EU-PHILIPPINES BUSINESS NETWORK

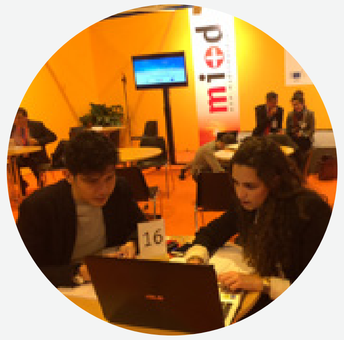
ADVOCACY PAPERS

THE EU AND THE PHILIPPINES:
PARTNERS FOR PROGRESS AND PROSPERITY

ABOUT EPBN

EU - PHILIPPINES
BUSINESS NETWORK

OUTREACH



SUPPORT SERVICES

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 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 Chamber 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 investments 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.

MESSAGE OF THE ECCP PRESIDENT

AND EPBN STEERING COMMITTEE CHAIRMAN

The EU-Philippines Business Network and its 8 partner chambers are proud to present the 2017 edition of the EPBN Advocacy Papers. This year's edition, with the theme of "The EU and the Philippines: Partners for Progress and Prosperity", seeks to focus on deepening the ties between the EU and the Philippines in moving forward in the right direction.

In the previous edition of the advocacy papers, we outlined how the European business community's advocacy priorities align with the new Administration's economic agenda. Since then, the EPBN has continued to actively engage with the Philippine Government stakeholders to realize this vision.

This year, we have witnessed promising developments – the 2nd round of negotiations for the EU-Philippine Free Trade Agreement, the first year of the new Administration and Congress, steady economic growth, and the Philippines' ASEAN chairmanship. Moreover, the EU was also recently named the 2nd largest export partner of the Philippines, while remaining as the largest investor in the country. Furthermore, we are very encouraged to see significant progress in several infrastructure projects which are key to facilitating economic growth.

Indeed, we have come this far. To further build on such success, several matters need to be addressed in order to fully realize the potential of the EU-Philippine economic ties and Philippine economic growth. It becomes increasingly important for the Philippines to improve global market integration, boost its competitiveness as an FDI destination, and fast track infrastructure development in order to achieve the kind of growth that the country deeply yearns for.

It is in this context that we present the 3rd edition of the EPBN Advocacy Papers. The EPBN Advocacy Papers include suggested reforms on economic liberalization, global competitiveness, as well as on the 14 priority sectors identified by the EU-Philippine business community. As a committed partner for progress and prosperity, the European business community stands ready to support the Philippines in making these much needed changes for the benefit of every Juan.

GUENTER TAUS

ECCP President and
EPBN Steering Committee Chairman

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Our special thanks goes to María Méndez, who took the lead in creating this book.

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EU-PHILIPPINES BUSINESS NETWORK

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

EPBN PARTNER CHAMBERS

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METHODOLOGY

The third 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, EU member states embassies and other 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 Philippines Government. Some of the positions included in the third edition of the EPBN Advocacy Papers build upon advocacy priorities articulated in the second edition of the EPBN Advocacy Papers which have not been successfully completed yet. The third edition also includes advocacies and recommendations that feature 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, addresses specific issues affecting each of the 14 sectors covered by EPBN Committees. High priority sectors for EU businesses in the Philippines in terms of business priorities and growth potential are listed first, and are then followed by the remaining sectors.

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, it was shared with the 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 second 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 progress 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.

It is also worth noting that while substantial progress was seen in many of our recommendations in the second edition of the EPBN Advocacy Papers, the change of Congress and Administration in 2016 required starting the process again for the enactment of legislation.

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

The EU and the Philippines: Partners for Progress and Prosperity

THE EU AND THE PHILIPPINES:
PARTNERS FOR PROGRESS AND PROSPERITY

The relationship between the Philippines and the European Union (EU) is solid, valuable and beneficial to both parties. In fact, Europe is a substantial source of remittances from more than 900,000 Filipinos living within its borders, while the Philippines is home to more than 30,000 European citizens—in addition to 600 EU companies. Over 500,000 jobs are generated by those companies locally. With that said, Europe remains as one of the Philippines' largest investors as bilateral trade continues to increase.

The long-standing relation between them has only broadened and deepened over the last several years. In 2012, the EU and the Philippines signed a Partnership and Cooperation Agreement. Two years later, in 2014, the EU granted the Philippines Generalized System of Preferences Plus (GSP+) status based on the Philippines' commitment to sustainable development and good governance, giving tariff-free access to several Filipino products exporting to the EU. A bilateral Free Trade Agreement (FTA) is still in progress and aims to eliminate trade barriers and establish common rules governing their economic relations. In addition, the EU became the second largest export partner of the Philippines in 2017.

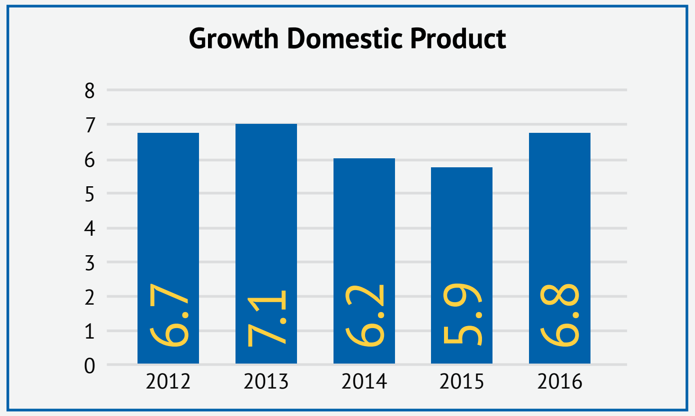
Beyond the trade ties, the European business community shares the Administration's commitment to create quality jobs and support economic growth under a competitive business environment. The Philippine Government has set a goal: Ambisyon Natin 2040, a long-term vision that seeks to transform the Philippines into an upper-middle income country and reduce poverty considerably by 2040. In order to realize the said goals, the 10-Point Socioeconomic Agenda and the Philippine Development Plan (PDP) 2017-2022 were developed. For their part, the EU continuously advocates for the Public-Private sector cooperation, through EPBN, in pursuance of the same goals.

EPBN seeks to facilitate constructive dialogues between the Philippine Government and European industry players to stimulate inclusive growth, address the Philippines' competitiveness gaps, and attract more European investments into the country. Thereby, strengthening the valuable relationship the EU has with the Philippines.

WHERE ARE WE NOW?

MACROECONOMIC OVERVIEW

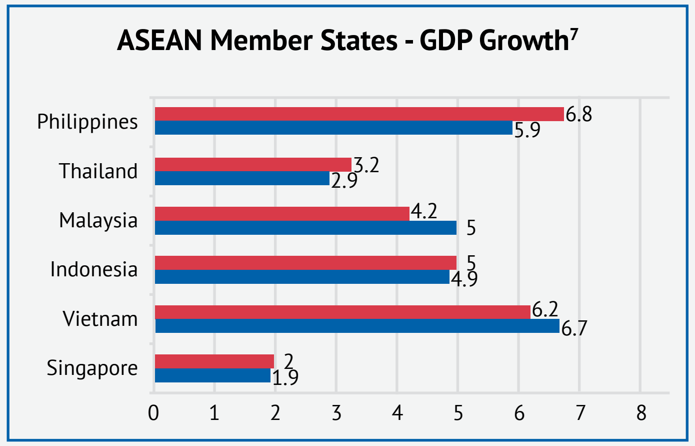
The Philippines has become Asia's rising star, according to Moody's Analytics, due to its robust macroeconomic expansion in recent years, leaving behind its former label as the region's sick man. Indeed, during the last 7 years, the Philippines has managed to trim its foreign debt and has shown an annual average economic growth rate of 6.3%, one the highest in South-Asia and one of the fastest in the world, remaining in positive expansion even during the global financial crisis.



Source: ADB[1]

In 2016, the Gross Domestic Product (**GDP**) of the Philippines grew to 6.8%, despite weak external demand and a reduction in agricultural production largely caused by drought.[2] Economic growth was driven by strong domestic consumption, the boom in the Business Process Outsourcing (BPO) industry, Overseas Foreign Worker (OFW) remittances[3] and the increase in public infrastructure spending. While agriculture declined by 1.1%,[4] industry registered the fastest growth. The manufacturing subsector was the largest contributor to the growth, mostly through food manufacturing, which grew by 9.3%. Other industries such as chemicals, rubber products, machinery, transportation equipment, and construction also contributed to industry growth.[5] Despite services growing at a slower rate than in 2015 (7.4% in 2016 compared to 7.8% in 2015), it remains the lead growth driver, generating nearly two-thirds of GDP in 2016. Retail trade, BPO, tourism, real estate and financial services were the subsectors in services that registered the strongest growth.

While the Philippines' economic growth of the GDP grew by 6.8%, becoming the highest among ASEAN member states, the Gross National Income (GNI) also grew by 6.3% (based on current pesos).[6]



GDP per capita grew by 5.3% in 2016[8]. However, it remained the second lowest of ASEAN 6 at USD3,100,

1 ADB (2017). Asian Development Outlook 2017: Transcending the middle-income challenge. P. 245-249. Retrieved: 28/07/2017. https://www.adb.org/sites/default/files/publication/237761/ado-2017.pdf.

2 Ibid.

3 The inflow of remittances rose by 4.9% in 2016.

4 ADB (2017). Asian Development Outlook 2017: Transcending the middle-income challenge. P. 245-249. Retrieved: 28/07/2017. https://www.adb.org/sites/default/files/publication/237761/ado-2017.pdf.

5 PSA (2016). Gross Value Added in Manufacturing. Retrieved 11/04/2017. http://psa.gov.ph/nap-press-release/sector/Manufacturing.

6 PSA (n.d.). Per capita GNI – Gross National Income & Gross Domestic Product. Retrieved 11/04/2017. http://psa.gov.ph/nap-press-release/sector3/Per%20Capita%20GNI.

7 ADB (2017). Asian Development Outlook 2017: Transcending the middle-income challenge. P. xxi. Retrieved: 28/07/2017. https://www.adb.org/sites/default/files/publication/237761/ado-2017.pdf.

8 WB (2017). GDP per capita growth (annual %). Retrieved: 28/07/2017. http://data.worldbank.org/indicator/NY.GDP.PCAP.KD.ZG?locations=PH.

after Vietnam (USD2,310), compared to USD6,270 in Thailand, USD3,900 in Indonesia, USD9,620 in Malaysia, and USD51,430 in Singapore.[9]

Strong economic growth is forecasted to continue at a rate of 6.9% in 2017 and 2018 while the country is expected to remain one of East Asia's top growth performers, mainly driven by the government's commitment to further increasing public infrastructure investment and the positive spillover effects that it will generate for the economy, as this surge in infrastructure investment is expected to be accompanied by job creation, poverty reduction and an increase in consumption.[10] However, the Philippines' economic growth is expected to slow down from 2018 to 2020 and will be outpaced by Vietnam.[11]

Despite the high levels of economic growth, **inflation** settled at 1.8% in 2016, boosting households' purchasing power. However, towards the end of the year, the headline inflation rose to 2.6% due to a higher annual increment being recorded for the heavily-weighted food and non-alcoholic beverages index. Indices of transport, recreation, and culture also contributed to this upward trend.[12] The country's headline inflation posted at 3.1% in May 2017, with the higher growths observed in alcoholic beverages, tobacco, health, education and restaurant goods and services.[13]

A weak external demand reduced the **current account** surplus from 2.5% of GDP in 2015 to 0.2% in 2016, totaling USD600.67 million.[15] Exports increased only on a small scale while imports rose rapidly,[16] resulting in a merchandise deficit of 11.2% of GDP. However, remittances and strong earnings from services exports, particularly from the BPO and tourism sectors, helped in maintaining the surplus.

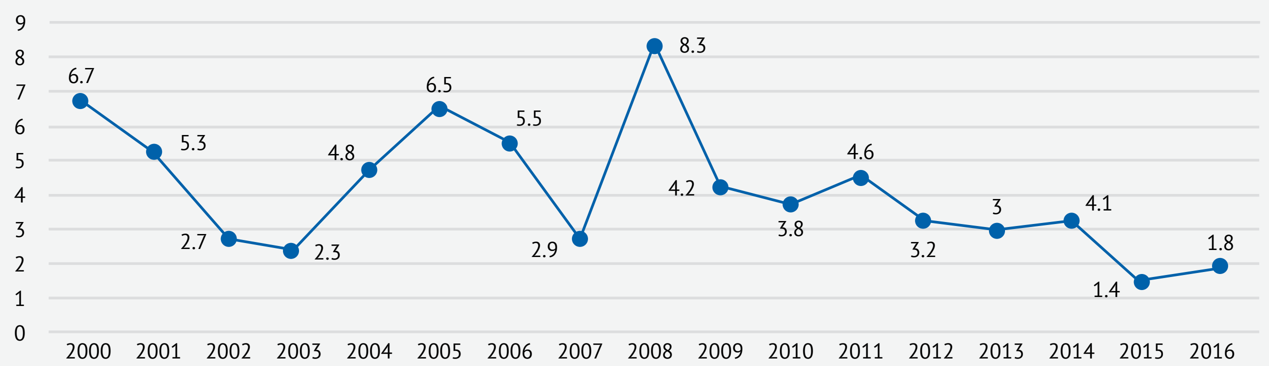
On the other hand, the ratio of **public debt** to GDP declined to 42.1% in 2016, the lowest in over a decade, which allowed an increase in public spending. In turn, this acceleration in public spending, mainly in infrastructure, widened the fiscal deficit to 2.4% of GDP, despite a rise in the tax collection by 9.1%.

The Big Three **credit rating** agencies, Standard & Poor's, Fitch and Moody's, reaffirmed the Philippines' sound macroeconomic foundations and its strong external position maintaining the country's 2015 ratings.

2016 April 24	Standard and Poor[17]	BBB STABLE
2016 April 08	Fitch[18]	BBB- POSITIVE
2017 Mar 22	Moody[19]	BAA2 STABLE

With a population of 102.6 million in 2016, a median age of 23.4 and 89.74% of the population under 54 years old,[20] the Philippines offers a skilled workforce fluent in English which is considered one of the competitive advantages of the Philippines. Despite an educated labor force, unemployment is still high among people between 15 and 24 years old. The unemployment rate fell to 4.7% in 2016 as 1.4 million net jobs were created in the country. However, underemployment remained high at 18%, reflecting the prevalence of informality

Inflation Rate (Headline Inflation)[14]



9 IMF (2017). Nominal GDP per capita. Retrieved: 28/07/2017. http://www.imf.org/external/datamapper/NGDPDPC@WEO/OEMDC/ADVEC/WEOWORLD/EAQ/PHL.

10 WB (05/05/2017). Philippines Economic Update April 2017. Retrieved: 28/07/2017. http://www.worldbank.org/en/news/feature/2017/05/04/philippines-economic-update-april-2017.

11 Dela Paz C. (25/01/2017). PH seen to remain fastest-growing economy in ASEAN-6 for 2017. Retrieved: 28/07/2017. http://www.rappler.com/business/159457-philippines-gdp-growth-forecast-standard-chartered.

12 PSA (n.d.). Summary inflation report consumer price index (2006=10): December 2016. Retrieved: 11/04/2017. https://web0.psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2006100-december-2016.

13 PSA (05/07/2017). Summary Inflation Report Consumer Price Index (2006=100): June 2017. Retrieved: 28/07/2017. https://psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2006100-june-2017.

14 BSP. (n.d.). Inflation rates. Retrieved 11/04/2017. http://www.bsp.gov.ph/statistics/spei_new/tab34_inf.htm.

15 WB (2017). Current account balance (BoP, current USD). Retrieved: 07/08/2017. http://data.worldbank.org/indicator/BN.CAB.XOKA.CD.

16 Exports expanded at a 9.1% rate while imports expanded at a rate of 17.5%.

17 Department of Finance (2016). S&P affirms investment grade rating of Philippines. Retrieved: 11/04/2017. http://www.dof.gov.ph/index.php/sp-affirms-investment-grade-rating-of-philippines/.

18 Jiao, C. (2016). Fitch affirms PH's investment grade rating. Retrieved: 11/04/2017. http://cnnphilippines.com/business/2016/04/08/Fitch-affirms-PHs-credit-rating.html.

19 Moody's. (2017). Retrieved: 11/04/2017. https://www.moodys.com/credit-ratings/Philippines-Government-of-credit-rating-607410.

20 CIA (2017). The World Factbook: Philippines. Retrieved: 07/08/2017. https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html.

and precarious jobs. On a positive note, the country has registered more inclusive growth in the last years as the poverty incidence among Filipinos dropped to 21.6% in 2015 from 25.2% in 2012, lifting 1.8 million Filipinos out of poverty.[21]

In terms of international rankings, the Philippines ranked 57 out of 138 countries in the Global Competitiveness Index 2016-2017 edition, published by the World Economic Forum, with a score of 4.4 over 7. 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 20 and a score of 5.9, which reaffirms the country's sound macroeconomic fundamentals. It scored lowest in the second pillar, infrastructure, with a ranking of 95 and a score of 3.4. In fact, the inadequate supply of infrastructure is considered one of the most problematic factors for doing business in the Philippines.[22]

On the World Bank Doing Business 2017 Report the Philippines was ranked 99 out of 190 countries with a score of 60.40 over 100. Getting electricity had the best ranking at 22, while starting a business had the worst at 171.[23]

As for the Corruption Perceptions Index, the Philippines went from 95 out of 168 countries in 2015 to 101 among 176 in 2016.[24]

INTERNATIONAL ECONOMIC INTEGRATION

The Philippines' extensive membership in international organizations has enhanced its international economic integration at regional and global level spurring economic growth over the past years.

ASEAN, the Association of Southeast Asian Nations, is one of the bedrocks of the Philippines' foreign and trade policies. The Philippines is one of the founding member countries[25] of this political and economic organization established in 1967. It is also part of ASEAN Economic Community (AEC) which was implemented in December 2015 with the aim to create one of the largest single markets in the world with more than 600 million consumers, where the free movement of goods, services, and professionals between the 10 member states is facilitated. As part of AEC, the Philippines is signatory to a number of regional arrangements that support the realization of the single market, such as the ASEAN Trade in Goods Agreement, the ASEAN Framework Agreement on Services or the ASEAN Comprehensive Investment Agreement. In 2015, ASEAN deferred the implementation of 105 out of 466 commitments under AEC. The greatest success of the organization has been the tariff reduction. As of July 2017, around 96% of tariffs in ASEAN were at 0% and it is expected to increase to 98.67% by 2018.[26] In 2017, the Philippines assumed the chairmanship of ASEAN, coinciding with the 50th anniversary of the organization.

In addition to ASEAN, the Philippines is also a member of different international organizations and multilateral financial institutions[27] such as Asian Development Bank (ADB), World Bank (WB), International Monetary Fund and the Asia-Pacific Economic Cooperation (APEC),[28] whose 2015 summit was hosted by the Philippines and was largely hailed as a success with the launching of important initiatives for the Philippine economic fabric and for Micro, Small and Medium Enterprises (MSMEs). Although the Philippines is party to these international bodies, it still has many outstanding commitments to those organizations to facilitate trade and market access.

The Philippines has reinforced its international economic integration through free trade agreements (FTAs) with third countries. The Philippines signed an FTA with Japan in 2008, the Japan-Philippines Economic Partnership Agreement (JPEPA), and with the European Free Trade Association (EFTA) in 2016. The Philippines is also party to the ASEAN Free Trade Agreement (AFTA) and has benefited from the FTAs that ASEAN has signed with other third countries:

1. The ASEAN-China Free Trade Agreement (ACFTA)
2. The ASEAN-India Free Trade Agreement (AIFTA)
3. The ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEPA)
4. The ASEAN-Korea Free Trade Agreement (AKFTA)
5. The ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA)

The organization is in negotiations for an FTA with Hong Kong, the ASEAN-Hong Kong FTA (AHKFTA) and for a Regional Comprehensive Economic Partnership (RCEP) between the 10 member states of ASEAN and the six states with which ASEAN has existing FTAs. The Philippines is not part of the Trans-Pacific Partnership (TPP), another FTA that brings together 12 countries.[29] However, there are ongoing negotiations between the Philippines and the EU for an FTA, which will help enhance and consolidate its role in the global economy.

21 WBG (04/2017). Philippines Economic Update. April 2017. Advancing The Investment Agenda, p.ii.

22 WEF (2016). The Global Competitiveness Report 2016-2017. Philippines. Retrieved: 07/08/2017. http://reports.weforum.org/global-competitiveness-index/country-profiles/#economy=PHL.

23 WB (2016). Doing Business 2016, Philippines. Retrieved: 07/08/2017. http://www.doingbusiness.org/data/exploreeconomies/Philippines.

24 TI (2016). Corruption Perceptions Index 2016. Retrieved 07/08/2017. https://www.transparency.org/news/feature/corruption_perceptions_index_2016.

25 Member countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam.

26 Valencia, Czeriza (28/07/2017). Non-tariff barriers bog down ASEAN economic integration. Retrieved: 12/08/2017. http://www.philstar.com/business/2017/07/28/1722071/non-tariff-barriers-bog-down-asean-economic-integration.

27 ADB, APEC, ARF, ASEAN, BIS, CD, CICA (observer), CP, EAS, FAO, G-24, G-77, IAEA, IBRD, ICAO, ICC (national committees), ICCt, ICRM, IDA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), MIGA, MINUSTAH, NAM, OAS (observer), OPCW, PCA, PIF (partner), UN, UNCTAD, UNESCO, UNHCR, UNIDO, Union Latina, UNMIL, UNMOGIP, UNOCI, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO.

28 CIA (09/07/2017). The World Factbook. Retrieved: 12/08/2017. https://www.cia.gov/library/publications/the-world-factbook/fields/2107.html.

