JPEPA	Japan-Philippines Economic Partnership Agreement
KPM	Knowledge Process Management
LGU	Local Government Unit
LNG	Liquefied Natural Gas
LRT	Light Rail Transit
LRTA	Light Rail Transit Authority
LTO	Land Transportation Office
MCPs	Mexico City Principles
MDG	Millennium Development Goals
MDRP	Maximum Drug Retail Price
MLC 2006	Maritime Labor Convention of 2006
MMDA	Metro Manila Development Authority
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MRTC	Metro Rapid Transit Corporation
MSME	Micro Small Medium Enterprise
MT	Metric Tons
MVIS	Motor Vehicle Inspection System
MWSS	Metropolitan Works and Sewerage System
NAIA	Ninoy Aquino International Airport
NCC	National Competitiveness Council
NCMB	National Conciliation and Mediation Board
NGCP	The National Grid Corporation of the Philippines
NLEX	North Luzon Expressway
NLRC	National Labor Relations Commission
NPC	National Power Corporation
NTC	National Telecommunications Commission
NTDP	National Tourism Development Plan
OCW	Overseas Contract Worker
OECD	Organization for Economic Co-operation and Development
OFW	Overseas Foreign Worker
PCAB	Philippine Contractors Accreditation Board
PD	Presidential Decree
PDRCI	Philippine Dispute Resolution Center
PEMC	Philippine Electric Market Corporation
PEZA	Philippine Economic Zone Authority
PHIC	Philippine Health Insurance Corporation
Philexport	The Philippine Exporters Confederation, Inc.

PhilGEPS	Philippine Government Electronic Procurement System
PIATCO	Philippine International Air Terminals Co.
PNF	Philippine National Formulary
PNP	Philippine National Police
PNS	Philippine National Standards
POEA	Philippine Overseas Employment Agency
PPA	Philippine Ports Authority
PPP	Public-Private Partnership
PRA	Philippine Retirement Authority
PSA	Philippine Statistics Authority
PSALM	Power Sector Assets and Liabilities Management Corporation
R&D	Research and Development
RA	Republic Act
RBH1	Resolution of Both Houses Number 1
RCEP	Regional Comprehensive Economic Partnership
RE	Renewable Energy
ROO	Rule of Origin
RR	Revenue Regulation
SB	Senate Bill
SCR	Silicon Controlled Rectifier
SDGs	Sustainable Development Goals
SLEX	South Luzon Expressway
SME	Small-Medium Enterprise
SOLAS	Safety of Life At Sea
STEM	Science Technology Engineering Mathematics
TA	Technical Assistance
TABS	Terminal Appointment Booking System
TESDA	Technical Education and Skills Development Authority
TEZ	Tourism Economic Zone
TI	Transparency International
TIEZA	Tourism Infrastructure and Enterprise Zone Authority
TiSA	Trade in Services Agreement
TOR	Terms of Reference
TPP	Trans-Pacific Partnership
TransCo	National Transmission Corporation
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UHC	Universal Healthcare
UK	United Kingdom
UNECE	United Nations Economic Commission for Europe
US	United States
VaPI	Value of Production Index
VAT	Value Added Tax
VGM	Verified Gross Mass
VOPI	Volume of Production Index
WB	World Bank
WCO	World Customs Organization
WEF	World Economic Forum
WHO	World Health Organization
WTO	World Trade Organization
y-o-y	Year on year

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