In terms of Foreign Direct Investment (FDI), the net inflow increased 40.7% in 2016, amounting to USD7.93 billion compared to the USD5.64 billion recorded for 2015. Despite hitting a record high in FDI in 2016, the Philippines continues to receive only a small percentage of the total FDA flowing to South-East Asia. In 2016, major foreign investors were Japan, Hong Kong, Singapore, the United States and Taiwan while the most attractive sectors for investment were (1) financial services and insurance, (2) arts, entertainment and recreation services, (3) manufacturing, (4) real estate and (5) construction activities.[30]

The low levels of FDI reveal the need to improve the country's attractiveness as an investment destination by tackling foreign investors' main concerns, such as the cumbersome government bureaucracy, the inadequate supply of infrastructure and the need for further economic liberalization. Past administrations have made noteworthy efforts to improve the Philippines' competitiveness. The Comprehensive National Industry Strategy and the 30 industry roadmaps are notable examples of these efforts to attract further investments in key economic sectors. More recently, the Duterte Administration seeks to address the country's infrastructure deficit by gradually increasing spending on infrastructure to reach 7.4% by 2022. This golden age of infrastructure, along with the Philippines Development Plan 2017-2022, is expected to enhance the Philippines' competitiveness and have a positive spillover effect on the economy.

In terms of International trade, total trade grew 5.8% in 2016 from 2015, reaching USD137.4 billion. The 14.2% growth in imports mitigated the 4.4% decline in exports. Cumulative imports for January to December 2016 amounted to USD81.1 billion compared to USD71.06 in 2015. However, exports fell to USD5.3 billion in 2016.[31]

An in-depth analysis of the international trade data highlights the importance of boosting competitiveness due to the limited diversification in products and markets. In fact, the top 10 export products account for two-thirds of exported goods while 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. This means that the Philippines needs to explore new markets expand opportunities for industries and engage in more product innovation in order to provide value added exports and reduce export concentration. According to the World Bank, despite the Philippines being among the fastest-growing economies in the world, it needs to adjust its manufacturing and export strategies to meet the demands of a dynamic global economy. Flexibility, quality of labor, and innovation are key to the Philippines' future success.[32]

EU AND THE PHILIPPINES AS TRADE PARTNERS

Total trade between the EU and the Philippines grew by 17% during the first half of 2017 to USD7.8 billion indicating continued development in the trade relations between the two economies. Particularly, EU imports from the Philippines continues to expand, recording a 36% year-on-year (y-o-y) growth making the EU the second biggest export destination for Philippine-made products next to Japan partly thanks to the increasing utilization rate of GSP[33]+ preferences, making the EU market more accessible to Philippine exporters.[34]

The GSP+ scheme is a preferential tariff system that gives the Philippines tariff-free access to the EU market for over 6,000 product lines and which the Philippines has been benefiting from since December 2014. In 2016, exports under the GSP+ program reached EUR1.71 billion compared to EUR1.55 billion in 2015, accounting for 27% of the country's total exports to the EU. Major Philippine export products to the EU benefiting from GSP+ include tuna, pineapple, bicycles, footware, headwear, umbrellas, textiles and garments.[35]

In 2016, the bilateral trade in goods between the EU and the Philippines amounted to EUR12.8 billion, 3% decrease compared to 2015. While the EU economy is improving, and with the increased GSP+ utilization rate, EU imports from the Philippines posted a decline, while EU exports to the Philippines posted a slight growth. Philippine exports of goods to the EU reached EUR6.6 billion in 2016. Main goods exported to the EU include office and telecommunication equipment, machinery, food products, and optical and photographic instruments.[36] Philippine imports of goods from the EU amounted to EUR6.2 billion in 2016. Imports from the EU were dominated by machinery, transport equipment, chemicals, food products, and electronic components.[37]

The Philippines seeks to diversify its export base. Currently, 44% of Philippine exports to the EU are concentrated on electrical machinery and equipment,

29 TPP member states: Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, Japan and the USA.

30 Mariano, K.R. (11/03/2017). Philippines' FDI inflow hits record high in 2016. http://www.bworldonline.com/content.php?section=TopStory&title=philippines&8217-fdi-inflow-hits-record-high-in-2016&id=142023.

31 NEDA (n.d.). PH Trade Growth up in 2016 on Strong Imports. Retrieved: 12/08/2017. http://www.neda.gov.ph/2017/02/10/ph-trade-growth-up-in-2016-on-strong-imports/.

32 Valencia, C. (28/07/2017). Diversify exports, World Bank tells Philippines. Retrieved: 12/08/2017.

http://www.philstar.com/business/2017/07/28/1722077/diversify-exports-world-bank-tells-philippines.

33 Generalized System of Preferences.

34 Information provided by the EU Delegation to the Philippines.

35 DTI (09/02/2015). "Made in the Philippines "gets boost from EU GSP+. Retrieved: 12/08/2017. http://www.dti.gov.ph/2016-03-29-02-27-23/eu-gsp.

36 EU (2017). Trade in goods with Philippines Retrieved: 12/08/2017. http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113436.pdf.

37 European Commission (08/05/2017). Trade. The Philippines. Retrieved: 12/08/2017. http://ec.europa.eu/trade/policy/countries-and-regions/countries/philippines/.

largely assembly and testing operations linked to regional or global production networks. Trade in agricultural products grew by 2% to EUR835 million while other industrial products did not show compared to 2015 figures. In the first half of 2017, trade in agricultural products further grew by 15 y-o-y.

Bilateral trade in services between the EU and the Philippines reached EUR4.2 billion in 2015, compared to EUR3.3 billion in 2014.[38] EU services imports from the Philippines were dominated by two sectors namely transport and other business services including BPO, which comprised almost 50% of the total services imports in 2015. Other business services contributed to EUR523 million to the total services imports from the Philippines, reflecting a 21% y-o-y growth. The Philippines is ranked second only to India as a business process off-shoring destination, and to further grow the industry, the new government included the sector in the 2017-2019 investment priority plan.[39]

EU services exports to the Philippines were dominated by business services (EUR585 million) and telecommunications (EUR332 million). Services related to intellectual property rights and travel amounted to over EUR500 million and grew by 16 and 12% respectively.[40]

In 2016, the Philippines ranked as the 39th EU trading partner indicating a relative growth of the commercial relationship with a lot of scope for further strengthening. The Philippines' share of the total EU imports and exports was 0.4%.[41]

10% of 2016 total Philippines trade was with the EU, relatively close compared to its ASEAN neighbors. But in terms of EU-ASEAN trade, there is a considerable scope for further growth from its current 6% share.[42]

In terms of Philippines' exports, as of first half of 2017, the EU is the second largest export market for Philippine-made products accounting for 15% of total Philippine exports behind Japan (17%) and ahead of the US (15%) and China (11%).[43]

With regard to Philippine imports, the EU is the 4th largest supplier to the Philippines. Imports from China continued to increase substantially, making China today by far the most important source of imports to the Philippines.[44]

In terms of Philippines' trade with EU member states, Germany is the Philippines' largest trading partner within the EU, followed by the Netherlands, France, UK, Italy, Belgium, Spain, Ireland and Austria. Together these countries account for almost 90% of EU-Philippines trade. Meanwhile, other EU member states are expanding trade with the country and shows dynamic increases.[45]

EU investments in the Philippines continue to grow. During the first quarter of 2017, the EU recorded a 45% of total share of foreign approved investments in the Philippines, amounting to around EUR187 million. The majority of these investments are in the manufacturing sector. The Philippines' statistics shows that the EU was in 2016 again the largest investor in the country. In terms of reported investments, 28% or PhP61,790 million (EUR1.1 billion) originated from the EU, thus maintaining its position as the largest source of approved investment in the Philippines. There are approximately 600 European medium to large sized companies based in the Philippines, generating 500,000 jobs[46].

Overall, EU-Philippines trade and investment relations continue to grow in 2017 and is seen to increase further in the second half of the year. Specifically on investments, a more open regime to foreign investors will usher in more foreign companies in the Philippines that will aid in job creation and execution of big infrastructure projects of the government.

On another note, the EU, together with the US, is one of the main employers of Filipino Overseas Foreign Workers (OFWs) outside Asia, accounting for 7.1% of the total OFW and the European maritime industry is the largest employer of Filipinos seafarers worldwide. Europe is also a major source of remittances. According to the Bangko Sentral ng Pilipinas (BSP) remittances from Europe amounted to USD3.8 billion in 2016, accounting for 14% of the total remittances sent to the Philippines. Main source countries were the UK, Germany and Italy.

RECENT REFORMS AND EPBN ADVOCACY ACHIEVEMENTS

During 2016 and 2017, the Philippines has moved forward the adoption of initiatives which may be conducive to a more competitive environment in line with international standards. EPBN welcomes the approval or ratification of the following measures that it has been promoting:

The ratification of the Trade Facilitation Agreement (**TFA**) on October 27, 2016, celebrated by the European business community, has the potential to facilitate international trade to and from the Philippines. The TFA contains provisions for expediting the movement, release, and clearance of goods as well as measures for effective cooperation between customs, technical assistance, and capacity building.

38 Ibid.

39 Information provided by the EU Delegation to the Philippines.

40 - 45 Ibid.

46 EU (unknown). Impact of EU investment on the Philippines economy and employment. Retrieved: 12/08/2017. https://eeas.europa.eu/sites/eeas/files/impact_of_eu_investment_on_the_ph_economy_and_employment.pdf.

The ratification of the **Paris Agreement** on March 23, 2017 showed the Philippines' commitment to reduce its carbon emissions by 70% by 2030. The agreement will allow the Philippines access to the Green Climate Fund (GCF), established by the United Nations Framework Convention on Climate Change (UNFCCC) with the aim of supporting the efforts of developing countries to respond to the challenge of climate change.[47] It is expected that the Philippines, one of the most vulnerable countries to the effects of climate change, will intensify its efforts on renewable energy and energy conservation.

The National Broadband Plan (**NBP**), approved in March 2017, seeks to ensure universal, faster and affordable Internet Access in the country. The NBP contains three major broadband strategies, including (1) the establishment of policy and regulatory reforms, (2) government investment in broadband infostructure, and (3) support for the stimulation of broadband demand. It is expected to be completed by 2022 with all Local Government Units (LGUs) being connected to high speed government broadband.

The Philippine Rapid Alert System for Food and Feed (**PhilRASFF**), launched in March 2017, is an essential tool in market surveillance for food products. The PhilRASFF is a web-based alert system for food authorities to immediately respond to food safety incidents, including contaminated food products in the Philippines or at the border and foodborne disease outbreaks involving marketed products.[48] It was launched under the Trade Related Technical Assistance (TRTA) 3 Project supported by the European Union (EU) and implemented in partnership with the Philippines Food and Drug Administration (FDA).

The Revenue Regulations (**RR**) **No. 7-2016**, released by the Bureau of Internal Revenue (BIR) in November 2016 pursuant to the Tourist Act of 2009, established the fiscal incentive scheme for tourism enterprises in tourism enterprise zones (TEZs). This presents a unique opportunity to develop tourism clusters in line with international standards by attracting tourism related investments. The fiscal incentive scheme included (1) income tax holiday (ITH) for a period of 6 years, (2) preferential gross income tax rate of 5%, (3) exemption from all taxes and customs duties on importations of capital investment and equipment, (4) goods and services incentives, (5) net loss carryover (NOLCO) and (6) social responsibility incentive.

Furthermore, EPBN has witnessed significant progress on the following areas that it has been long advocating and looks forward to the passage of these reforms that can make doing business in the Philippines easier for European companies:

Congressman Arthur Yap submitted House Resolution (HR) No. 898[49] in March 2017, urging a discussion on the restriction of foreign participation in construction activities. While all contractors must obtain a **PCAB**[50] **license** to operate in the Philippines, foreign firms with less than 60% Filipino equity can only be granted special licenses if there is a minimum investment of PhP1 billion. On the other hand, the minimum investment required for domestic companies ranges between PhP900,000 and PhP90 million depending on the license category. This HR aims to remove this nationality distinction which hinders potential economic growth. On August 29, 2017, during the scheduled deliberation on HR 898, the Committee on Economic Affairs directed the Philippine Competition Commission (PCC) to submit a position paper on the matter.

House Bill (HB) No. 5828, approved on third reading as of September 2017, seeks to amend the **Public Service Act** by revising the definition of public utilities, thus allowing participation of foreign investors in public utility enterprises. Several counterpart bills have also been filed in the Senate. The ultimate goal is to increase competition, providing the Filipino consumer with more choices and better services at a lower price.

HB No. 4595 was filed during the 17th Congress with the aim to amend the **Retail Trade Liberalization Act** of 2000 (Republic Act No. 8762). This bill seeks to facilitate market access for foreign companies into the retail sector by eliminating the capital and equity requirement of foreign investors who are willing to engage in the retail business in the Philippines. It is still pending with the Committee on Trade and Industry.

The **Apprenticeship Training System Act** was filed during the 17th Congress as Senate Bill (SB) No. 1392 and it is still pending on second reading. It aims to establish an apprenticeship program that will ensure the availability of qualified workers in critical occupations and will facilitate access to employment for the youth of the country. ECCP worked closely with the Department of Labor and Employment (DOLE) and the Senate during the 16th Congress to develop a policy framework that establishes standards for the protection of apprentices while apprentices maximize their learning experience in the private sector. While that bill did not progress, the Apprenticeship Act was filed again during the 17th Congress. ECCP has been asked to be part of a Technical Working Group that will start working in September 2017.

47 Green Climate Fund (n.d.). About the Fund. Retrieved: 12/08/2017. http://www.greenclimate.fund/who-we-are/about-the-fund.

48 PhilRASFF (n.d.). Retrieved: 16/08/2017. http://philrasff.org/about_as.php.

49 "Resolution strongly urging the appropriate Committee to conduct an inquiry, in aid of legislation, on the desired economic policy direction of the Philippines with regard to foreign participation in the ownership and operation of corporations and firms engaged in the business of construction of buildings and other infrastructure in the Philippines."

50 Philippines Contractors Accreditation Board.

The Department of Health (DoH) has agreed to proceed with the creation of the **Philippine Platform for Health, Diet, and Exercise**, which aims to provide a meeting point for all stakeholders and reduce premature mortality from non-communicable diseases by implementing concrete actions to improve consumer information and education on healthy eating, exercise, responsible marketing practices, and provision of healthier, affordable products. As of June 2017, the Executive Committee of the DoH still needs to discuss this initiative internally and form a technical working group with the stakeholders.

Photo by JC Gellidon

ASSESSMENT OF 2016 RECOMMENDATIONS

This table presents an overall assessment of the process made on the recommendations in the 2016 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[60].

CROSS SECTOR PAPERS

ECONOMIC LIBERALIZATION

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Amendment of the economic provisions of the 1987 Philippine Constitution	Amend economic provisions in the Constitution to ease restrictions on foreign ownership.			There is a pending Joint Resolution of Both Houses to amend the 1987 Constitution. The passing into law of the removal of the foreign ownership restriction is likewise expected to be supported by the Executive Department.		
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.			The Legislative-Executive Development Advisory Council has certified this bill as urgent. The House of Representatives has approved it on third reading. Several counterpart bills have also been filed in the Senate.		
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.			Bills were filed before the House of Representatives and the Senate covering the perpetual existence of corporations and the formation of one-person corporations. Under the House of Representatives, all bills are deemed priority bills.		

51 The following criteria were used for the assessment of the status of each recommendation included in the second 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 progress 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.

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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.			Pending bills before both Houses seeking to increase the transparency and efficiency of the Government Procurement Reform Act (RA No. 9184) were filed. The PDP 2017-2022 supports the Repeal or amendment of the Flag Law (Commonwealth Act 138).		
	Join the WTO Agreement on Government Procurement (GPA).					
Integration into the global economy	Ratify the WTO Trade Facilitation Agreement (TFA).				Ø	
	Join the 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.	The Implementing Rules and Regulations (IRR) of the Philippine Competition Act (PCA) or RA No. 10667 took effect in June 2016.				
Strengthening the sanctity of contracts	Honor international contracts and agreements; Establish mechanisms to strengthen the enforcement of sanctity of contracts.		President Rodrigo Duterte, in his inaugural speech, ordered all department secretaries and heads of agencies to refrain from changing and bending the rules on government contracts, transactions and projects already approved and awaiting implementation.			
Comprehensive tax reform	Reduce the corporate income tax to become more competitive for investors.		The House of Representatives passed House Bill No. 5636 (TRAIN) on its third reading and was transmitted to the Sewnate on July 11, 2017. The Senate is currently conducting committee hearings with the expectation that the counterpart Senate Bill would also be approved by said upper House.			
	Reduce and re-align personal income tax brackets, in line with inflation.					
	Simplify the tax system and prevent tax evasion.					

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Creation of a competitive fiscal incentives regime	Benchmark fiscal incentives currently granted as a minimum for future incentives regimes.			Various bills are filed before both Houses seeking to re-evaluate fiscal incentives currently given to businesses.		
	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.		BOC is expected to fully implement the provisions of the CMTA.			
	Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies.		The NSW is already operational and DOF is now pilot-testing a system known as Tradenet. This system will enable the Philippines to connect to the ASEAN Single Window by December.			
	Enact a Freedom of Information Act.			Various Bills are filed before both Houses.		
	Create an effective enforcement mechanism for the Anti-Graft and Corrupt Practices Act.				President Duterte signed on July 23, 2016 the EO on the Freedom of Information. A counterpart legislation further strengthens and institutionalizes this aim. Despite this, the weak enforcement of RA No. 3019 has meant little positive impact on the business environment.	
Judicial reform	Enact a Whistleblower Protection Act to ensure whistleblowers are guaranteed full protection.			Various Bills are filed before both Houses for the protection of whistleblowers and witnesses.		
	Reform the Witness Protection, Security, and Benefit Act to address limitations to witness protection in current law.					
Intellectual Property Rights (IPR) protection	Continue to improve IPR protection and enforce strict anti-smuggling measures.				While IPOPhil has moved to allow recognition and registration of geographical indicators (GIs), there is still no specific legislative or executive framework to establish their protection.	
	Create and enforce a policy framework for the protection of Geographical Indications (GIs).					

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Partnering with Local Government Unis (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.			Included in the PDP 2017-2022 strategic framework is the objective to increase local sources of LGU revenue, institute legislated and non-legislated measures. Likewise, the present Administration supports the improvement of business climate as PDP 2017-2022 provides for the simplification of the rules and regulations on business registration and licensing, entry and exit, paying taxes, and access to finance to encourage the rapid growth of businesses of all sizes and the movement of small firms to the formal sector.		
	Establish an enforcement mechanism that will ensure that national investment policies are not overstepped by LGUs.					

ASEAN INTEGRATION

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Trade facilitation	Remove non-tariff barriers to trade.				The ATA Carnet Convention was not applied in the Tariff and Customs Code. Import restrictions and licenses under the Tariff and Customs Code of 1978 Decree No. 1464 said imports of corn, rice and other products are restricted. The Philippines' WTO waiver for rice imports already expired in June 30, 2017, while fish products may be imported only when the import is certified as necessary by the Department of Agriculture in observance of its food security policy.	
	Implement an ASEAN Single Window.				Ø	
	Ease existing Customs procedures across ASEAN to facilitate intra-ASEAN trade.			There is a pending bill which seeks to provide a 10-year ASEAN integration plan including the implementation and monitoring thereof.		

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Investment promotion	Protect IPR and clamp down on illicit trade.			Bills before the House of Representatives and the Senate are filed addressing the need to have an institution which would formulate and carry out effectively the country's trade policies and to protect the market from unfair trade practices.		
	Implement regional harmonization of standards and regulations.					
	Ease long term investment constraints.					
Competitiveness	Establish a support framework for Small-Medium Enterprises (SMEs).			There are pending bills filed before both Houses supporting the SMEs, including the facilitation of the creation of a Small and Medium Enterprises Stock Exchange (SMEX) which will serve as the equities market for SMEs. The PDP 2017-2022 likewise provides for strategic framework in recognition of the important role of SMEs in the economy.		
	Facilitate the development and movement of skilled labor.					

HIGH-PRIORITY SECTORS

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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, preferable address some of the issues earlier.			The second round of negotiations for the EU – Philippines FTA was held in the Philippines in February 2017.		
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+.			While there is a system of public consultation in the formulation of sectoral roadmaps, and plans to develop a 10-year agriculture road map, many operation-production concerns remain unsolved.		
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 (NSW).		The NSW is already operational and DOF is now pilot-testing a system known as Tradenet. This system will enable the Philippines to connect to the ASEAN Single Window by December.			
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.					The current Administration has abandoned the 30-30-30-10 energy mix policy in favor of a 70-20-10 formula.
Adoption of a downstream natural gas policy	Enact a Downstream Natural Gas Industry Development Law.			The Downstream Natural Gas Industry Development Act Bill was filed again during the 17th Congress but has not progressed so far.		
Establishment of a nationwide grid connection	Create an integrated national grid system by linking the Mindanao grid with the Visayas.			The Duterte Administration is considering the interconnection project.		

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Support energy efficiency and conservation	Enact an Energy Efficiency and Conservation Act.		The Enercon Bill was approved by the House Committee on Energy in August 2017. It is now pending second reading in the Senate (Senate Bill No. 1531).			
Implementation of measures in support of increased renewable energy capacity	Implement the Renewable Portfolio Standards (RPS) in the shortest possible timeframe.				The RPS is still being formulated.	
	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.					Lack of interest of the new Administration to approve additional installation targets.
Revival of the Council of Advisers on Energy Affairs	Revive the Council of Advisers on Energy Affairs and expand its private sector membership.				Ø	

FOOD AND BEVERAGE

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Improvement of the registration and regulation process	Address inefficiencies in the Certificate of Product Registration (CPR) process to facilitate product registration.					Despite the computerization of the registration process, EPBN Food and Beverage Committee members have reported significant delays, particularly from January 2017, in the e-registration process with the FDA.
	Implement and enforce post-market surveillance.		The Phil-RASFF was launched in March 2017. This alert system allows food authorities to immediately respond to food safety incidents.			
Improvements to the fiscal environment for alcoholic beverages.	Reduce the excise tax on champagne and sparkling wines.					The excise tax is increased every year.
	Prioritize the enforcement process and operational efficiency in the application of the alcohol tax stamp.				Ø	

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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.		The NSW is already operational and DOF is now pilot-testing a system known as Tradenet. This system will enable the Philippines to connect to the ASEAN Single Window by December.			
	Strengthen enforcement mechanisms through an integrated PPP approach.				Ø	
Protection of Geographical Indications	Implement a GI protection framework.				Ø	
Creation of a Philippine platform for consumer health, diet and physical exercise	Create a Philippine platform for consumer health, physical exercise and diet.		In June 2017, the Department of Health (DOH) agreed to proceed with the creation of the Philippine Platform. The Executive Committee of the DOH still needs to discuss this initiative internally and form a technical working group with the stakeholders.			

ICT/KPM/BPM

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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.				Ø	
	Incentivize investment in untapped provincial areas with high growth potential.			PEZA has endeavored to create 36 economic zones in 2017, including 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.				Ø	
Improvement of broadband service	Design and implement a comprehensive reform strategy to improve broadband connectivity to internationally competitive levels.		The National Broadband Plan (NBP) was released in 2017. The said document seeks to address the need for universal, faster and affordable Internet Access. EPBN will continue to monitor the realization of the NBP in line with its various advocacies.			

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Implementation and enforcement of the Data Privacy Act of 2012	Implement and strictly enforce the Data Privacy Act of 2012.	Implementing Rules and Regulations, which will take full effect by September 2017.				
VAT exemption for energy in PEZA zones	Require building owners to provide direct meters for individual tenants in vertical PEZA zones.				Ø	

TOURISM

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Improvement of international and domestic connectivity	Implement measures to improve international air connectivity.			Caticlan Airport expanded its runway and Mactan-Cebu International Airport (MCIA) started the construction of a second terminal in 2017. However, plans to develop Sangley Airport and five regional airports are on hold.		
	Develop a two-airport system in Manila, utilizing NAIA and Clark, and improve international airport infrastructure in high priority tourism destinations.			The Manila – Clark Railway project will start construction in 2017 and is expected to be completed in 2022.		
	Provide funding for seaports, airports, and roads that connect priority tourism destinations.			Government efforts to improve infrastructure have been evident over the past year with the launch of the Build Build Build Program.		
Development of internationally competitive tourism destinations	Implement the incentives program under the Tourism Act of 2009 for tourism enterprises.	The Bureau of Internal Revenue (BIR) released Revenue Regulations (RR) No. 7-2016 in November 2016 establishing a fiscal incentive scheme for tourism enterprises.				
	Support the development of soft infrastructure through the implementation of targeted training programs in Tourism Economic Zone (TEZs).				Ø	
	Improve security in major tourism destinations.				Despite the efforts of the Administration for promoting the Philippines as a safe destination, security concerns persist.	
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.			The Department of Tourism (DOT) publishes general tourism statistics regularly.		

TRANSPORT INFRASTRUCTURE

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Removal of foreign ownership restrictions	Amend the Public Service Act of 1936; Revise and limit the scope of the definition of public utilities.		House Bill No. 5828, which seeks to amend the Public Service Act by revising the definition of public utilities, was approved on third reading in September 2017. The Legislative-Executive Development Advisory Council has certified this bill as urgent. Several counterpart bills have also been filed in the Senate.			
	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.			Some bills filed during the 17th Congress, such as SB No. 459 and SB No. 274, aim to improve the transparency and efficiency of the procurement process. The PDP 2017-2022 supports the Repeal or amendment of the Flag Law (Commonwealth Act 138).		
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.				The PPP bill remained pending in the Senate due to lack of time before the end of the 16th Congress.	
	Update the IRR of the BOT Law and the PPP Governing Board policy circulars.				Ø	
	Establish the use of the Swiss challenge for unsolicited proposals.			The Duterte Administration is open to unsolicited PPP 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.		House Resolution (HR) No. 898 seeks to amend the restriction of foreign participation in construction activities. A hearing on this HR was head on August 29, 2017. The Philippine Competition Commission is to issue a position paper on this matter.			
Comprehensive, pro-growth infrastructure development	Develop adequate transportation infrastructure across the country that will enhance and sustain economic growth.			During the fiscal year 2017, there has been an increased in infrastructure investment amounting to 5.3% of the country's GDP.		

SECTOR PAPERS

AUTOMOTIVE		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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.			The second round of negotiations for the EU – Philippines FTA was held in the Philippines in February 2017.		
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.				Ø	
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.				The harmonization of vehicle standards in line with the UNECE Regulations has not been completed. The testing method for imported automotive products, implemented by DTI-BPS, continues to be long and complex.	
Implementation of the Motor Vehicle Inspection System	Implement the Motor Vehicle Inspection System as a PPP project.					The MVIS is now under revision.
Effective implementation of Euro 4 emission standards	Improve the implementation and enforcement framework of Euro 4 emission standards.			From January 1, 2016 onwards, fuel sold in the Philippines is required to meet Euro 4 standards. New vehicles must be equipped with a Euro 4 engine. However, there still remain some shortcomings in terms of its effective implementation and enforcement by all relevant agencies.		

CONSUMER GOODS AND RETAIL

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Retail trade liberalization	Amend the Retail Trade Liberalization Act to facilitate market access for foreign retail companies and improve competition.			HB No. 4595 was filed during the 17th Congress with the aim to amend Retail Trade Liberalization Act. It seeks to facilitate market access for foreign companies into the retail sector. It is still pending with the Committee on Trade and Industry.		
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.			There has been some progress in the extension of the super green lane to agricultural products. However, we look forward to the participation in this program of importers of other products.		
	Operationalize an effective National Single Window that allows full alignment between the BOC and other key government agencies.		The NSW is already operational and DOF is now pilot-testing a system known as Tradenet. This system will enable the Philippines to connect to the ASEAN Single Window by December.			

TAX AND FINANCIAL SERVICES

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Amendment of the Bank Secrecy Law	Amend the Bank Secrecy Law to include exemptions in the case of investigation of tax fraud and evasion.				Ø	
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.		Implementation of RA No. 10927 in July 2017, placing casino operations under the coverage of country's AMLA.			
Senate concurrence of the Foreign Account Tax Compliance Act	Implement FATCA in the shortest possible timeframe.			The FATCA was ratified in December 2016. As of July 2017 it is pending in the Senate Foreign Relations Committee for concurrence.		
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.				Ø	

HEALTHCARE

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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).			Although the PNF application process has been recently revamped, the lack of transparency on the decision criteria and evaluation process is still a major concern.		
	Institutionalize consultations with the private sector to increase the effectiveness of the Maximum Drug Retail Price (MDRP) mechanism.				Ø	
Continuation of initiatives to strengthen the healthcare sector and the Universal Healthcare	Strengthen primary healthcare and improve Philhealth services and coverage of out-patient medicines.			A Universal Health care (UHC) Bill has been filed in Congress aiming at strengthening primary health and outpatient services.		
	Continue the improvement of the Food and Drugs Administration (FDA) in support of better regulation and anti-counterfeit enforcement.				Despite the positive reforms carried out by the FDA in the past years and the Technical Assistance program of the EU, the unregistered and fake medicines cases continue increasing year after year.	
	Create a comprehensive disease and patient register.				Ø	
Implementation of the Mexico City Principles	Enforce the implementation of the Mexico City Principles by all industry players.				Ø	
Institutionalized public-private sector dialogue	Institutionalize a monthly dialogue between Government and private sector.			EPBN and ECCP met with Congressmen and Government Officials during 2016 and 2017 with the intent of continuing inclusive discussions on health issues. However, a regular dialogue has not been institutionalized yet.		

HUMAN CAPITAL

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
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.			The Apprenticeship Training System Act (Senate Bill No. 1392) was filed during the 17th Congress. It is pending on second reading.		
Easing of restrictions on the employment of foreign nationals	Relax limits on foreign employment in PEZA zones.				Ø	
	Create a one-stop shop for renewals and facilitate the employment of foreign nationals in priority sectors.				Ø	
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.			In early 2017, the DOLE issued the Department Order (DO) No. 174, implementing Articles 106-109 of the Labor Code with the aim of banning labor-only contracting. While this DO is not applicable to ICT/BPM/KPM sector, there remain some concerns regarding seasonal workers or project-based employees.		

MANUFACTURING

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Development of Domestic/Export Economic Zones	Establish D/EEZs in areas with the highest instances of un- and under- employment.				Ø	
Reduction of the cost of electricity for manufacturers	Exempt manufacturers in priority sub-sectors and areas from VAT on electricity.				Ø	
	Expand incentives for investment in energy efficiency technologies by end users.			Some bills have been filed in Congress seeking to institutionalize energy efficiency and conservation and incentivize the use of energy efficiency technologies (HB No.182, HB No. 1220 and HB No. 2388).		
Expansion of the Manufacturing Resurgence Program	Adopt manufacturing resurgence programs, with a focus on incentivizing new investment that generates employment.				Ø	

MARITIME

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Establishment of an objective, trustworthy claims system	Review and reform the seafarers' claims process to ensure objectiveness in rulings.				Ø	
	Safeguard compensation fees until appeal is final.				Ø	
	Enforce the Anti-Ambulance Chasing Act.	The Department of Labor and Employment (DOLE) issued Department Order (DO) No. 153, containing the Implementing Rules and Regulations of the Anti-Ambulance Chasing Act (RA No. 10706).				
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.				Ø	
Reorganization of POEA functions for seafarers	Create a separate body for the recruitment of Filipino seafarers, focused on a developmental rather than regulatory role.	POEA adopted the 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers.				
	Allow contact between foreign principals and prospective crews during the recruitment process.	Shipowners and principals may appoint their representatives to conduct interview for hiring and recruitment in the premises of their partner local manning agency by securing a Letter of Acknowledgment (LOA) from POEA.				
Improvement of port infrastructure and the BOC processes	Develop port and ancillary infrastructure to meet current and future demand in Manila and the provinces.			The NLEX-SLEX connector road project is in the stage of pre-construction activities. It is expected to provide better access to Manila Ports after its completion in 2021.		
	Improve and automate administrative and customs processes.		The NSW is already operational and DOF is now pilot-testing a system known as Tradenet. This system will enable the Philippines to connect to the ASEAN Single Window by December. Its implementation will decongest ports and facilitate trade.			

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Development of the Philippines as an attractive ship registry	Create a modern, attractive Philippine ship registry.				Ø	

WATER AND ENVIRONMENT

		COMPLETED	SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS	RETROGRESSION
Improvement of the technical specification for Government water infrastructure projects	Develop specific technical procurement documents and Terms of Reference (TORs) for water infrastructure projects.				Ø	
Improvement of governance and formulation of a long term vision for the water sector	Enact legislation to strengthen the legislative and institutional framework for the development and regulations of the water sector.			House Bill (HB) No. 2457, filed during the 17th Congress, aims to create a Department of Water, Sewerage and Sanitation. The Department of Water will have the mission of unifying existing regulations, rationalizing the various players involved in the water sector and coordinating with other government agencies.		
	Improve the operational efficiency and capacity of LGUS in the water sector.				Ø	
	Involve the private sector through more PPPs.				Ø	

WHERE DO WE WANT TO BE?

"By 2040, the Philippines shall be a prosperous, predominantly middle-class society where no one is poor. Our people will enjoy long and healthy lives and will live in a high-trust society where families thrive in vibrant, culturally diverse, and resilient communities."

With this statement, the Philippine Development Plan 2017-2022 reflects the long-term vision for the country in the next 24 years, entitled Ambisyon Natin 2040, which was adopted by the Duterte Administration in October 2016.[52] Ambisyon Natin 2040 aims to reduce poverty and triple Filipinos' per capita income to USD11,000 by 2040 by implementing measures enabling continued economic growth of at least 6.5% per annum during the next 24 years.

During the last decade, the Philippines has gone in the right direction, consolidating its solid macroeconomic fundamentals. Recent studies show that this positive tendency may continue in the coming years. Particularly, in a study conducted by IHS in 2015, the Philippines, with a current GDP of about USD292 billion, is projected to be a USD1 trillion economy by 2030 becoming the 24th largest economy in the world and 19th by 2050, based on GDP at purchasing power parity (PPP).[53] These optimistic projections are also shared by PricewaterhouseCoopers (PwC) that forecasts that the Philippines will overtake Poland, Argentina and Malaysia by 2030.[54]

With robust economic data and the great potential of the country in increased trade, investment and human capital, we believe that this target that seeks to transform the Philippines into an upper medium-income country can be met provided that the right policies are put in place. EPBN looks forward to witnessing the realization of this collective vision. Likewise, the EU business community looks forward to deepening and strengthening ties with the Philippines and hopes to continue contributing to its economic growth and job generation through increased trade and investment in the country.

While there is great potential for the Philippines to become a regional leader in terms of foreign investment and trade, the country still has to address the obstacles that prevent the full realization of this potential, mainly by improving infrastructure, enhancing trade facilitation and incentivizing foreign investment.

52 Executive Order (EO) No. 5, s. 2016.

53 SunStar (15/03/2017). PH seen to become 24th most powerful economy in 2030. Retrieved: 29/08/2017. http://www.sunstar.com.ph/network/news/2017/03/15/ph-seen-become-24th-most-powerful-economy-2030-531204.

54 PwC (02/2015). The World in 2050. Will the shift in global economic power continue?. Retrieved: 29/08/2017. https://www.pwc.com/gx/en/issues/the-economy/assets/world-in-2050-february-2015.pdf.

INFRASTRUCTURE

Infrastructure is the backbone of a strong economy and has a direct effect on the country's competitiveness and productivity. The Duterte Administration plans to increase infrastructure spending gradually to 7.4% of GDP by 2022 which is expected to improve the country's connectivity and have a spillover effect on the economy, generating employment, spurring private consumption and enhancing inclusive growth. The private sector looks forward to participating in the development of infrastructure in the Philippines, bringing in quality and advanced technology. However, a level playing field must be ensured.

TRADE FACILITATION

More efficient trade procedures are essential to boosting trade, thus contributing to economic growth and poverty reduction. The full implementation of the National Single Window (NSW) and TradeNet with the automation and streamlining of government procedures will be decisive in addressing many technical and administrative barriers, thus enhancing trade facilitation. Furthermore, the Philippines needs to pursue further free trade agreements in order to provide more competitive export goods and services. The current negotiations for an FTA between the Philippines and the EU provide an excellent opportunity to identify and minimize market access obstacles. The conclusion of the EU - Philippines FTA in the coming years will bring benefits to both sides, offering high quality products at lower price and consolidating the position of the EU as an important trade partner for the Philippines.

FOREIGN INVESTMENT

The Philippines, with a young English-speaking workforce and expanding domestic consumption, has the opportunity to attract foreign companies that are willing to invest in South East Asia. However, substantial reforms are needed in order to provide for the creation of a more competitive business environment that includes a level playing field and an appealing incentive scheme for foreign investors. Further reforms conducive to the ease of doing business in the country will contribute as well to create an attractive destination for foreign investment. With the right measures, the Philippines will improve the competitiveness of its industries and position itself in the global value chain. It if becomes a new regional manufacturing hub, employment generation and continued inclusive growth will be ensured.

Against this background, we present the third edition of the EPBN Advocacy Papers, laying out the concerns of the EU business community operating in the Philippines and their corresponding recommendations with the aim of strengthening the EU and the Philippines' economic ties and moving together towards progress and prosperity.

SUMMARY OF RECOMMENDATIONS

CROSS-SECTOR PAPERS

ECONOMIC LIBERALIZATION	
1987 Philippine Constitution Economic provision amendment	Ease restrictions on foreign ownership by amending economic provisions in the constitution.
Public Service Act of 1936 amendment	Amend the Public Service Act of 1936 by revising and limiting the scope of definition of public utilities.
Amendment of the Corporation Code, specifically the test of a corporation's nationality: Control test vs grandfather rule issue description	Establish the "control test" as the single test for determining the nationality of corporations. Amend the Corporation Code to allow the formation of one-person corporations and the extension of the life of corporations.
Government Procurement Reform Act amendment	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.
Integration into the global economy	Join WTO plurilateral initiatives and negotiations including the WTO Agreement on Government Procurement (GPA), the Environmental Goods Agreement (EGA) and the trade in services agreement (TiSA).
A 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 realign 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 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 the 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: Improving the legal protection system for whistleblowers and 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.
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 with local communities. Establish an enforcement mechanism that will ensure that national investment policies are not overstepped by LGU's.
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).

HIGH-PRIORITY SECTORS

AGRICULTURE	
Ensuring EU and Philippine agriculture interests in the EU-Philippines Free Trade Agreement (FTA)	Include provisions to facilitate market access for EU agriculture products in the EU-Philippines FTA.
Agricultural value chain development	Invest in infrastructure in order to tackle production/ operation concerns. Make the access to finance easier and facilitate long-gestation high value crops. Establish a constructive regular interchange between public and private sector stakeholders for the improvement of the agricultural value chain. Support the compliance of Filipino products with EU standards.
Improvements to the regulatory process	Ensure that the farmers may access high quality products to increase the productivity of their crops.
	Modernize and improve transparency in the regulatory processes and expand cooperation with other relevant government agencies through the establishment of a National Single Window.
AUTOMOTIVE	
Inclusion of an immediate tariff reduction schedule for vehicles under the EU - Philippines FTA	Raise the excise tax on automobiles at reasonable rates. Include the elimination of import tariff 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 vehicles development programs as provided for by Section 17 of EO No. 182 and institute incentives for companies intending to participate in the CARS program.
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, particularly UNECE regulations.
Implementation of the Motor Vehicle Inspection System (MVIS)	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.
ENERGY AND RENEWABLE ENERGY	
Implementation of a sustainable energy mix policy	Formulate a sustainable energy mix policy and review existing licenses for planned coal plant projects.
Implementation of measures in support of increased renewable energy capacity	Implement the renewable portfolio standards in the shortest possible timeframe. Approve additional installation targets which are high enough to mitigate the risk for developers created by the first come first served system.
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.
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	
Business facilitation	Promote the ease of doing business in the Philippines, particularly for the food and beverage industry.
Improvement of the registration and regulation process	Address inefficiencies in the Certificate of Product Registration (CPR) process to facilitate product registration. Enforce post-market surveillance. Revival of a regular dialogue between the FDA and the private sector.
Creation of a Philippine platform for consumer health, diet and physical exercise	Create a Philippine platform for consumer health, physical exercise and diet. Avoid additional taxes on sugar sweetened 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.
Enforcement of anti-smuggling measures and implementation of the National Single Window	Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies. Train FDA BOC staff so that they can identify counterfeit products. Strengthen enforcement mechanisms through an integrated PPP approach.
Protection of Geographical Indications (GIs)	Implement a GI protection framework.
HEALTHCARE	
Continuation of initiatives to achieve universal healthcare for all Filipinos	Expand Philhealth coverage for health screening and treatment for chronic diseases. Strengthen primary healthcare. Create a comprehensive disease and patient register. Improve distribution of health professionals across the country. Consolidate healthcare funding including funding from the Philippine Charity Sweepstakes Office (PCSO) and the Philippine Amusement and Gaming Corporation (PAGCOR).
Facilitation of patient access to medicines	Broaden medicine access for patients through a centralized pooled procurement of medicines and a price negotiation mechanism for innovative therapies. Strengthen market competition, support sustainable local manufacturing and use Maximum Drug Retail Prices (MDRP) only as last resort. Improve the application process and institutionalize interaction with the private sector in the determination of the medicines that are included in the Philippine National Drug Formulary (PNDF).

Strengthening the regulatory framework	Enforce biosimilars policies properly and improve transparency on biosimilar product labeling. Enhance anti-counterfeit surveillance and enforcement. Develop a legal framework for standards in the medical device sector. Maintain data confidentiality of the Electronic Essential Drug Price Monitoring System (EDPMS). Enforce the implementation of the Mexico City Principles by all industry players. Establish a hospital accreditation process that guarantees high safety standards in the delivery of healthcare services.
Institutionalize a public-private sector dialogue	Institutionalize regular dialogue between government and private sector.
ICT-BPM-KPM	
Maintaining competitive incentives for ICT-BPO investments	Keep the current business and legal framework governing the business process management (BPM) industry unchanged.
Continued improvement of broadband service	Improve infrastructure and address regulatory bottlenecks. Adopt the "Open Access" approach. Update laws and regulatory framework to promote and incentivize investment and innovations in communications and connectivity.
Continued skills development with amplified focus on stem capabilities	Implement a national skills development strategy and action plan for the ICT/BPM/KMP sector, with a focus on stem skills.
TRANSPORTATION INFRASTRUCTURE	
Removal of foreign ownership restrictions	Amend the Public Service Act of 1936 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 Public Private Partnerships (PPPs) program	Set a preference for a single contract to design, build, finance, operate and maintain an infrastructure project. Amend the legislative framework that governs private sector participation in infrastructure development to enhance competitiveness and transparency of the PPP process. Establish the use of the Swiss challenge for unsolicited proposals.
PCAB licensing for fully foreign owned contractors	Amend the Rule 3.1 to allow regular licenses to be issued to fully foreign owned contractors.
Development of the Philippines' blue economy	Ensure the safety of ships and shipping lanes to enhance the maritime sector's competitiveness.
Comprehensive, pro-growth infrastructure development	Develop adequate transportation infrastructure across the country that will enhance and sustain economic growth.

SECTOR PAPERS

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	Lift the suspension on the green lane and expand participation in the super green lane and super green lane plus to importers with a strong compliance record, irrelevant of their trade volume. Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies.
HUMAN CAPITAL	
Skills development	Establish a more pragmatic immersion program for K to 12 as a PPP with the Department of Education (DEPED) and support the enactment of the Apprenticeship Bill.
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, at the same time allow a more flexible work environment.
MANUFACTURING	
Development of Domestic/Export Economic Zones (D/EEZs)	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	
Enact a holistic legislation for Filipino seafarers to maintain, if not regain, their status as top choice by shipowners	Establish an objective and trustworthy claims system for the protection of all parties. Encourage and empower seafarers to advance in their careers to meet the demand for officers.
Implement international maritime conventions to demonstrate the Philippines' firm commitment to comply with international obligations and its capacity to become a leading maritime nation	Enforce international commitments.

Improvement of the port infrastructure	Develop port and ancillary infrastructure to meet current and future demand in Manila and the provinces. Implement a unified and automated administrative and customs process.
Development of the Philippines as an attractive ship registry	Create a modern, attractive Philippine ship registry.
TAX AND 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.
Senate concurrence of the Foreign Account Tax Compliance Act (FATCA)	Fast-track FATCA implementation.
Expediting Value Added Tax (VAT) refund	Ensure the efficiency and credibility of the new VAT refund procedure to further promote investment and foreign participation in the Philippines.
Improvements to the Electronic Documentary Stamp Tax (eDST) system	Improve the eDST technical system and put in place measures to support smooth operations in cases of system glitches.
Amendments to the Tax Reform for Acceleration and Inclusion (TRAIN) Bill	Avoid the Imposition of an excise tax on sugar sweetened beverages (SSB), continue tax incentives for Philippine Economic Zone Authority (PEZA) companies and raise the excise tax on automobiles at reasonable rates.
TOURISM	
Improvement of International and domestic connectivity	Implement measures to improve international air connectivity. Develop a two-airport system for Manila-bound flights, 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	Support the development of soft infrastructure through the implementation of targeted training programs in Tourism Enterprise Zones (TEZs). Improve security at 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.
WATER AND ENVIRONMENT	
Improvement of governance and formulation of a long term vision for the water sector	Creation of a Department of Water. Develop a long-term national development roadmap for a centralized approach to water resource management.
Establishment of water quality standards that are achievable and can be properly implemented by all concerned	Revision of the DENR Administrative Order (DAO) 2016-08 establishing a phased implementation of the new standards.

CROSS-SECTOR PAPERS

Cross-Sector Papers

THE EU - PHILIPPINES FREE TRADE AGREEMENT

EU-Philippines Business Network and the European Chamber of Commerce supports the trade negotiations for the EU-Philippines Free Trade Agreement

With a population of over 100 million, the Philippines is the second most densely populated country in ASEAN and 12th most populous country in the world. The population remains the second youngest in Asia, with a media age of 23 years, with a demographic dividend which has yet to peak. With a middle class that is growing rapidly, the Philippines constitutes a market of enormous potential for EU exporters. Yet, only 7% of EU exports to ASEAN go to the Philippines and the country is home to less than 4% of the total EU FDI stock in the region. These low trade and investment figures indicate that considerable potential exists for the FTA between the EU and the Philippines to help develop bilateral relations.

These challenges are the driving forces behind the launch of the EU-Philippines FTA negotiations in December 2015 and the first round of the negotiations in May 2016. The aim is to conclude an agreement that covers relevant trade issues such as tariffs, non-barriers to trade, trade in services and investment as well as trade aspects of public procurement, intellectual property, competition and sustainable development at the level of ambition similar to the EU-Singapore and EU-Vietnam FTAs. An integral part of a successful world economy, the proposed Free Trade Agreement is for the benefit of both European and Filipino producers, traders, employers, and consumers.

The negotiations aim to conclude a deal that covers a broad range of issues such as elimination of customs duties and other barriers to trade, services and investment, access to public procurement markets, and additional disciplines in the area of competition, sustainable development, and protection of intellectual property rights.

1. PUBLIC PROCUREMENT

The Philippines bases its government procurement policy on the Government Procurement Reform Act and its Implementing Rules and Regulations. Government procurement is defined by the OECD[55] as the purchase of goods and services by the government for consumption and investment, but not for resale. Government procurement covers both consumption and investment expenditure and will necessarily include transactions involving supplies and a wide variety of services to support government activities. These purchases include purchases by public utilities in sectors such as water, energy, transport and communications – whether publicly or privately owned. Investment expenditure entails capital formation through construction of public goods, such as roads, administrative buildings, hospitals and other physical infrastructure. Where previously, governments provided and acquired many of these services internally, there is an increasing trend towards outsourcing such activities from the private sector.

As government procurement worldwide accounts for a significant share of world merchandise and commercial services imports, efforts to liberalize purchasing by governments represents a major opportunity for international trade and investments, particularly between the member States of the European Union (EU) and the Philippines.

Government procurement in the Philippines, as elsewhere, tends to favor domestic operators. Import competition is restricted and creates market distortion, inefficiencies and artificial price increases. Such restrictions would have been precluded by the General Agreement on Tariffs and Trade (GATT), were it not for an exclusion from it for "procurement by Governments for their own use". This led to the creation and execution of the plurilateral Government Procurement Agreement (GPA) in 1979 under the Tokyo Round and later on, to WTO[56]'s GPA of 1996.

However, and despite its WTO membership, the Philippines has not yet acceded to the WTO GPA. On January 23, 2003, the Philippines created a new government procurement law in Republic Act (RA) No. 9184, otherwise known as the "Government Procurement Reform Act" or GPRA. The new law aims to create a more transparent tendering process to curb corruption and collusion in the conduct of public biddings through the adoption of a common set of principles and establishing a uniform standard in the selection process by procuring entities. While there is some progress in the reforming public procurement, the reforms made have been inadequate and have resulted into fragmented procurement procedures.

Philippine procurement laws limit or manipulate the course of trade through preferences for local purchases. By way of example, the preference for local construction and energy distribution companies removes the opportunity for foreign players to enter a potentially lucrative market. The unwarranted exclusion of foreign and experienced players eliminates options or sources that could have provided better quality services at less cost to the government and taxpayers.

Government procurement in the Philippines is highly decentralized since each government entity handles its own purchased in accordance to the rules and regulations that have been created and implemented by each agency. If an EU-PH FTA is to be realized, it would be prudent for the trade negotiators to ensure that government procurement provisions would bind the Philippines to a treaty commitment.

2. SERVICES AND PUBLIC UTILITIES

The Public Services Act of 1936 or Commonwealth Act 146 primarily served to define the industries which shall be covered by its provisions. The Act established a Public Service Commission to regulate public utilities until President Marcos issued Presidential Declaration No. 1 in 1972 dissolving the Commission, then re-delegating its functions to different departments per subsector. Through this devolution, de facto barriers were gradually instituted by putting up operational regulations applicable to capital-intensive industries handling national level interests.

In the case of Napocor v. Court of Appeals, a public utility is a business or a 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. The term puts emphasis on public use and service. Through such classification, any industry, which provides a service or a commodity which the public has the right to demand and to receive, and which can be characterized by its readiness to provide such good or service, is covered by the applicable regulations. Given the level of importance stamped on industries classified as public utility, a business entity once classified as such ceases to just bear private interests. The State shall now begin to be involved in the performance of its functions, from its creation, through the grant of a public franchise, to its operations and even to its going out of business.

Public utility industries are undeniably capital-intensive but ironically, are among the most heavily-

55 Organization for Economic Co-operation and Development.
56 World Trade Organization.

laden sector for foreign direct investments. Through the devolution of regulation on a per sector basis, restrictions to foreign investment are now governed by multi-level and antiquated barriers. First, in the 1987 Philippine Constitution, specifically Article 12, Section 11 limits through restrictions in granting of authorization for the operations of public utilities by limiting the grant of public franchises to Filipino citizens or to Philippine corporations or associations whose ownership is at least Sixty Percent (60%) Filipino. Further, in the same provision, participation of foreign investors is restricted to their proportionate share in the corporation or association's capital, and all the executive and managing officers of the entity must be Filipino citizens.

With the current Constitutional restrictions, the challenge of devolution poses the biggest threat to investment on Public Utilities. There is constant flip-flopping in the standards implemented in operating these industries. The inconsistencies thwart prospective investments which can improve standard of living for most of the Filipino people. Liberalization can be challenging given the necessity of amending the Constitution or writing an entirely new one, a task which has always been considered politically-sensitive.

3. SANITARY AND PHYTOSANITARY MEASURES

In the Philippines, the existing Sanitary and Phytosanitary initiatives and regulatory framework is devolved under the Bureau of Plant Industry (BPI) of the Department of Agriculture. According to BPI, export certification procedures and phytosanitary certification system are based on the International Plant Protection Convention (IPPC) standard for export certification system. However, exporters must comply with requirements imposed by trading partners to assure acceptability of their commodities. Under the BPI, there is a list of most important export products, including fresh bananas, coconut (desiccated), fresh pineapple, coconut copra, coconut copra meal/pellets, fresh mango, fresh onion (shallots), coconut copra solvent, and tobacco leaves (dried).

Further, both the BPI and National Food Authority require for export and import products the Phytosanitary Certification (PC). There is a step by step procedure provided by BPI in complying with the requirements to avail of a PC or plant health certificate in accordance with the International Plant Protection Convention/Food Authority Organization. Also, the BPI-PQS[57] is the only government agency in the Philippines authorized to issue the PC. While, only an authorized plant quarantine officer may validate a PC. Moreover, certification shall only be issued for commodities that completely meet the import requirements of the country of destination. Thus, PC shall be denied for exports to countries in which the commodity is prohibited by the plant quarantine regulations.

For purposes of Re-export PC, it shall be issued for in-transit shipments if the country of destination requires such certification. Any treatment and/or quarantine actions instituted on the in-transit cargo during its stay in the Philippines shall be stated in the re-export PC. According to BPI, there is a prohibited product, which is Saba banana (*Musa paradisiaca*) planting materials.[58] Meanwhile the regulated products include all plants, planting materials and plant products; pest specimen; including wood packaging materials capable of harboring plant pests.[59]

Furthermore, the plant quarantine service regulatory fees for the applying and other matters regarding PC under the BPI is provided under Administrative Order No. (AO) No. 9, s. 2015, as amended by AO No. 8, s. 2016.

With respect to the EU, food products, labelling requirements, and sanitary standards imposed by the EU are among the most substantial difficulties for Philippine exporters. In addition, one of the priority export sectors, tuna, is affected by EU regulations on residual lead and other sanitary standard qualifications.

Difficulties encountered by Filipino exporters with their government, on the other hand, are fluid customs procedures, slow issuance of PNP[60]'s regulations on controlled chemicals, FDA[61] license to operate and Certificates of Product Registration, BIR[62] Import Clearance Certificates, and lack of coordination in transmittal of Certificates of Origin from the Bureau of Customs (BOC) to the Department of Trade and Industry (DTI). Many small scale producers are unable to benefit as well from the Mindanao Collective Trademark project under the Trade Related Technical Assistance (TRTA), which is currently composed of members who are all of medium scale or larger. The target for inclusive growth would be better facilitation by supporting initiatives aimed at gathering more micro and small scale producers of priority or high growth exports to the EU into collectives or other business mediums which can be more readily certified with respect to origin, intellectual property, organic, and health and safety tested.

57 Plant Quarantine Service.

58 Legal basis as provided by BPI Quarantine Administrative Order No. 4, Series of 2005 "Amendment to BPI Quarantine Administrative Order No. 2, Series of 2005, Entitled Prohibition of Exports of Saba Banana (Musa paradisiaca) planting materials from the Philippines".

59 Legal basis as provided by International Standards for Phytosanitary Measures (ISPM) No. 15. "Guidelines for Regulating Wood Packaging Material in International Trade" (2002) with modifications to Annex I (2006); P.D. No. 1433 "Promulgating the Plant Quarantine Law of 1978, thereby revising and consolidating existing Plant Quarantine Laws to further improve and strengthen the Plant Quarantine Service of the Bureau of Plant Industry" Section 17 (June 10, 1978); BPI Quarantine Administrative Order No. 1 series of 1981.

60 Philippine National Police.

61 Food and Drug Administration.

62 Bureau of Internal Revenue.

Processed food products is a sector which is difficult to break into in the Philippines, largely compounded by the difficulty in securing Certificates of Product Registration with the FDA, and additional sanitary measures which have been imposed by the Department of Agriculture (DA). Imported meat, for example, is subjected to a refrigeration requirement not present for locally slaughtered meat.[63] Furthermore, stringent licensing requirements are also present. Construction contractors are compelled to secure special licenses to operate which cost nearly twelve times as much as local contractor licenses, as identified by the Philippine Competition Commission (PCC) itself.[64]

4. COMPETITION

The Philippine Competition legal framework is composed primarily of a constitutional directive to promote a competitive economy and restricting the creation of combinations in restraint of trade. This provision, in turn, is primarily based on American statutory antitrust laws. Subsequent legislation ended up producing a patchwork of legislation which achieved only a poor degree of enforcement. Among the sectors which had piecemeal competition legislation in the absence of a comprehensive competition law are the following:

Law	Statute Number	Year
An Act to Prohibit Monopolies and Combinations in Restraint of Trade[65]	RA No. 3247	1925
The Revised Penal Code[66]	RA No. 3815	1932
The Public Service Act[67]	CA No. 146	1936
The New Civil Code[68]	Republic Act No. 386	1949
Electric Power Industry Reform Act[69]	Republic Act No. 9136	2001

The Philippine Competition Law took effect on July 15, 2015, and replaces the patchwork of laws which formerly governed competition in the country. Competition occupies a unique perspective in the Philippines since it has a constitutional, and not merely statutory mandate, as the Philippine Constitution has adopted the wordings of the US Sherman Act into its very body.

While the Philippine Constitution requires the State to regulate or prohibit, for the sake of public interest, monopolies, combinations in restraint of trade, and other unfair competition practices,[70] under the spirit of the Sherman Antitrust Act,[71] the manner in which the mandate was expressed required the passage of an enabling law.

The Philippine Competition Act proves to be a game changer in terms of antitrust policy. In addition to repealing the antitrust provisions of many of the previously mentioned laws,[72] the law completely overhauled both the punishable offenses, the standards for determining anticompetitive conduct, exceptions to prohibited act, as well as provided for the creation of the first comprehensive antitrust regulatory body in the Philippines.[73] The law obligates the government to: (a) enhance economic efficiency and promote free and fair competition in trade, industry and all commercial economic activities, as well as establish a National Competition Policy to be implemented by the Government of the Republic of the Philippines and all of its political agencies as a whole; (b) prevent economic concentration which will control the production, distribution, trade, or industry that will unduly stifle competition, lessen, manipulate or constrict the discipline of free markets; and (c) 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.[74]

Owing to the fact that the transition period ends on August 9, most of these provisions have not yet been enforced. Merger notification, however, is presently in full effect. Nevertheless, the current "deemed-approved" rule and short time span for investigations mean that at present, anti-competitive effect is not being fully assessed. Merger review capacity and methodology, therefore, should be identified as a key intervention target for capacity building. The PCC has already begun investigating larger entities which are very clear targets for abuse of dominant position, such as the Cement Industry and Contractors and Construction Industry, both of which have become the focus of PCC investigation due to increased pressure from the European Commission and the European Chamber of Commerce of the Philippines (ECCP).

5. NON-TARIFF BARRIERS

The Philippines is currently in the process of going over the various laws in place that affect trade matters, which include the 1987 Constitution of the Philippines to various laws affecting different industry sectors. A rundown of these laws are stated here to reflect the non-tariff barriers that provide restrictions to trade at present.

63 DA Administrative Order No. 22.

64 PCAB issues licenses to contractors.

65 RA No 3247.

66 Revised Penal Code, art. 186.

67 The Public Service Law As amended, and as modified particularly by PD No. 1, Integrated Reorganization Plan and EO 546, Commonwealth Act No. 146, (1936).

68 Civil Code, art.28.

69 Electric Power Industry Reform Act of 2001.

70 Constitution, art. XII, Section 19.

71 26 Stat. 209, 15 U.S.C. Sections 1–7.

72 Philippine Competition Act, Section 55.

The Philippine Constitution provides various restrictions covering the sector of natural resources, its exploitation, development and utilization, public utility operation, practice of a profession, exploitation of marine life, ownership and management of mass media, ownership, control and administration of educational institutions, operation of an advertising company, biological, chemical, radiological and nuclear weapons, ownership of private lands, and operation of public utility franchises involving the infrastructure sector. While, other sectors involve specific laws that would restrict in said cases foreign direct investors to a certain extent.

6. INTELLECTUAL PROPERTY RIGHTS

At the onset of expansion of international trade and the global economy through lightning speed innovation offered by technology, intellectual property rights – copyrights, trademarks, patents, trade secrets, and related rights have become significant assets with undeniable value. A State, to effectively participate in the global economy, has to have an intellectual property regime which can offer adequate protection for the rightful owners and effective penalties for usurpers. True enough, intellectual property has become a constant negotiating point in trade relation tables throughout the years. Intellectual property protection has evolved from being geographically limited to protection being offered in a cross-country basis.

The 1987 Philippine Constitution embodies the concept of intellectual property protection in Article 14, Section 13, the State vowed "to protect the exclusive right of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people for such period as may be provided by the law". Through the Constitution, the protection for intellectual property creation has been considered a fundamental right. The Civil Code provides, through Title II Article 721 that "intellectual creation" can be a mode of acquiring ownership. The operational law governing intellectual property protection in the Philippines is the RA No. 8293 or the Intellectual Property Code (IPC).

The IPC can be considered a fruition of the Philippines' commitment as a signatory to the World Trade Organization Agreement on Trade Related Aspects of Intellectual Property Rights (WTO-TRIPS). WTO-TRIPS sets out the minimum level of protection to be provided by each Member by defining the subject matter to be protected, the rights to be conferred, the duration of the protection and permissible exceptions; the domestic procedures and remedies against violators of the relevant rights; and the dispute settlement mechanism available to WTO members.[75] Aside from the WTO-TRIPS which was ratified by the Philippine Senate in December 14, 1994, the Philippines also acceded to the following:

- World Intellectual Property Organization Convention (WIPO) in 1980;
- Berne Convention for the Protection of Literary and Artistic Works in 1951 for administrative provisions, and 1997 for substantive provisions;
- Rome Convention for the Protection of Performers, Producers of Phonograms (1984);
- Paris Convention for the Protection of Industrial Property as revised at Lisbon on September 27, 1965 and to the revision done at Stockholm on administrative matters on July 16, 1980;
- WIPO Copyright Treaty (WCT) ratified by the Philippine Senate, which took effect of October 2, 2002; and
- WIPO Performance and Phonograms Treaty (WPPT) ratified by the Philippine Senate and which took effect on October 2, 2002.[76]

The declaration of policy of the IPC puts emphasis on the results of an effective intellectual property regime: "development of domestic creative facility, facilitates transfer of technology, attracts foreign investments and ensures market access for our products." The IPC also places importance on the streamlining of administrative procedures of registration and the bolstering the enforcement of remedies and penalties. The law also removed the reciprocity requirement before a foreign patent or trademark holder may bring an action in the Philippines for protection and also went on to increase the duration of the protection from seventeen (17) to twenty (20) years. The law also bestowed upon the special commercial courts the power to direct violators to cease and desist from their conduct of trade if such results to the violation of the rights of another and if such conduct of trade has been made to produce goods, such can also be seized and even destroyed, preventing it from entering the market route.

The Philippine Intellectual Property Code is a testament to the State's direction towards trade expansion by offering protection against violators whose actuations can hinder the economic benefits of technology transfer and productivity gains.

73 Ibid. Section 5.
74 Philippine Competition Act, section 2.
75 WTO (n.d.) Overview: The TRIPS Agreement. Retrieved: 20/07/2017. https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm.
76 Intellectual Property Rights: Talking Points for RP-US FTA Negotiations.

7. CUSTOMS AND TRADE FACILITATION

In order to build upon the success of the Customs Modernization and Tariff Act (CMTA), the drafting of relevant rules and regulations in order to implement its provisions is a logical next step. Notably, the preparedness of the Philippines for inclusion in the ASEAN Single Window would also require improvements in the control systems of government in order to align it with risk management best practices. To this end, programs and related software that would streamline and secure government databases would be highly critical to ensuring the preparedness of government agencies in this regard. Furthermore, with the passing of new laws and amended versions of old laws such as the CMTA, the restructuring of organizations and practices to conform with the latest laws is also important in achieving the goals of the Program.

Furthermore, the strengthening of the Philippines itself as a trading nation will pave the way for lower priced goods of a better quality. This is because a competitive marketplace fosters an environment where only quality goods at reasonable prices are sought and offered. Although the emergence of such a desirable marketplace, such as the ASEAN Single Window, will not occur overnight, it is highly reasonable to foresee that the steps taken by this project in strengthening both the traders and their trading environment will lead to the emergence of a more desirable marketplace that all parties involved can benefit from. The recent products of the Philippines have seen notable improvements in quality, particularly in niche goods.

However, it has a low volume of exports presently to the EU. The trade output of the Philippines however is poised to have great potential if the structural impediments placed by the regulatory framework and ease of doing business indices can be improved.

Progress has been made from previous interventions, particularly in light of previous interventions resulting in the Customs Modernization and Tariffs Act, the Philippines remains to be remote from current global best practices. Philippine trade output performance as to its volume of exports to the EU can be improved by focusing on the ease of doing business indices and distribution channels. An overhaul of the government agencies in charge of handling regulatory processes can help attract foreign direct investments, offering time and cost savings spent on these processes. Foreign direct investments can now be funneled to product technology research, leading to overall quality improvement and becoming at par with global export standards. Overcoming challenges as to distribution can span from customs regulations to diversifying the logistical services market to increase the availability of cost and time efficient logistical services. Ultimately, preparation is key. Where a wider base of Filipino traders is capacitated to trade and placed in an environment that is favorable to trade, a meaningful and fruitful interaction in the marketplace is almost certain to occur. The synergies between the result targets will be instrumental in this regard for eliminating barriers to entry from both side of the trade relationship.

8. TAXATION AND TRADE RELATED ASSISTANCE

A main issue concerning this sector is taxation in relation to imports and exports. Better referred to as customs duties, these taxes may pose a hindrance to the flow of goods from one jurisdiction to another.

Given the potential of such taxes to slow down trade, efforts such as the Customs Modernization and Tariffs Act (CMTA) which seeks to both simplify and ease the payment of customs duties and tariffs, while aligning Philippine law with existing international best practices, is a step in the right direction. Similarly, innovative projects by government agencies such as the Bureau of Internal Revenue could help smoothen taxation related hindrances to trade. One concrete example of this is the Bureau of Internal Revenue's Super Green Lane. Formally enacted through Customs Memorandum Order No. 17-2015, the Bureau of Internal Revenue now mandates the implementation of a Super Green Lane Import Processing Facility in all Ports and Subports. In this same Customs Memorandum Order, reference was likewise made to the electronic lodging of files which shows a clear intent to modernize on the part of the Bureau of Internal Revenue.

Furthermore, it has been widely reported that Congress, with the mandate of the President, is planning on changing the income tax brackets currently existing. This change, if it pushes through, seeks to lower taxes in order to give more individuals and corporate entities a bigger slice of their profits. This change in the tax system is primarily intended to help lessen incidences of poverty in the Philippines but it may also be beneficial for trade because it enables persons both natural and juridical to have more resources which could be used to either import goods or export goods.

Likewise, an interesting development to watch out for with regard to taxation and trade are the new proposed economic zones to be established by the Philippine Economic Zone Authority (PEZA). According to Director General Plaza, PEZA seeks to establish special local zones wherein products and services of the same class can be grouped together. One example of this would be a special zone specifically for the manufacture of military and defense products such as aircraft, ships, and ammunition. As provided for in their presentation during the 2017 Infrastructure Summit, the advantage of doing business in these zones include income tax holidays, tax and duty free importation of capital equipment, spare parts, supplies, and raw materials, and zero percent (0%) value added tax on all local purchases which is to include telecommunications, power, and water bills. These endeavors by PEZA would certainly go a long way in easing the flow of trade goods entering and leaving the Philippines.

Given these improvements to the Philippine setup, there is clearly a push towards an easier and simpler way to conduct business in the Philippines. While it must likewise be said that corruption may play a role in eroding the gains that the different government agencies and projects have tried hard to create – an example of which being the latest scandal involving the entry through customs of dangerous and prohibited drugs – the infrastructure is undoubtedly in place to enable the Philippines to engage with other nations in stronger and more worthwhile trade relations. Likewise, the continuing commitment of the current regime to simplifying business transactions – as can be seen in several pending bills in Congress including the Personal Property Security Act of 2018 which seeks to enable small and medium scale enterprises to utilize their properties in a manner that is secure enough to entice financial companies – should be seen as a sign that the Philippines is committed to easing the seemingly convoluted system of doing business in the Philippines.

9. DISPUTE RESOLUTION AND TRADE REMEDIES

A mechanism conducive to speedy and just dispute resolution is a necessary facet of any economy seeking to attract more trade and investments. In line with this, the Philippines has taken stronger steps towards easing the ways disputes are resolved. While it must be stressed that the criminal aspect of a criminal act performed within the jurisdiction of the Philippines cannot be resolved through arbitration, the civil aspect – which is much more common in disputes regarding business dealings – can. To this end, institutions such as the Philippine Dispute Resolution Center, which is a non-stock, non-profit organization which has existing cooperation agreements with other Arbitration Centers around the world, such as the Hong Kong International Arbitration Centre and the Singapore International Arbitration Centre, is a clear positive step towards shifting the existing Philippine system based solely on Court-based dispute resolution to a system where the use of Arbitral Proceedings becomes widespread.[77]

Furthermore, even for the criminal aspect of disputes arising from trade, these have received a positive boost from approval of the Revised Guidelines for Continuous Trial of Criminal Cases.[78] Under the Revised Guidelines, which was enacted under A.M. No. 15-06-10-SC, the trial of Criminal Cases would be on a more continuous basis in the sense that the space between hearing dates would no longer be as liberal as in the current setup wherein trial dates could possibly be months apart depending on the schedule of the Court. This is a positive development because foreign parties who may have been the victim of criminal acts such as fraud during their business dealings in the Philippines would be able to obtain justice in a speedier, less costly manner.

Also, the enactment of the Philippine Competition Act which created the PCC is another noteworthy development with regard to the resolution of trade related disputes.[79] This is because parties who wish to enter into an industry now have a strong forum in which they can lodge complaints based on economic offenses such as abuse of dominant position, anti-competitive agreements, and even predatory pricing.[80] While it may be said that some of these offenses were already prohibited by prior existing laws such as the Revised Penal Code which penalized under Article 186 the use of monopolies and combinations in restraint of trade, the creation of a specialized body geared towards ensuring that such economic offenses are immediately and severely dealt with acts not only as a deterrent to would be offenders, but also as a clear message from government that unlawful competition shall not be tolerated within the jurisdiction of the Philippines.

Likewise, on an international level, the Philippines remains to be a party to the World Trade Organization (WTO). This is important because trade disputes involving the Philippines could be resolved under the Dispute Settlement Mechanism of the WTO. An example of this can be seen in cases involving the Philippines wherein disputes covering products such as Distilled Spirits[81], Cigarettes[82], and even Desiccated Coconut[83] were all subject to a decision from the Dispute Settlement Body of the WTO. While it must be stated that these disputes are generally on a State-State basis, they nevertheless provide a clear and neutral avenue wherein rights can be litigated upon by a credible dispute settlement authority.

77 PDRC (n.d.) About us. Retrieved: 20/07/2017. http://www.pdrci.org/about-us/.
78 OCA Circular No. 101-2017.
79 Philippine Competition Act R.A. 10667.
80 Ibid.
81 Dispute Settlement (DS) 396, 403.
82 DS371.
83 DS22.

Cross-Sector Papers

ECONOMIC LIBERALIZATION

INTRODUCTION

In a report entitled "Amending the economic provisions of the 1987 Constitution" published in 2014, state think tank Philippine Institute for Development Studies said that experience of East Asian nations in attracting foreign capital to achieve rapid growth shows that they enacted laws needed to enable their countries to attract foreign direct investments (FDI). While the Philippines has become one of the fastest-growing economies in the region, the country is also characterized by constitutional restrictions such as limits to foreign equity in the exploration, development, and utilization of natural resources, public utilities, build-operate-transfer (BOT) projects, operation of deep-sea commercial vessels, and others. The 1987 Constitution also bars foreigners from owning land and equity in mass media and the practice of professions. To sustain the growth of the Philippine economy, the report said these restrictions need to be examined and amended.

According to the United Nations Conference on Trade and Development's "World Investment Report 2017", the Philippines remains a promising host country for multinational enterprises (MNEs) for 2017 to 2019 but dropped to 10th place from 9th place. This calls for further amendment of the Retail Trade Liberalization Act to increase investments by foreign entities in the Philippines. Another measure that can be taken is the removal of restrictions on foreign ownership of solar and wind power from the rules and regulations of the Renewable Energy Act of 2008.

The European Union (EU) launched its negotiation for a free trade agreement (FTA) with the Philippines in 2015. Its aim is to conclude an agreement that covers a broad range of issues, including tariffs, non-tariff barriers to trade, trade in services and investment, as well as trade aspects of public procurement, intellectual property, competition, and sustainable development.

1. 1987 PHILIPPINE CONSTITUTION ECONOMIC PROVISION AMENDMENT

ISSUE DESCRIPTION

Foreign equity restriction is one of the products of the spirit of nationalism which gripped the Constitutional Convention of 1935 and was carried over to the 1987 Constitution. It provides for the Filipinization of the public utilities such that only "citizens of the Philippines at least sixty per centum of the capital of which is owned by such citizens" are authorized to operate them. The provision is recognition of the sensitive and vital position of public utilities both in the national economy and for national security.[84]

However, enough time has elapsed, showing that over the last four decades or so, the Philippines has been left behind by its peers like Vietnam and Indonesia in the amounts of FDIs it has received. This is a result of the very restrictive provisions in the Philippine Constitution that have discouraged foreign direct investors. The Philippines is hampered by many economic policies enshrined in the Constitution. These provisions are restrictive, protectionist, and anti-competitive, thereby hampering inclusive growth and economic development. The economic provisions need to be amended to provide the needed flexibility that will enable the Philippines to properly compete, adapt and prosper in a changing and dynamic global economy.

The Philippine Constitution of 1987 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. These restrictions act as a major barrier to the more liberalized Philippine economy amid a fast integrating global value chain. Notably, the Philippines is one of the few countries worldwide to maintain restrictions to foreign ownership in its Constitution, rather than in the national legislative framework.

Constitutional restrictions act as barrier to foreign investments would potentially increase growth and create a competitive business environment. This creates a need for legislative measure that will allow the economy to respond to the changing global economic and investment environment, while still safeguarding the national economy and patrimony.

By being a member of ASEAN Economic Community, the Philippines proves that it is pursuing further regional and international integration into the global market. Removing restrictions to foreign ownership of key sectors from the Constitution, subject to legislation, will signal the economy's commitment to the international community.

RECOMMENDATIONS

EASE RESTRICTIONS ON FOREIGN OWNERSHIP BY AMENDING ECONOMIC PROVISIONS IN THE CONSTITUTION.

We continue to seek amendments to the Constitution that would totally remove the restrictions to foreign ownership. The Duterte administration has remained firm in its openness to amend the Constitution, which we hope to be carried out.

There is a pending Senate Joint Resolution embodying the proposed changes in the provisions of the 1987 Constitution. In the said joint resolution, the foreign restriction on ownership was struck out, thereby, eliminating the same completely and the phrase "unless otherwise provided by law", was inserted in clauses pertaining to foreign ownership restriction.

The Resolution of Both Houses of Congress to amend the 1987 Constitution was filed on August 11, 2016. The passing into law of the removal of the foreign ownership restriction is likewise expected to be supported by the Executive Department. In the Philippine Development Plan (PDP) 2017-2022, the amendment of restrictive economic provisions in the Constitution is included as one of its main agenda for reform; repeal or amend as appropriate relevant laws, rules, and regulations that impose restrictions on foreign participation in certain economic activities; and enhance the competitiveness of the industry and services sector by ensuring that regulations promote fair competition. One of the legislative agenda under the PDP is to amend certain economic provisions of the Constitution by relaxing restrictive foreign ownership provisions of the Constitution to attract more FDI. Which, all the more, bolsters the support of the passage of bill from the Executive Branch.

RA No. 8179 also known as Foreign Investments Act of 1991 includes the Foreign Investment Negative List (FINL), which contains a list of areas of economic activity whose foreign ownership is limited to a maximum of 40% of the equity capital of the enterprise engaged therein. Through Executive Order (EO) No. 18, the 10th regular FINL released on May 29, 2015 with main changes, including the removal of all professions from the list with the exception of pharmacy, radiologic and x-ray technology, criminology, forestry, law and removal of lending companies, financing companies,

84 1897 Constitution of the Philippines Annotated by Joaquin Bernas.

and investment houses in the restriction. As of this writing, the Department of Finance said economic managers should come up with a consensus on the negative list by August 2017.

Initiatives toward these ends will send a positive message to international investors and trade and investment partners, that the Philippines is open for business.

2. PUBLIC SERVICE ACT OF 1936 AMENDMENT

ISSUE DESCRIPTION

According to Article XII, Section 11 of the Philippine Constitution: *"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".

According to the law, public utilities are partly nationalized, reserving it for 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 enactment, 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.[85]

"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 courier 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.[86]

While all other industries continue to be covered and subject to 40% foreign ownership limitation, some activities have been exempted from the coverage of the law such as steamboats, motorships and steamship lines,[87] motor vehicles used in special contracts for a limited time and for a specific purpose directly connected with agriculture,[88] tugboats and lighters,[89] ice and refrigeration plants, municipal warehouses, vehicles drawn by animals and bancas moved by oar or sail, airship, radio companies, and public services owned or operated by any instrumentality of the National Government.[90] This creates a major bottleneck towards a sound and competitive market that will widely benefit the public. The telecommunications sector is a remarkable example as the definition of wire or wireless telecommunication systems as a public utility created a saturated market were only two major players profit from lack of competition. Thus, amid strict regulations, the cost and quality of services of the sector remains the least competitive in Association of Southeast Asian Nations (ASEAN).

Also, much needed foreign investments in infrastructure were hampered by the concept of public utilities

85 National Power Corporation v CA, G.R. No. 112702 (26/09/1997). JG Summit Holdings, Inc. v Court of Appeals, G.R. No. 124293, September 24, 2003.
86 RA No. 2677, Sec. 1, amending Sec. 13 (b), COMM. ACT. No. 146, as amended.
87 CA No. 454 (1939).
88 RA No. 1270 (1955).
89 RA No. 2013 (1957).
90 R.A. No. 2677 (1960).

as including both the services and the physical infrastructure. This creates the 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 fulfil the definitions of "regularly supplying the public with some commodity or service of public consequence"[91] are included.

RECOMMENDATIONS

AMEND THE PUBLIC SERVICE ACT OF 1936 BY REVISING AND LIMITING THE SCOPE OF DEFINITION OF PUBLIC UTILITIES.

We are calling for the revisiting of Section 13(b) of the Public Service Act (PSA) of 1936 wherein the definition of "public utility" should be updated in two ways. It should only include services that are really serving the public in the present context such as water and electricity; and 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.

Various bills were filed before both Houses of the Congress. Bills introduced in the 17th Congress to amend the Public Services Act are Senate Bill (SB) No. 695, SB No. 1261, House Bill (HB) No. 4389, HB No. 4468, HB No. 4501, and HB No. 4787. As of September 2017, the Public Service Act bill has been approved on third reading by the House of Representatives.

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

ISSUE DESCRIPTION

There are two accepted tests to decide whether a corporation is foreign-owned or not, which will enable them to participate in economic activities with limitations on foreign ownership. 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. Meanwhile, the grandfather rule determines the nationality of the corporation based on the nationality of its stockholders and looks at the cascade of companies and their ultimate parent company. Usually, it is the control test that is applied first and only when there is doubt is the grandfather rule resorted to. If the local ownership in the corporation or partnership is less than 60%, only the number of shares corresponding to such percentage shall be counted as Philippine nationality. The combined totals in the investing corporation and the investee corporation are traced to find out the total percentage of Filipino ownership. However, the application of this test has been rather inconsistent and unpredictable.

Resorting to grandfather rule increases the barriers for foreign firms' entry to the market. This rule coupled with the FINL makes the Philippines uncompetitive in attracting FDI. There should be clearer policy on the use of control test against the grandfather rule. The exclusive use of the control test 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.

RECOMMENDATIONS

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

We strongly recommend that the Corporation Code should be amended in a way that the "control test" would be established as the single rule of determining a corporation's nationality. The use of a single rule will clarify the rules of participation in partnerships with local corporations for foreign investors, thus, opening the way for an inflow of capital, technology, and skills.

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

We also support the amendments to the Corporation Code allowing one-person corporations and juridical persons to become incorporators aimed to facilitate investment and legal contribution to the Philippine economic environment by foreigners. This will align the Philippines to other international practices.

Bills were filed before the House of Representatives and the Senate covering the perpetual existence of corporations and the formation of one-person corporations. Under the House of Representatives, all bills are deemed priority bills. Among the proposed were: 1) to allow and recognize a single person corporation as a juridical entity vested with the same powers, purposes and prerogatives of the current legal fiction;[92] 2) a perpetual term for corporations unless, otherwise, stated in the Articles of Incorporation;[93] proposing to set the minimum capital requirement

91 JG Summit Holdings, Inc. v Court of Appeals, G.R. No. 124293, September 24, 2003.
92 HB No. 2917, 17th Congress of the Philippines.
93 HB No. 877, 17th Congress of the Philippines.

to at least PhP1 million - however, for corporations issuing no par value, the minimum capital requirement is only PhP200,000; 3) that attendance in meeting be done not only in person or by proxy, but also by remote communication, such as videoconferencing or teleconferencing and to recognize that voting may be done in absentia, aside from doing it in person or by proxy; 4) more comprehensive methods of dissolution; 5) lengthier list of offenses and stiffer penalties; 6) wider jurisdiction and powers of the SEC and voluminous new reportorial requirements to be complied with.

4. GOVERNMENT PROCUREMENT REFORM ACT AMENDMENT

ISSUE DESCRIPTION

The Government Procurement Reform Act (RA No. 9184) was considered a piece of world class legislation by the World Bank and other international institutions when it was first introduced in 2003. It was widely hoped and expected the new law would substantially increase the level of transparency and accountability in public procurement given its standardized processes and forms and an electronic system and website for bidding. It also set strict ceilings on bid prices and ended deeply ingrained abuses of the system. 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.

The PhilGEPS is the single, centralized electronic portal that serves as the primary and definitive source of information on government procurement.

Government agencies, as well as suppliers, contractors, manufacturers, distributors and consultants, are mandated to register and use the system in the conduct of procurement of goods, civil works and consulting services. Through the use of the PhilGEPS, transparency in government procurement is enhanced since opportunities to trade with government and the ensuing transactions are provided online.

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.

Thus, stronger policy framework governing transparency, efficiency and the determination of technical requirements throughout the procurement process could further strengthen the law's implementation.

Soft and hard infrastructure in the country will continue to lag behind amid a not fully competitive and restrictive procurement process which impedes fair access to foreign investors who are prepared to introduce long term employment generation. The delivery of vital goods and services at affordable prices to the Filipino consumer, be it roads, medicines or schools will also be hampered because if the lack of transparency and efficiency in the process. It may also act as an obstacle to the Philippines' integration to international market.

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.

For the government procurement process to be fully competitive, it is imperative to amend the Government Procurement Reform Act to remove the 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. Also, we highlight the need for transparency and efficiency of the procurement process to be at par with international best practices. To ensure this, we recommend the amendment and inclusion of reforms to provide clear guidelines and mechanisms. This would develop an internationally reputable, transparent and fair procurement process that will attract more international capital and investment. Moreover, opening up to increased competition in the procurement process will possibly improve the standards and cost of projects and ultimately contribute greatly to national welfare.

Pending bills before both Houses seeking to increase the transparency and efficiency the Government Procurement Reform Act or RA No. 9184 were filed. The measures included, are as follows:

On Transparency: Limiting the invitation of the same observer to not more than three times per year and by limiting the discretion of the concerned government agency by requiring approval from Government Procurement Policy Board (GPPB) for single calculated/lowest responsive bid prior to award; additionally, video recording of all procurement-related conferences was also proposed.

On Efficiency: Shortening the procurement process including the number of days for pre-bid conferences and submission and opening of bids.

Meanwhile, the PDP 2017-2022 support the Repeal or amend the Flag Law (CA No. 138) which would create a level playing field for foreign firms when bidding in government procurement. The Flag Law covers domestically produced goods and to domestic entities; and mandates 40% limit on foreign ownership of bidders, except in case of reciprocity, goods not available locally, under a treaty, or to prevent unfair competition.

JOIN THE WTO AGREEMENT ON GOVERNMENT PROCUREMENT.

We believe that the Philippine' procurement process will benefit by remaining informed and adapting international best practices, if it initially join as an observer in the World Trade Organization (WTO) Agreement on Government Procurement (GPA). It will also improve 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. The country is a member of the WTO since January 1, 1995, and of the General Agreement on Tariffs and Trade (GATT) since December 27, 1979. With this, 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.

The WTO Trade Facilitation Agreement (TFA), which was concluded at the WTO's 2013 Bali Ministerial Conference entered into force in February 2017 following the ratification by more than two-thirds of the WTO membership. It contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area. The Philippines has ratified the TFA, becoming the 95th member of the WTO to do so. The Philippines' instrument of acceptance was submitted to the WTO on October 27, 2016.

Moreover, 18 participants representing 46 WTO members[94] are engaged in negotiations for the Environmental Goods Agreement (EGA), seeking to eliminate tariffs on a number of important environment-related products. These include products that can help achieve environmental and climate protection goals, such as generating clean and renewable energy, improving energy and resource efficiency, controlling air pollution, managing waste, treating wastewater, monitoring the quality of the environment, and combating noise pollution. The participants to these negotiations account for the majority of global trade in environmental goods. The benefits of this new agreement will be extended to the entire WTO membership, meaning all WTO members will enjoy improved conditions in the markets of the participants to the EGA. The Philippines has not yet indicated if it plans to join negotiations. The Trade in Services Agreement (TiSA) is currently being negotiated by 50 WTO members,[95] 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

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

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

95 Australia, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, the European Union*, Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Republic of Korea, Switzerland, Turkey, and the United States.

Cross-Sector Papers

A COMPETITIVE BUSINESS ENVIRONMENT

INTRODUCTION

Ease of doing business in an economy is one key consideration for investors when entering a new market. According to the Global Competitiveness Index 2016-2017, the Philippines ranked 47 out of 138[96] countries, 10 notches higher from the previous ranking of 57, while in the World Bank Doing Business Report 2017, it ranked 99 out of 190[97] from the 103rd spot the previous year.

Even with these improved rankings, the Philippine business environment remains challenging and can be further improved. This kind of business environment not only acts as a bottleneck to potential investors but also encourages firms to operate without prior regulatory permits. Thus, keeping a competitive business environment will ensure entry of foreign investors and would promote efficiency and productivity for all sectors involved.

Photo by Carina Legaspi

1. FULL IMPLEMENTATION AND ENFORCEMENT OF THE PHILIPPINE COMPETITION LAW

ISSUE DESCRIPTION

On July 21, 2015, the Philippines enacted the much-needed piece of legislation in the area of fair trade which is the Competition Law. It serves as a legislative framework to ensure fair market competition, in line with international standards and best practices. The law 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.

One of the important mandates of the law is the establishment of the Philippine Competition Commission (PCC) which is composed of a chairperson and four commissioners. A few months after its creation, the Commission released its implementing rules and regulations which are patterned after the more developed European Union (EU) Competition Law. As of this writing, the commission said it will impose penalties on entities found violating the Philippine Competition Act starting August 2017, after the two-year transitory period.

The Competition Law covers state-owned and controlled corporations (GOCCs), which is important in keeping a level playing field between these companies owned by the state and their competitors. This inclusion is an initial step in removing anomalous situation such as GOCCs performing dual functions of being operators and regulators of their own competitors.

The Competition Law also contains a provision on the Commission's relationship with sector regulators, it directly tackles the jurisdiction of the Commission vis-a-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. It, thus, means 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 law governing the Commission is a milestone as it establishes a level playing field and address anti-competitive practices that have affected Filipino consumers especially retail, infrastructure and telecommunications sectors. If implemented successfully, the law's provision that the anti-trust regulator should be notified for merger and acquisition deals whose transaction values are above PhP1 billion before the transaction is consummated, should ideally be able to curb anti-competitive conduct as well as put an end to monopolies/duopolies/oligopolies. The legislation could revolutionize the Philippine market and open saturated sectors to new players. This creates an environment where there is better delivery of higher quality goods and services at more competitive prices for Filipino consumers. Fair sector competition, will improve the market's attractiveness and investment potential for new players.

To date, some 102 out of 106 mergers and acquisitions with total transactional value of roughly PhP1.7 trillion have been reviewed by the Commission but it did not include the controversial Philippine Long Distance Telephone Co. (PLDT) and Globe Telecom's Php69.1 billion joint purchase of San Miguel Corporation's (SMC) telecommunications assets in Vega Telecom Inc. - the potential third player in the market. The acquisition, 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 deal stirred questions 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. The acquisition carried out by a duopoly creates doubts whether the legislation will be fully implemented.

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.

96 WEF (28/09/2016). The Global Competitiveness report 2016-2017, Philippines. Retrieved: 20/07/2017. http://www3.weforum.org/docs/GCR2016-2017/05FullReport/TheGlobalCompetitivenessReport2016-2017_FINAL.pdf.

97 WB (25/10/2016). Doing Business 2017, Philippines. Retrieved: 20/07/2017. http://www.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf.

RECOMMENDATIONS

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

We look forward for the full implementation of the Philippine Competition Law and the timely enforcement of regulatory measures and punitive provisions for non-compliance. We encourage the regulator to observe other jurisdictions and international best practices with respect to the interpretation of the law to strengthen the legislation and create an environment that is geared toward a strict but reasonable implementation of the law. Exception 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. Government's seriousness in enforcing the national competition policy will be measured in a uniformed application of the law to state-owned firms. It is also recommended that the Commission enter into agreements with other government agencies that would allocate jurisdictions and responsibilities and at the same time identify points of collaboration to ensure the successful implementation of the law.

The Implementing Rules and Regulations (IRR) of the Philippine Competition Act (PCA) or Republic Act (RA) No. 10667 took effect in June 2016. Said IRR shall cover all the mandated functions and duties of the PCC to facilitate the implementation of the provisions of RA No. 10667.

The strategic framework under the Philippine Development Plan 2017-2022, provides for the following:

*"**Review potentially anti-competitive legislations and policies that may substantially prevent, restrict, or lessen competition.** It is important to examine government policy actions and determine whether they fulfill their intended objectives. Policy options available are to retain the existing government market intervention if there is sufficient public benefit that outweighs its negative effects, notwithstanding its impact on market competition; recalibrate the intensity or form of the government market intervention, if such form has limited effectiveness or public benefit; replace or modify the intervention if there are better, more effective alternatives available that address the same social ends without the uncompetitive by-product; remove the government intervention if the market structure is sufficient to ensure market competition; or conduct further review when additional data needs to be obtained, additional research needs to be undertaken, or additional discussions need to be made among stakeholders in order to reach a consensus.*

The Office for Competition will be reorganized and restructured in view of the enactment of the PCA and the establishment of the PCC. The scope of Project Repeal will also be expanded. Repealing unnecessary regulations will reduce barriers to entry and stimulate more competition. Restrictions on competition will be kept only if they are consistent with public interest. A review of the mandate, quality of services, and specific markets of GOCCs will also be continued to ensure that their proprietary activities do not conflict with their regulatory functions, and that procedures are streamlined.

__Analyze competition issues in priority sectors.__ In addressing market competition issues, government will prioritize sectors where the largest impact on consumer welfare and market efficiency is expected. Specific sectors will be identified after a comprehensive market scoping is completed. In selecting priority sectors, the government will consider improvement in the variety and quality of goods and services that are essential to poverty reduction, generation of new livelihood and employment opportunities, spillover effects on other sectors in the economy, and indications of lack of competition. In agriculture, market competition in key inputs to production (e.g., fertilizer, seeds) will be reviewed. If enhanced, market competition effectively widens the range of options available to producers and lowers the cost of inputs, and even small farmers have much to gain.

There is also a need to review government programs that distort market competition for land and that potentially affect small farmers' access to credit and preclude their ability to benefit from economies of scale. In the industry sector, lack of competition may be due to limited market, limited access to raw materials, high cost of research and development, monopolies created by patent protection, and the tendency to perceive price as a sign of quality. The market studies to be conducted will identify important competition issues in different industry subsectors and recommend measures to encourage market competition.

Since the Philippine economy is to a great extent open, the industry sector, particularly manufacturing, is already subject to global market discipline through imports of goods. This means that abuse of market power through high prices is curbed directly by the importation of raw materials, and intermediate or final goods. However, this may not happen if importation is heavily controlled through quantitative restrictions or import permits. In the services sector, the tradable goods sector's performance (including manufacturing and agriculture) relies heavily on the competition environment in services that feed into it. These ancillary services include power generation, electricity distribution, transportation (air, land, and water), telecommunications, and human capital. If the services sector is inefficient, the tradable goods sector (especially manufacturing) will suffer. Hence, enhancing competition in services, especially telecommunications and power, will be prioritized.

Research outputs will inform legislation and policymaking, and support advocacy initiatives to make consumers, firms, and government agencies better understand the importance of market competition.

__Investigate conduct and agreements that may substantially prevent, restrict, or lessen competition.__ The enforcement of the PCA requires the investigation of potentially anti-competitive behavior while maintaining an environment where businesses can compete on a level playing field. The impact of the actions of firms on market efficiency, competition, and consumer welfare will be quantified. This information will be useful to the public as well as policymakers in understanding the seriousness of the competition problems in certain sectors and of the benefits that could be derived from inhibiting anti-competitive practices.

__Promote competition-related policies and best practices.__ The promotion of market competition is a cross-cutting concern that affects all consumers and producers regardless of size. Fostering a culture of strong competition in the country requires concerted efforts among relevant government agencies and other sector regulators, with support from the executive, legislative and judiciary branches. Government will also collaborate with development partners and competition authorities from other jurisdictions. Activities will be conducted to help consumers better comprehend the terms of services offered by firms.

__Conduct capacity-building activities for government agencies and other institutions.__ The government recognizes the importance of strengthening both institutional as well as individual capacities and creating a knowledge base for the effective implementation of the PCA. Considering that competition policy is a relatively new concept in the Philippines, the government will ensure that capacity-building efforts within its ranks are enhanced and that any gaps and needs are addressed immediately. There will be sustained support to improve the institutional and technical capacity of PCC as well as the other government units under the executive, legislative, and judicial departments that are mandated to promote market competition. Government will collaborate with academic and research institutions in strengthening programs on competition law and economics.

__Institutionalize a mechanism for implementing the National Competition Policy (NCP).__ The government will uphold the principle of competitive neutrality and adopt policies that establish a level playing field where GOCCs and firms compete. The NCP will also provide guidelines for government agencies that issue rules and regulations that hamper competition. A subsidiarity analysis on GOCCs, spearheaded by the Governance Commission for Government-Owned and -Controlled Corporations (GCG), will be done to determine actions that must be undertaken. The GCG is set to continue reviewing the mandate and performance of the other entities it oversees. Meanwhile, a responsive regulatory management system will be institutionalized to monitor impact, ensure cohesiveness, and improve the quality and flexibility of government regulatory frameworks. A whole-of-government approach to regulatory reform will be implemented in reducing the burdens imposed by regulations, ensuring that no new anti-competitive laws and regulations are passed, and institutionalizing transparency in the regulatory management processes. As the NCP will be comprehensive and will require a whole-of-government approach, an inter-agency mechanism to formulate and coordinate the implementation of the national policy will be instituted. Among others, the National Economic and Development Authority (NEDA), Department of Trade and Industry (DTI), PCC, Department of Justice (DOJ) and GCG will be part of this oversight and coordinative mechanism.

Further, the PDP provides for the passage of a law on regulatory management system to establish a more competitive and coherent regulatory environment. A central body will be created to ensure that there is an evidence-based approach to formulating laws, rules, and regulations. Additional items in the legislative agenda will be drawn following the review of potentially anti-competitive laws and policies that substantially prevent, restrict, or lessen competition."[98]

2. STRENGTHENING THE SANCTITY OF CONTRACTS

ISSUE DESCRIPTION

Recent cases involving government contracts with foreign private firms have been the cause of frustration if not scare, 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 Ninoy Aquino International Airport Passenger Terminal 3. In 1998, PITACO's Concession Agreement was subject to amendment. Thereafter, construction of the airport commenced in 2000. In

98 Philippine Development Plan 2017-2022.

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. The Supreme Court had nullified the PIATCO contracts but ruled that the USD326.93 million just compensation was incidental because the structures were already built by PIATCO before the deal was voided.[99] Other more recent cases involve government contracts for the computerization for the customs processes at the Bureau of Customs and the production of new number plates by the Land Transportation Office (LTO), 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 Malampaya natural gas project was ordered to pay PhP53.14 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.[100]

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 reflects the government's habit of disrespecting sanctity of contracts, which not only result in substantial losses for investors involved but also reduce the attractiveness of the Philippines as an investment destination. Along with negative perception and restrictive policies such cases heighten the risk of investment for reputable international companies that could have improved the Philippine adherence to international standards.

RECOMMENDATIONS

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

During his inaugural speech, President Rodrigo Duterte ordered all department secretaries and heads of agencies to refrain from changing and bending the rules on government contracts, transactions and projects already approved and awaiting implementation.[101]

We recommend that the Duterte administration pursue this promise of protecting the sanctity of contracts and private sector investments in major projects. A noted example that we believe can be applied is a provision that provides payment mechanisms in the case of project termination due to the government defaulting on its commitments. Such provision should have distinct guidelines on the circumstances which government agencies can overturn successful bids.

Revisiting Commission on Audit's power to evaluate government contracts and procurement processes is also needed. In particular, audit of the procurement should be done at the earliest instance to prevent the private investor to perform its obligation in a contract that will be later declared as null and void, which will not be honored by the government later on. Also, the Commission should start to revolutionize its audit by helping the subject of the audit to meet its business goals by evaluating processes for efficiency and identifying areas for improvement. Thus, it must act acts as a partner in making sure government is efficient and achieves its economic goals.

3. COMPREHENSIVE TAX REFORM

ISSUE DESCRIPTION

The Philippine has the highest income tax regime on corporations in ASEAN at 30%, a far cry from Indonesia's 12.5% to 25% depending on the company's capital, Thailand's 20%, Malaysia's 25%, and Singapore's only 17%.[102]

Another burden for employees and employers is the 32% personal income tax in the Philippines. Compared to ASEAN member countries, the Philippines has the second highest top rate of 32% next to Thailand and Vietnam with 35%. The last major amendment of the personal income tax system was made under the National Internal Revenue Code of 1997, which took effect in 1998.

99 Republic v Mupas, 769 SCRA 384 (8/10/2015).
100 Information provided by COA (06/2016).
101 Inaugural Speech of President Rodrigo Duterte on June 30, 2016 at the Malacanang Palace. Retrieved: 25/07/2017. http://www.sunstar.com.ph/manila/local-news/2016/06/30/full-text-inaugural-address-president-rodrigo-duterte-482505.
102 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 23/05/2017. http://www.business-in-asia.com/asia/taxation_asia.html.

According to a study by the Philippines' National Tax Research Center, personal income tax schedule remains unadjusted for almost two decades now which resulted in the bracket creep phenomenon. This is a situation in which inflation pushes taxpayers into higher tax brackets, hence, higher tax liabilities even though purchasing power has not really increased. As a consequence of the non-adjustment of the taxable income brackets through the years, new entrants in the labor force will already fall in the fourth to fifth bracket of the tax schedule or be taxed at 20% to 25%. Moreover, ordinary workers earning PhP500,000 or around PhP42,000 monthly are similarly taxed as millionaires or even billionaires at the top rate of 32%.

The ASEAN Economic Community (AEC) integration of the 10 ASEAN member states calls for a more attractive Philippine investment environment and fiscal regime for foreign and domestic investors. But as long as tax rates remain among the highest in ASEAN, the Philippines will continue to risk losing out on more foreign direct investment (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.

The House of Representatives, in May 2017, approved on third reading the consolidated bill providing for amendments in the National Internal Revenue Code. Among the provisions is the adjustment of the income tax rates, where compensation income not over PhP250,000 will be tax-exempt and the schedule shall be adjusted every three years. A counterpart measure was also filed in the Senate in May 2017. Both bills aim to lower personal income tax (PIT) rates along with while revenue enhancement measures to make up for the anticipated reduction in tax collections resulting from the hefty PIT cuts. It was also stated in the proposed bill that said reforms in personal income taxation are long overdue as PIT rates have remained unchanged since the effectivity of the National Internal Revenue Code (NIRC) in 1997, "despite an increase in the rates of minimum wages, consumer price index, and the standard costs of living.

Anent the lowering of corporate income tax, separate bills are pending before both Houses which seek to lower the corporate income tax to be able to be at par with the rates of other ASEAN countries. There are ongoing committee hearings for said bills.

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 the current comprehensive tax reform program of the government should focus on three main elements which will help the reduction of 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 Cooperation and Development (OECD), to increase the tax base and successfully prevent tax evasions;
- Application of double taxation agreements.

With the abovementioned measures, the comprehensive tax reform will create a competitive fiscal regime and affordable tax system for taxed individuals in the Philippines. It will also address long-term issues pertaining to tax evasion, thus ensuring that compliant taxpayers 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

Various bills are filed before both Houses seeking to re-evaluate fiscal incentives currently given to businesses. Said bills identify those incentives that will remain and those that need to be done away with. Likewise, these measures hope to pursue a market-responsive investment regime and grant investment incentives that encourage long-term and recurrent investment promoting substantial social and economic spillovers and equitable development across income classes and across provinces.

The Tax Incentives Management and transparency Act (TIMTA) (RA No. 10708) enacted on December 9, 2015 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 were:

1. All registered business entities are required to use the Bureau of Internal Revenue (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 investment promotion agencies (IPAs), a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits or exclusions from the tax base as required by the IPA concerned, within 30 days from the statutory deadline for filing of tax returns and payment of taxes;

3. IPAs shall, within 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 the Bureau of Customs (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. 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 PhP100,000.00 (first violation), PhP500,000.00 (second violation) and cancellation of the registration (third 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.

With the backdrop of restrictive investment environment, it is imperative for the Philippines to implement a sound fiscal incentives regime that will attract potential investors especially with the prospect that an integrated ASEAN can be an alternative investment destination to China.

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 particularly the enactment of TIMTA, which is a positive development that will bring substantial benefits to the Philippines' competitiveness. It will ensure that incentives are granted fairly, transparently, and consistently. We call for the retention of current incentives regimes already in effect in different sectors and industries should be maintained, while any additional reforms should be benchmarked against existing fiscal incentives granted to investors as the minimum. Improving Philippines' competitiveness should also be the core of any fiscal regime rationalization.

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

Tax perks should be granted when the investment is actually made and for the period stated during the grant of incentives. Likewise, no government agency such as the BIR should have the power to veto fiscal incentives that have been granted by law.

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

We believe that authorization to match the fiscal incentives of a competing economy for a project considered to be of strategic national importance should be coming from the President of the Philippines. In Vietnam, for example, 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.

Demonstrating that inclusive economic growth remains a high priority agenda of the Duterte administration is the approval of the 2017 Investment Priorities Plan (IPP) in February. The new IPP, formulated through a participative, analytical and multi-sectoral process, is anchored on the aspirations and current socioeconomic needs of the Filipino people and the objectives of the Philippine Development Plan 2017-2022.

The 2017 IPP contains the following priority investment areas:[103]

- Preferred Activities, namely, all qualified manufacturing activities including agro-processing; agriculture, fishery and forestry; strategic services; health care services including drug rehabilitation; mass housing; infrastructure and logistics, including local government unit public-private partnership projects; innovation-drivers, inclusive business (IB) models; environment or climate change-related projects; and energy projects;
- Export Activities including production and manufacture of export products, services exports, and activities in support of exporters;
- Activities based on Special Laws granting incentives; and
- Priority activities for projects located in the Autonomous Region in Muslim Mindanao (ARMM).

Under the 2017 IPP, new market players who will establish connectivity facilities for fixed and mobile broadband services may also qualify for registration. This could open up the telecommunications sector to more industry players and provide consumers with fast, reliable and stable internet services at affordable prices.[104]

Currently, the BOI is finalizing the General Policies and Specific Guidelines for the implementation of the 2017 IPP. The BOI is set to conduct roadshows in key cities all over the country to be led by Undersecretary and BOI Managing Head Ceferino S. Rodolfo to inform and promote the salient features of the new IPP to the various stakeholders.[105]

Although several challenges persist in the implementation of the 2017 IPP, it is hoped that the broadened coverage of the priority list of investments will drive progress across regions, especially in provinces, strengthen various industry sectors, improve unemployment levels, and achieve sustainable and inclusive growth that can directly impact all participants in the administration's industrial and economic strategy.[106]

5. PROMOTION OF TRANSPARENCY AND INTEGRITY

ISSUE DESCRIPTION

The former administration left a legacy in the improvement of transparency and integrity for both the private and public sector. 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 European Chamber of Commerce of the Philippines is a founding business organization

Corruption had been cited often by EU companies as one of the major obstacles in doing business in the Philippines. This long-standing social problem hampers trade facilitation and crippled compliant players who lose out to those willing to be party to corrupt practices. Burden to companies created by corrupt and non-transparent processes is passed along the value chain and onto Filipino consumers of goods and services. Such consequence is reducing people's purchasing power. Improving transparency and eradicating corruption practices in the Customs are among the rationale behind the enactment of the Customs Modernization and Tariffs Act (CMTA) or RA No. 10863. On July 23, 2016, the Duterte administration signed the Executive Order (EO) on the Freedom of Information aimed to increased transparency and accountability by the government. This is a commendable step to the administration and much welcomed measure. It requires government agencies to comply with information requests, with the exception of information that is considered as critical to national security. A counterpart legislation further strengthen and institutionalize this aim to increase transparency and integrity in the country. Despite this, the weak enforcement of the Anti-Graft and Corrupt Practices Act (RA No. 3019) has meant little positive impact on the business environment.

Still, the EU business community expresses support on the Philippines' effort on a more transparent government that builds upon the foundations initiated by the previous administration.

103 SGV (03/20/2017). 2017 priority investment activities. Retrieved: 25/07/2017. http://www.sgv.ph/2017-priority-investment-activities-by-fidela-i-reyes-and-michelle-c-arias-march-21-2017.

104 Ibid.

105 Ibid.

106 Ibid.

RECOMMENDATIONS

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

As CMTA is fully aligned to international standards and guidelines, including the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol, its enactment is a vital step in addressing the lack of transparency and integrity in customs process. Its implementation, though still pending, is important in terms of establishing a transparent customs process through trade facilitation, ensuring fair market access for compliant players and, reducing the price of goods for consumers.

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

We believe that implementation of CMTA should also include the rapid operationalization of a National Single Window (NSW), which is 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 Food and Drugs Administration (FDA), the Fertilizer and Pesticide Authority (FPA), the BIR, the DTI and the BOI. An effective NSW will strongly facilitate the product importation and exportation, and will also serve as an effective tool against corruption and support the enforcement of anti-smuggling and anti-parallel importation measures.

ENACT A FREEDOM OF INFORMATION ACT.

The passage of a Freedom of Information Act in the 17th Congress has got our support, in line with our view that the law will increase in transparency and accountability in government agencies and in private sector. The law will cement the Freedom of Information (FOI) EO issued by President Duterte last 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.

We have long been supportive of legislative and administrative measures that will address corruption in the private sector. Besides the Integrity Initiative, we are willing to assist the government in establishing an effective enforcement mechanism that will ensure that the Anti-Graft and Corrupt Practices Act is not selective of the person involved.

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

ISSUE DESCRIPTION

An effective legal protection system for whistleblowers and state witnesses that will encourage them to take part in prosecuting violators especially those who were involved in corruption practices will strengthen rule of law.

In this 17th Congress, bills on the enactment of Whistleblowers Protection Act and Witness Protection Security are currently under committee deliberations before both Houses of the Congress.

The 26-year-old Witness Protection, Security and Benefit Act (RA No. 6981), provides a legislative framework for the protection of witnesses. However, there are several areas which require amendments in order to effectively support the use of witnesses in the judicial process. The program's implementation under the DOJ should be reviewed as studies conducted in other countries showed a consensus of preference for witness protection programs to be kept separate from the investigating/prosecuting arm. This arrangement ensures the objectivity of witness protection measures and protects the rights of witnesses, which is crucial in highly political cases involving high-ranking government officials.

Witnesses also faces danger as 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. The requirement that there should be a court case before a witness can be admitted into the program also exposes the witness to danger. As the witness's life in highly in danger, there should therefore be interim protection measures for witnesses applying for the program.

The program also has inadequate system in supporting a witness while being under the program. For instance, during admission into the program, a witness is temporarily uprooted from his/her main means of livelihood and would thus need financial support. Financial provisions under the program are substantially lower and insufficient to support the witness and his/her family. This is a serious hindrance to witnesses who would otherwise be willing to help in achieving justice. With this, the national budget for the witness protection program should also be boosted.

RECOMMENDATIONS

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

We recommend the enactment of a Whistleblower Protection, which will cover whistleblowing of the co-conspirators or accomplices in the private sector. A cap of PhP1 million tax-free monetary reward should be raised and provision on retroactivity should also be introduced 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.

We believe that reforming Witness Protection, Security and Benefit Act will 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' removal from the United States (US) watchlist of trading partners with grave IPR infringements reflects great improvement in the past years in terms of IPR Protection in the country. The government 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). This is in addition to the enactment of RA No. 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).

Besides initiative in the domestic side, 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 Organization, 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.

Cases related to IPR infringement have at least four types of courts in the Philippines that are attached to IPOPhil, 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).

Under the PDP 2017-2022, the strategic framework of the administration is to develop a vibrant Intellectual Property Rights (IPR) culture. The initiative to improve patent applications performance through the Patent Incentive Package will be strengthened. Likewise, the provision of the Philippine Technology Transfer Act of 2009 particularly on ownership and revenue sharing will be institutionalized. Aggressive and sustained advocacy to increase the appreciation and understanding of IPR shall be undertaken in order to leverage intellectual property protection as an essential component of the innovation ecosystem. The government will also conduct information campaigns on the importance of IPRs to strengthen public awareness and create an intellectual property culture among Filipinos.

Despite all these local and international initiatives in IPR protection in the Philippines, smuggling and the subsequent entry of counterfeit products into the market remain a significant concern. While IPOPhil has moved to allow recognition and registration of geographical indicators (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 Philippines integration with the AEC all the more gave relevance to a strong IPR protection and enforcement framework as the 600 million single market of ASEAN 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. Also, the Philippines' willingness to improve protection of IPR and most especially to create a policy framework to protect GIs, will be important for the negotiations for an EU-Philippines Free Trade Agreement (FTA).

But from 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.

RECOMMENDATIONS

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

We strongly encourage the continuation and expansion of improvements to the IPR protection and enforcement framework in line with international agreements and treaties incoming years. Strict anti-smuggling measures should complement an improved IPR protection framework 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.

Policies that will protect and enforce GIs should also be adopted as protection of GIs is a valuable tool which reinforces community development and fair competition. Producers and consumers will benefit from local knowledge by building the premium of protected products and guaranteeing product origin, quality and authenticity. Filipino farmers will also 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 local government unit (LGU) operation and interaction with national government. While local autonomy is recognized, LGUs cannot overrule national government policies. However, LGUs sometimes surpass local autonomy and oversteps national economic policies in asserting their jurisdiction. This creates negative impact on ease and cost of doing business for investors. LGUs that overstep their mandate are reducing the competitiveness of their localities and the country, as well as affect their constituent's livelihoods. Cooperation between the private sector and LGUs to address the factors that lead to these instances will create conducive business environments at the local level. This creates 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 COMMMUNITIES.

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

Thus, we will continue to expand our cooperation with LGUs in creating a mutually beneficial business environment that 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 also to ensure that national investment policies are consistently implemented, sans the bureaucratic tug of war.

We encourage the practice of entering into memoranda of agreement between a national implementing agency and the relevant LGU but the lack of it should not mean that it can be used as an excuse to overburden investors with unnecessary bureaucratic hurdles.

The PDP 2017-2022 provides for the following strategic framework:

"Sector Outcome 1: Responsible, strategic, and supportive fiscal sector improve revenues through reforms in tax policy and administration.

The proposed tax policy reform shifts to a simpler, fairer, and more efficient tax system characterized by lower rates and a broader base. This is expected to correct both horizontal and vertical inequities in the system. Based on international experience, tax policy reform will be successful only if it is accompanied by tax administration reforms. Beyond revenue generation, tax reform should also help promote investments, create jobs, and lift people out of poverty. Key reforms in the BIR include process and forms simplification for small taxpayers, electronic data sharing to improve compliance, taxpayer bill of rights, and relaxation of bank secrecy for fraud cases. These reforms are expected to improve taxpayer satisfaction, reduce cost of compliance in paying taxes, and result in public trust.

Meanwhile, the BOC will implement an aggressive anti-smuggling campaign in order to expand revenues. The campaign will be supported by tighter enforcement in free trade zones, fuel marking, and reconciliation of trade data with partner countries.

To increase local sources of LGU revenue, institute legislated and non-legislated measures. LGUs need to maximize the revenue-raising powers granted to them by the Local Government Code. Among the potential measures are: (a) professionalization of local treasurers through the Standardized Examination and Assessment for Local Treasury Service Program; (b) updating key local finance manuals to take into account developments in local finance; (c) intensifying LGU fiscal monitoring and performance evaluation through standardized reporting tools and metrics; (d) establishing the idle land inventory and imposing the idle land tax in all LGUs; and (e) enjoining LGUs to comply with LGC requirements concerning local revenue base. Encourage the private sector to engage in public-private partnership schemes. This will free up the fiscal space so that government resources can be used for other public goods and services.

Furthermore, government will push for amendments to the Build-Operate-Transfer (BOT) Law, with the objective of improving the process of project appraisal, contract management, and management of contingent liabilities. Policies concerning re-financing, public consultation and trust liability accounts will be studied. The government will also streamline the data reporting process and provide comprehensive data through the Government Debt Recording and Monitoring System, which will help in the analysis of GOCC debt, better manage government financial exposure, and inform strategy formulation."

Likewise, the present Administration supports the improvement of business climate as PDP 2017-2022 provides for the simplification of the rules and regulations on business registration and licensing, entry and exit, paying taxes, and access to finance to encourage the rapid growth of businesses of all sizes and the movement of small firms to the formal sector. This strategic framework aims at harmonizing and streamlining procedures among national government agencies and local government units to minimize, if not eliminate, redundancies and overlaps.

Photo by Carina Legaspi

Cross-Sector Papers
ASEAN INTEGRATION

INTRODUCTION

The establishment of the ASEAN Economic Community (AEC) in 2015 is a major milestone in the regional economic integration agenda in ASEAN. In the same year, ASEAN's combined GDP stood at USD2.4 trillion, positioning it as the 6th largest globally and 3rd in Asia.[107] High economic growth in 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. Opportunities that the region has to offer are expanding as manufacturers once based in China have relocated to ASEAN, thus, changing the investment trends in the economic bloc. The vision to connect intra-ASEAN movement of goods and people of 10 high-growth, high-potential markets opens up a unique chance for businesses to capitalize on the opportunities which this fast-growing market of 622 million people has to offer. Member states will also benefit from high economic growth, job creation, and the creation of regional value chains. There is also more scope for developing intra-ASEAN business and setting up regional hubs that can serve the ASEAN market as only 24% of trade registered by ASEAN Member States is currently intra-ASEAN.

ASEAN is the EU's third largest trade partner outside of Europe and the EU is ASEAN's second largest trading partner after China. It is important to integrate the region and intensify cross-border trade and investment both within ASEAN borders and between ASEAN and the EU. As the chair of ASEAN this year, the Philippines has a great opportunity to lead the way toward further economic integration in the region. 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.

Non-tariff barriers to trade remain an obstacle to intra-ASEAN trade for many products despite almost all products in the region are now tariff-free or with a tariff in the range of 0% to 5%. Included in these barriers are Rules of Origin (ROOs) and product standards and testing, among others. With this, we support the alignment of regulatory processes mutual agreements with other ASEAN Member States on standards and testing for key industries, such as healthcare, food and beverage and automotive. To cite an example, ASEAN standards were adopted and implemented in the Philippines through "Adoption of the Association of Southeast Asian Nation (ASEAN) Harmonized Cosmetic Regulatory Scheme and ASEAN Common Technical Documents" (FDA Administrative Order (AO) No. 2005-2015) and the "implementation of the ASEAN Harmonized Cosmetic Regulatory Scheme and ASEAN Common technical Documents (FDA AO No. 2005-0025).

However recent developments in the Philippines showed that:

- The ATA Carnet Convention was not applied in the Tariff and Customs Code. It results in difficulties in moving products and equipment to trade fairs / international exhibitions. The Convention would resolve this issue and has been signed by the Finance Secretary but to be ratified by the Senate. The Philippine Chamber of Commerce and Industry (PCCI) and Philippine electronics industry organizations continue to encourage government to accede to the ATA Carnet Convention for ease of doing business. However, there is no indication that it has been submitted in the Senate for ratification.
- Import restrictions and licenses under the Tariff and Customs Code of 1978 (Presidential Decree (PD) No. 1464) said imports of corn, rice and other products are restricted. In April 2017, President Duterte extended the quota on imported rice for three more years. Meanwhile, fish products may be imported only when the import is certified as necessary by the Department of Agriculture in observance of its food security policy.

IMPLEMENT AN ASEAN SINGLE WINDOW.

To increase intra-ASEAN trade and ultimately contribute to the economic growth and regional integration, the rapid implementation of a fully functional ASEAN Single Window is required. The establishment of a comprehensive, dynamic, online National Single Window is a prerequisite to the Philippines" participation in an ASEAN Single Window.

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

We believe that as the ASEAN Chair this year, the Philippines should pursue reforms that will address numerous operational and procedural obstacles within Customs procedures across ASEAN Member States that handicap intra-ASEAN trade. This includes 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 Customs Modernization and Tariff Act (CMTA) in the Philippines includes best practices, in line with the Trade Facilitation Agreement of the World Trade Organization (WTO) and Revised Kyoto Protocol of the World Customs Organization (WCO), which could be adopted across ASEAN in support of trade facilitation.

We also call for enhanced trade facilitation and stronger linkages and connectivity. Review and implementation of laws, rules and regulations to reduce the cost to exporters and importers as well as facilitate and streamline procedures for engaging in trade were also needed. The full and effective implementation of Republic Act (RA) No. 10668 (Foreign Ships Co-Loading Act) and RA No. 10863 (Customs Modernization and Tariff Act) will be pursued. Programs and initiatives under the WTO, Asia-Pacific Economic Cooperation, and the ASEAN, including its growth areas such as BIMP-EAGA , that aim to improve customs procedures and facilitate trade will be supported. Initiatives to reduce the time to undertake trade transactions, such as the Business Process Interoperability, will be implemented to provide full exchange of information. The government will continue moving toward a trade facilitative Rules of Origin regime, such as the use of self-certification in ASEAN.

House Bill No. 4257 seeks to provide a 10-year ASEAN integration plan including the implementation and monitoring thereof. The proposed bill aims to tap existing government resources in the planning and implementation of ASEAN integration in the Philippines, specifically the Planning and Development Coordinators which are the officers of the local government units.

Foster forward and backward linkages across sectors through the value chain approach. Exporters will be connected with multinational corporations and suppliers through business matching, trade fairs, and networking initiatives, among others. Micro Small Medium Enterprises (MSMEs) will be promoted either as a supplier or service provider to foreign investors during investment and trade promotion events and as possible technology partners through technology license agreements. Provide adequate infrastructure and logistical support to achieve connectivity, ensure efficient flow of goods and services domestically and internationally, and lower the cost of production and delivery. Formulate both the transport and logistics network plan and information and communication technology plan. These will complement the efforts to link the sectors with more markets and improve their competitiveness.

INVESTMENT PROMOTION

PROTECT IPR AND CLAMP DOWN ON ILLICIT TRADE.

The protection of IPR is an important element to the success of the AEC in facilitating intra-ASEAN trade and investment as the single market opens opportunities for trades of illicit and counterfeit goods.

IMPLEMENT REGIONAL HARMONIZATION OF STANDARDS AND REGULATIONS.

The ASEAN Harmonized Cosmetic Regulatory Scheme should serve as a best practice in mutual recognition and adoption of common standards and regulations across ASEAN to facilitate investment in the region. The development and strengthening of regional value chains is dependent on common standards between countries.

EASE LONG TERM INVESTMENT CONSTRAINTS.

ASEAN Member States should come up with measures to collectively address investors' concerns. 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.

Bills before the House of Representatives and the Senate are filed addressing the need to have an institution which would formulate and carry out effectively the country's trade policies and to protect the market from unfair trade practices.

COMPETITIVENESS

ESTABLISH A SUPPORT FRAMEWORK FOR SMEs.

ASEAN economies should also develop MSMEs--the backbone of ASEAN economies and are an integral part of continuing the high rates of economic growth in the region. Provision of targeted support to empower MSMEs in the region will develop their international capacity and will therefore make them become part of the intra-ASEAN value chain. It is an important step to enhance ASEAN economic integration.

In recognition of the important role of MSMEs in the economy, the Philippine Development Plan 2017-2022 provides for the following strategic framework:

"Access to production networks improved - Supporting the linkage between MSMEs and large corporations to facilitate increased participation of the former in global value chains; developing more inclusive business models and social enterprises; and establishing feasible domestic economic zones for MSMEs in accordance with relevant laws; Access to finance improved - Loan processes for MSMEs, cooperatives, and OFs need to be streamlined and simplified. A more comprehensive credit information system needs to be established to help cooperatives and financial institutions better assess credit risk and make more informed lending decisions".

Likewise, under the PDP, it is stated that a policy for alternative collaterals for borrowers also needs to be developed and the need to assess the implementation of, and compliance with, the Microfinance NGOs Act and Credit Surety Fund Cooperative Act, and determine if and where remedial legislation is needed; to implement the MSME Development Plan particularly the productivity and efficiency portfolio, taking into account the 2017-2022 Livelihood Agenda, which aims to foster the convergence of different livelihood and entrepreneurship programs of government agencies

The government also needs to assess the implementation of, and compliance with, MSME laws (e.g., Go Negosyo Act, Magna Carta for MSMEs, and the Barangay Micro Business Enterprises Act) and determine where remedial legislation is needed and if households receiving remittances by Overseas Foreign Worker (OFW) need to be encouraged to put these to more productive use and invest cash transfers from abroad in business activities in the country. A broader base for MSME development[108] will thus be created.

108 Philippine Development Plan 2017-2022.

Likewise provided under PDP 2017-2022 is the legislative agenda and rationale of the above-cited strategic framework, to wit:

- ***Set up a National Quality Infrastructure system***

Integrate and coordinate standardization, metrology, testing analysis, quality management, certification, and accreditation.

- ***Institutionalize the industry cluster approach***

Pursue local economic development through inter-local cooperation among Local Government Unit (LGUs) and strengthen people participation in community development.

- ***Inclusive Business Bill***

Develop a national strategy for the promotion of inclusive businesses to be implemented by the Inclusive Business Center. This also provides policies for accreditation, support, and incentives.

- ***Social Enterprise Bill***

Provide a framework for the planning and implementation of a National Poverty Reduction through Social Entrepreneurship Program. This also promotes social enterprises as a tool in the government's poverty reduction program.

Additionally, pending bills[109] are filed before both Houses supporting the small and medium enterprises, including the facilitation of the creation of a Small and Medium Enterprises Stock Exchange (SMEX) which will serve as the equities market for MSMEs. The SMEX will simultaneously broaden and deepen capital markets by providing both foreign and local investors another opportunity another opportunity for investment.

109 Philippine Development Plan 2017-2022.

HIGH PRIORITY SECTOR PAPERS

High Priority Sector Papers
AGRICULTURE

INTRODUCTION

Agriculture plays an important role in the Philippines' economy as the sector employs 29% of the total labor force and remains a crucial source of livelihood for most rural households, becoming key in achieving inclusive growth. However, constraints to the agricultural value chain prevent the sector from increasing its productivity.

Indeed, the Philippines is still to exploit its comparative advantage in agriculture, namely in Mindanao, which is considered the breadbasket of the country. Significant improvements have been made in the sector. For example, more recently, the formulation of sub-sector roadmaps in close cooperation with the private sector has facilitated the development of business inclusive models in rural areas. Furthermore, the Duterte Administration is increasing the budget allotted to the Agriculture sector with the objective of creating more jobs, reducing poverty and developing a sustainable economic model.

Being a top exporter of bananas, pineapple, tuna and coconut products and a major producer of rice, corn, sugar, coconut, cassava or coffee, the Philippines has the potential to make food affordable and accessible to all Filipinos and increase the competitiveness of its export products. The implementation of the GSP+ program[110] in 2014 increased the export opportunities of over 6,200 Filipino products, many of them agri-fishery products, towards the European Union (EU), thus increasing their demand.

However, in order to maximize opportunities, the Philippines must modernize the agricultural supply chain and modernize the regulatory process.

SECTOR SITUATIONER

MARKET DATA

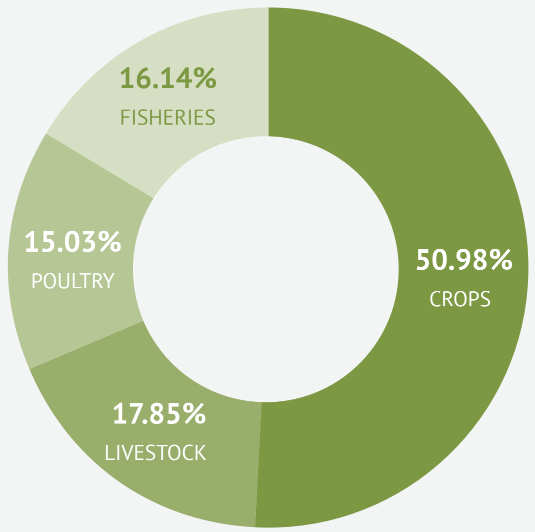
Despite the decline in the share in GDP from about 20% in 2000 to barely 9.7% in 2016, Agriculture continues to be a key driver in the Philippine economy, particularly in rural areas, employing 29% of the labor force. Total agricultural land area of the Philippines is estimated at 9.671 million hectares wherein arable land is 4.936 million hectares (51%).[111]

The sector is divided into four subsectors: crops (51%), livestock (18%), fisheries (16%), and poultry (15%). In 2016, Agriculture contracted by 1.41% as the effects of Typhoons Karen and Lawin, the use of inadequate irrigation water, excessive rainfall during the planting season and a lower fertilization usage pulled down the production in the crops (3.32%) and fisheries subsector (4.18%). On the contrary, livestock and poultry grew by 4.59% and 1.39% respectively.[112]

The crop subsector is dominated by staple crops such as rice or corn, despite its potential for diversification. Geographically, Mindanao, considered the breadbasket of the Philippines,[116] is key in driving developments in agriculture. The case of the rice deserves particular attention given its importance for the country that is both one of the world's largest producers and importers. The efforts of the government to increase the economic competitiveness of this crop or to reach rice self-sufficiency level have not been successful. Domestic production still fails to meet the internal demand due to a low yield,[117] the effects of natural disasters on the crops and high post-harvest losses.[118]

In Q1 of 2017, Agriculture recovered with a 5.28% growth after several quarters of declines. Gross earnings amounted to PhP407.6 billion at current prices, 8.79% higher than the earnings recorded during the same period in 2016. Between January and March 2017, the crops subsector registered significant increases in rice (12.38%) and corn (23.44%). Meanwhile, the production of coconut, sweet potato and abaca went down by 2.31%, 1% and 7.56% respectively.[119]

PERCENTAGE DISTRIBUTION OF AGRICULTURAL PRODUCTION BY SUBSECTOR



Source: PSA [113]

CROPS: VALUE OF PRODUCTION[114]	
Item	Million PHP in 2015
Palay (Rice)	311,088.40
Banana	136,531.50
Coconut	95,189.30
Corn	92,480.60
Sugarcane	42,413.90
Pineapple	20,945.80
Mango	20,393.10
Cassava	14,855.80
Coffee	5,686.70

MAJOR CROPS: PERCENTAGE DISTRIBUTION OF PRODUCTION BY REGION, PHILIPPINES, 2015[115]

Region	Palay	Corn	Coconut	Sugarcane	Pineapple	Banana	Mango	Coffee
Luzon	59.02%	43.03%	24.35%	14.46%	9.97%	9.39%	50.45%	14.41%
Visayas	18.45%	7.87%	13.63%	67.80%	1.17%	7.83%	15.37%	6.44%
Mindanao	22.53%	49.10%	62.01%	17.74%	88.86%	82.77%	34.18%	79.14%

110 The GSP+ is a preferential tariff system for developing countries, part of the EU's Generalised Scheme of Preferences (GSP). Originating products from certain countries_including Philippines_may export their products to the EU at a reduced or zero import duty. It offers additional trade incentives to countries that have proven their commitment to human and labour rights, sustainable development and good governance.

111 PSA (2016). Country STAT Philippines. Overview of Philippine Agriculture. Retrieved: 20/05/2017. http://countrystat.psa.gov.ph/?cont=9.

112 PSA (20/01/2017). Performance of Philippine Agriculture. October-December 2016. Retrieved: 20/05/2017. https://www.psa.gov.ph/sites/default/files/attachments/ird/pressrelease/par_oct_dec2016.pdf.

113 PSA (20/01/2017). Performance of Philippine Agriculture. October-December 2016. Retrieved: 20/05/2017. https://www.psa.gov.ph/sites/default/files/attachments/ird/pressrelease/par_oct_dec2016.pdf.

114 PSA (2016). Selected Statistics on Agriculture 2016. Retrieved: 01/08/2017. https://psa.gov.ph/sites/default/files/Selected%20Statistics%20on%20Agriculture%202016.pdf.

115 Ibid.

Top EU Agri-food Exports	%	Value Mi €	Top EU agri-food imports	%	Value Mi €
Pork meat, fresh, chilled and frozen	12.5%	127	Palm & palm kernel oils	57.1%	476
Offal, animal fats and other meats, fresh, chilled and frozen	11.4%	116	Tropical fruit, fresh or dried, nuts and spices	10.4%	87
Pet food	10.7%	109	Preparations of vegetables, fruit or nuts	7.6%	63
Milk powders and whey	7.8%	79	Fatty acids and waxes	5.5%	46
Spirits and liqueurs	7.7%	78	Gums, resins and plant extracts	5.4%	45

In terms of agri-food trade between the Philippines and the European Union (EU), the Philippines became the 28th top destination for EU agri-food exports reaching EUR1,014 million in 2016 while Philippine agri-food imports to the EU amounted to EUR834 million, increasing by 2.3%.[120] It is worth mentioning that in March 2017 the EU was the largest destination of total exports from the Philippines, registering 48.3% growth in the first quarter of the year. This increase is mainly due to an overall growth of exports supported by the GSP+ program.[121]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- In April 2017, President Duterte signed Executive Order (EO) No. 23, extending the quota on imported rice for three more years despite numerous calls to remove the Quantitative Restriction (QR) on rice. The QR would have expired on June, 30 2017.[122] This measure aims to protect domestic rice producers from an increase in imports and a decrease in rice prices stemming from the removal of QR.
- The National Color-Coded Agriculture Guide (NCCAG) Map was launched in early 2017. The NCCAG is a digital platform that provides the latest scientific data on soil analysis, climate impact, geographical hazards, and weather prediction. Farmers can consult it and get information on the type of crop that is more suitable in a particular area. This results in more successful plantings and the maximization of the genetic potential of the selected crops, thus giving the farmers improved incomes.[123]
- Concerning the formulation of roadmaps in Agriculture, the private sector works closely with the government, which makes the aforementioned roadmaps feasible and pragmatic, achieving maximum commitment for both parties. These roadmaps provide guidelines for each industry and set targets of competitiveness, poverty alleviation and inclusive growth. Only three Industry roadmaps have been approved so far between 2016 and 2017: Cacao, Coffee, and Bamboo. EPBN encourages European companies based in the Philippines to participate in public consultation processes for the formulation of sectoral roadmaps.

ADVOCACY

1. ENSURING EU AND PHILIPPINE AGRICULTURE INTERESTS IN THE EU-PHILIPPINES FREE TRADE AGREEMENT (FTA)

ISSUE DESCRIPTION

In December 2009, the European Union began to pursue bilateral Free Trade Agreements with individual ASEAN countries, after a pause in the region-to-region negotiation. The first round of negotiations for an EU-Philippines Free Trade Agreement (FTA) was held in Brussels in May 2016 followed by a second round in Cebu, Philippines, in February 2017. The negotiations for an FTA, which seeks to reduce as far as possible both tariff and nontariff barriers, are greatly welcomed by the EPBN Agriculture Committee that sees in it an opportunity to address the competitiveness issues affecting EU agricultural products in the Philippine market.

The inclusion of provisions that facilitate market access for EU agricultural products in the Philippines can be beneficial for the Filipino consumer, who will access a wide variety of higher quality and lower priced products in the country. Particularly, the FTA could ensure the availability of food items that are in short supply in the Philippines, such as meat, certain vegetables or dairy products, which would be imported from the EU

116 Mindanao is the biggest producer of rubber, corn, pineapple and banana in the country.

117 The average rice yield continues to be relatively low at 9.52 T. per ha. if compared to other ASEAN countries. e.g. Vietnam presents an annual yield of 20.59 T. per ha.

118 IRRI (22/06/2016). Competitiveness of Philippine Rice in Asia. Retrieved: 20/05/2017.

http://www.philrice.gov.ph/wp-content/uploads/2016/08/Book_CPRA_22June2016_3.pdf.

119 PSA (2017). Performance of Philippine Agriculture. January – March 2017. Retrieved: 20/05/2017. https://psa.gov.ph/sites/default/files/PAR_January-March_2017_0.pdf.

120 Agri-Food Trade Statistical Factsheet: European Union – Philippines. European Commission Directorate-General for Agriculture and Rural Development. Retrieved: 20/05/2017. http://ec.europa.eu/agriculture/sites/agriculture/files/trade-analysis/statistics/outside-eu/countries/agrifood-philippines_en.pdf.

121 EU (15/05/2017). EU largest exporting partner of the Philippines in March, says PSA. Retrieved: 20/05/2017. https://eeas.europa.eu/headquarters/headquarters-homepage/26065/eu-largest-exporting-partner-philippines-march-says-psa_en.

at affordable prices. An environment with no market access restrictions would favor quality employment and the transfer of scientific and technological developments in the agriculture from EU companies to Filipino farmers, enhancing the productivity of the Filipino products.

RECOMMENDATIONS

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

We look forward to the inclusion of measures that ensure market access for European products in the Philippines and all the benefits that it entails. This would include the reduction or elimination of import tariffs and nontariff barriers to trade. Being aware of the current problems that EU companies experience in this field, we recommend giving special attention to fertilizers and pesticides, whose European importers must shoulder a high tariff burden along with obstacles in the regulatory process. Liberalizing the access of these high quality products that are subject to tough quality control in the EU will ensure improvements in the production in the Philippines, often undermined by pest and plagues.

The FTA must put in place a Rules of Origin system and recognize the importance of compliance with EU standards so that Filipino products meeting the criteria established in the agreement can be exported to the EU market without any problem. We hope the EU can continue sharing its best practices in order to increase compliance with international standards.

EPBN encourages the public sector to establish a dialogue on critical agricultural issues with the private sector so that their interests are properly represented during the negotiations of the FTA.

2. AGRICULTURAL VALUE CHAIN DEVELOPMENT

ISSUE DESCRIPTION

Parallel with the decline in Agriculture growth and investment, there is also a decrease in the number of Filipinos, particularly the young, that find this field attractive. An aging population of farmers and low-skilled workers make up the vast majority of the human capital for agriculture, being considered the poorest and hungriest in the Philippines. Without the expertise and the access to finance they are unable to modernize this sector and make it more competitive. The small size of the farms, the lack of technology, the low interconnection between smallholders and the private sector, the underutilization of land and the high input costs are other factors that hinder the productivity of the sector.

Concerning the financial resources issue, the Comprehensive Agrarian Reform Program (CARP) and Comprehensive Agrarian Reform Program Extension with Reforms (CARPER), that prevent farmers from using their land as collateral is currently under legislative review with the objective of correcting the market distortions created by the agrarian reforms. Also, the Agri-Agra Law Reform Credit Act of 2009 (RA No. 10000) was enacted as an attempt to facilitate access to financial services of the rural agricultural sector, forcing financial institutions to allocate 25% of their loan portfolio for agriculture and fisheries. According to the Bangko Sentral ng Pilipinas, only around 15% of the loans extended by the banks were for Agriculture in 2016. Indeed, the banks prefer to pay the 0.5% penalty rather than financing farmers. Several bills[124] have been filed in Congress seeking to increase the penalties up to 5% for the non-compliance or under-compliance of the lending institutions.

Another factor that hinders improvements in productivity is poor irrigation.[125] Indeed, only 1.7 million hectares out of the 3 million hectares of total irrigable area of the country receive irrigation. The Philippines needs a proper irrigation system to increase annual yield. Until now, farmers have been affected by the underperformance of the irrigation systems resulting from a limited water supply, an inappropriate design, poor operation and low maintenance. The high electricity cost and irrigation service fees, which are among the highest in Asia,[126] are other obstacles. Therefore, the government, not prone to building dams, is looking into alternatives to traditional irrigation such as solar irrigation systems. As of now, solar systems in the Philippines could not sustain farm irrigation but the first steps have already been taken with the launch of the first solar-powered irrigation facility in North Cotabato in February 2017. Also in 2017, with the aim of reducing production costs and under a PhP2 billion budget, the government plans to implement a free irrigation service making farmers exempt from paying the National Irrigation Administration (NIA) a fee for the service and maintenance of the irrigation systems.

The Agriculture and Fisheries Modernization Act of 1997 (RA No. 8435) mandated the construction and upgrading of farm-to-market roads. Nonetheless, the total length of farm-to-market roads is estimated at about 124,000 km from which only 10% is paved, meaning that the other 90%, made of gravel or

122 Manila Times (23/05/2017). Rice import quota extended for 3 yrs. Retrieved: 25/05/2017. http://www.manilatimes.net/rice-import-quota-extended-3-yrs/328761/.

123 DA (2017). National Color-Coded Guide (NCCAG) Map. Retrieved: 01/08/2017. http://www.farmersguidemap.gov.ph/.

124 HB No. 3522, HB No. 4292, HB No. 5181.

125 Manila Bulletin (06/08/2016). Free irrigation: A better way. Retrieved: 20/05/2017. http://2016.mb.com.ph/2016/08/06/free-irrigation-a-better-way/.

126 Farmers in Central Luzon pay up to PhP2,700 per hectare during the wet season and PhP3,500 during the dry season. In Bicol, the National Irrigation Administration (NIA) reportedly collects as high as PhP6,000 per hectare.

earth, become inaccessible during raining season.[127] Developing an adequate infrastructure that connects the main agricultural areas of the country with market towns is pivotal to increase production and reduce transportation costs. It is also essential to minimize post-harvest losses withstood by farmers as 20%-25% of fresh goods is estimated to be lost during the transportation from farm or fisheries to consumer.[128]

The Administration is stepping up its efforts to improve the agricultural infrastructure as reflected in its 6-year Philippine Rural Development Program with World Bank participation that aims to enhance productivity and market access in 16 regions and 80 provinces of the Philippines, although the budget for farm-to-market roads in 2017 dropped to PhP5.4 billion from PhP7.4 billion in 2016.

On the other hand, the Philippines enjoys the support of the EU to increase the value of their products, as the latter has been promoting the adoption of the Geographical Indication (GI) scheme, a type of intellectual property right used to certify that a product has a specific geographical origin which gives that product a special quality or reputation.[129] That would be the case of the Bikol Pili Nuts or the Guimaras mangoes[130] which will serve as a tool to boost their exports. The Philippines has also been benefitting from the EU's GSP Program, a preferential tariff system for developing countries that allows exports at a reduced or zero import duty to the EU territory. Particularly, the Philippines was included in the EU's GSP+ program in 2014, thus including over 6,200 products more at zero import duty, linked to a proven commitment to human and labor rights, sustainable development and good governance. However, the alleged cases of extrajudicial killings and the plans to reinstate capital punishment in the Philippines could lead to the review of the status of the country as a GSP+ beneficiary.

If the Philippines can increase its volume of foreign trade in agricultural products, there will be a positive domino effect on the sector. The high demand will increase the production, generating wealth and creating employment.

RECOMMENDATIONS

INVEST IN INFRASTRUCTURE IN ORDER TO TACKLE PRODUCTION/OPERATION CONCERNS.

We believe that the construction and maintenance of infrastructure should be a priority in order to facilitate the transportation of agricultural products from the main production areas to the market. The development of infrastructure should include not only the construction of farm to market roads and post-harvest facilities, which are essential to reduce transportation costs and post-harvest losses, but also the construction and maintenance of irrigation systems, which is a common and major problem for farmers. In this sense, we applaud the opening of the Administration to other alternatives such as solar-powered irrigation systems. Since more investment is a must in this field, we hope European businesses will be able to help modernize the sector and help alleviate the impact of natural disasters on agriculture with their state-of-the-art solutions through Public-Private Partnerships.

MAKE THE ACCESS TO FINANCE EASIER AND FACILITATE LONG-GESTATION HIGH VALUE CROPS.

As one of the main problems of smallholder farmers is the access to finance, improving the status of the farmer in order to make him more bankable should be in the political agenda. While a few bills have been filed in Congress with the aim of increasing the quotas or the penalty rate that the banks should pay in case of non-compliance with the 25% loan portfolio earmarked to the farm sector, the farmers' risk profile still affect the bank's decision making. It is a fact that the sector needs access to funds to acquire the appropriate technology or high quality seeds, especially since farmers cannot use their land as collateral. Therefore, the government should focus on reducing the risks in the agricultural sector that prevent banks from loaning more to farmers, that is to say, measures such as attracting new experienced labor, improving or providing basic infrastructure, developing an effective crop insurance system, reforming the land title regime or facilitating access to market information in line with the NCCAG Map launched in 2017. Another measure that would make the farmers more bankable is the facilitation of long gestation high value crops, which would reduce risks, providing the farmer with cash flow capabilities.

ESTABLISH A CONSTRUCTIVE REGULAR INTERCHANGE BETWEEN PUBLIC AND PRIVATE SECTOR STAKEHOLDERS FOR THE IMPROVEMENT OF THE AGRICULTURAL VALUE CHAIN.

We applaud the efforts of the public sector to involve the private sector in the formulation of its sectoral policies through a system of public consultation. We support public-private cooperation so that expertise

127 F ADB (2010). Country Partnership Strategy: Philippines, 2011–2016. Retrieved: 20/05/2017. https://www.adb.org/sites/default/files/linked-documents/cps-phi-2011-2016-ssa-04.pdf.

128 Ibid.

129 WIPO (n.d.). Geographical Indications. Retrieved: 20/05/2017. http://www.wipo.int/geo_indications/en/.

130 The code of practice to define the rules and procedures for using the GI for the Guimaras mangoes is still being discussed.

can be shared and problems emerging throughout the supply chain can be tackled in a pragmatic way.

We also encourage initiatives that aim to establish professional agricultural cooperatives or to integrate small farmers into larger enterprises, such as Grow Asia.[131] In this context, Nestlé, with the goal of sustainable farming in mind, has been working with coffee growers for the last several years providing them with high quality seeds and know-how, and thus increasing their profits and improving their quality of life through its NESCAFÉ Plan.

The cooperation of the public and private sector should be extended to the provision of capacity building to farmers, with the aim of improving their skills and inspiring younger generations.

The involvement of the private sector, actively participating with specific programs like Grow Asia or sharing its expertise with the government, is essential to find solutions for the problems affecting the agriculture supply chain.

SUPPORT THE COMPLIANCE OF FILIPINO PRODUCTS WITH EU STANDARDS.

We also support the Department of Trade and Industry (DTI) in its strategy of providing capacity building and technical assistance to micro, small and medium-sized enterprises (MSMEs) to promote compliance with EU standards so that those products can be exported to the EU and can benefit from the GSP and GSP+ programs. EPBN also recommends continuing the strategy of identifying products and areas that can benefit from a GI scheme, adding economic and cultural value to those products.

3. IMPROVEMENTS TO THE REGULATORY PROCESS

ISSUE DESCRIPTION

The Fertilizer and Pesticide Authority (FPA), created by Presidential Decree (PD) No 1144 of 1977, is a regulatory agency operating under the Office of the President in accordance with EO No. 165 of 2014. Its main task is to assure an adequate, safe and affordable supply of fertilizers and pesticides, controlling the imports of pesticides and fertilizers, the licensing of handlers, product quality and registration process.

The importance of the Fertilizer and Pesticide Industry in the Philippines lies not only in its economic value, over PhP40 billion,[143] but also in its ability to increase production, in line with the goal of the government to provide increasing and sustainable food production.

Meanwhile, the Bureau of Agriculture and Fisheries Standards (BAFS), under the Department of Agriculture (DA), was established by the Agriculture and Fisheries Modernization Act (RA No. 8435 of 1997) and its major duties include the formulation and enforcement of quality standards for agricultural and fisheries products.

The FPA and the BAFS stand out among other agricultural related agencies because they are responsible for the consumer safety, for the standards of the products that can enhance the productivity in Agriculture and for the bureaucratic formalities during the import process of agricultural related goods to the Philippines. It is precisely during the import process, or during the registration process at the FDA specifically, when many EU companies encounter difficulties when they try to bring in new products. In some cases, the registration process than can last several years. This clearly highlights the lack of economic and material resources of both institutions which stops them to operate more efficiently before the large amount of license and certification applications.

On another note, it is DA policy that every first importation from a new origin/source should undergo pest risk analysis (PRA). PRA is the process of evaluating biological, scientific and economic evidences to determine whether a pest should be regulated and the strength of phytosanitary measures to be taken against it. Accreditation will follow after PRA completion. The Bureau of Plant Industry (BPI) is the agency under the DA that implements this policy and is mandated to support the Philippine plant industry sector in terms of crop research, analytical services, seed quality assurance, plant quarantine, agricultural engineering services and food safety. However, the industry finds these procedures cumbersome and not always in a transparent manner.[133]

Other concerns pertain to the unpredictable implementation of regulations that affect the importation of agriculture and food products into the country, the seemingly different application of regionalization principle in EU Member States or the use of reference prices. While these are in many cases resolvable with the relevant agencies, such measures bring about uncertainty that impede the business of EU stakeholders.

131 Grow Asia is a multi-stakeholder partnership platform that focuses on inclusive and sustainable agricultural development in Southeast Asia, helping farmers access knowledge, technology, finance and markets to increase their productivity and sustainability. It was established by the World Economic Forum, in collaboration with ASEAN.

132 Data provided by distributors, based on market data in 2014.
Pesticides: 4,000 brands, 2,031 formulated products, 255 registered active ingredients.

133 Data provided by the EU Delegation to the Philippines.

RECOMMENDATIONS

ENSURE THAT THE FARMERS MAY ACCESS HIGH QUALITY PRODUCTS TO INCREASE THE PRODUCTIVITY OF THEIR CROPS.

Particularly concerning the FDA regulations, we advocate for a revision of controlled and regulated chemicals, which would facilitate the importation of high quality fertilizers in the Philippines.[134]

With regards to the implementation of BPI regulations, we also advocate for the guarantee that only certified and accredited plants and mother plant gardens are included in government bidding processes, to be distributed to farmers afterwards.

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

We champion the modernization, simplification and improvement of transparency in the regulatory process with the aim of facilitating access for farmers to high quality fertilizers, pesticides and other agricultural related goods that can help increase productivity as well as facilitate the importation of the said products by EU companies into the Philippines.

We also support the full implementation of the National Single Window (NSW),[135] an internet-based system connecting government agencies, that allows all actors involved in trade to complete all bureaucratic formalities related to import, export or transit in a single entry point, resulting in more transparency, lower cost and a faster process.

In line with this, we also believe that the computerization of the FPA cannot be postponed as it is key to increase efficiency and improve procedural issues of importation and certification processes, especially those concerning fertilizers and pesticides.

134 Ibid.

135 EO No. 482 of 2005.

Sector Papers AUTOMOTIVE

INTRODUCTION

The automotive manufacturing industry is one of the major drivers of the Philippines' Industry, accounting for the 4% of the country's GDP and 12% of the secondary sector. It closed 2016 with a y-o-y sales growth of 24.6% with more than 400,000 units sold nationwide, and estimates show that the automotive industry will employ 300,000 workers by 2022.

The government is aware of this potential and how other countries have benefitted from the development of the automotive sector. It is now trying to stimulate the sector through automotive manufacturing development programs. Other initiatives, such as the requirement for vehicles to meet Euro 4 emission standards and the possible development of a modernized motor vehicle inspection system aim to ensure that the increasing number of motor vehicles, estimated to reach around 35 million by 2036, will comply with high environmental and safety standards.

European automobile manufacturers, who are global leaders in the sector, have found a market niche in the Philippines with luxury brands. However, due to tariff and non-tariff barriers, they have so far been limited to a small share of the overall market,[136] which is dominated by Asian brands.

Despite the positive fundamental growth prospects of the industry, a looming increase of the vehicle excise tax to be implemented in 2018, a slow implementation of measures related to road safety and emission standards and the existence of trade barriers to motor cars and vehicle parts may jeopardize its development. In order to create a level playing field for European vehicles and a framework for automotive sustainability in line with global trends, we make the following recommendations:

- Inclusion of an immediate tariff reduction schedule for vehicles under the EU-Philippines FTA
- Review of the automotive manufacturing development programs
- Facilitation of the importation of vehicle parts
- Implementation of the motor vehicle inspection system (MVIS)
- Effective implementation of Euro 4 emissions standards

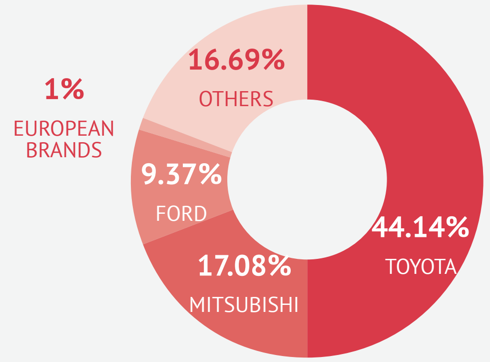
SECTOR SITUATIONER

MARKET DATA

The Philippine automotive industry is a sector in expansion. It accounts for 4% of country's GDP and 12% of the Industrial Sector.[137] It is estimated that 76,000 workers are employed in the auto industry, including the auto parts subsector. It registered a 24.6% growth in vehicles sales in 2016, the third highest growth rate in ASEAN after Singapore and Vietnam[138] and a 18% y-o-y increase in car production.[139] Car imports also showed a rise in 2016, increasing the share of car exporters from Thailand, Japan, Indonesia, China, Korea and the US, largely due to multilateral or bilateral FTAs with the Philippines.

Based on consolidated reports from the Chamber of Automotive Manufacturers of the Philippines (CAMPI), the Truck Manufacturers Association (TMA), the Association of Vehicle Importers and Distributors (AVID) and one independent distributor a total of 404,051 units were sold in 2016.[140] The top market performer in 2016 was Toyota, accounting for 44.14% market share, followed by Mitsubishi (17.08%) and Ford (9.37%). Commercial vehicle sales accumulate 60% of the market while passenger car sales represent 40%.[141]

PHILIPPINES' AUTOMOTIVE INDUSTRY SHARE BY SALES



The luxury vehicle segment is led by two European carmakers. BMW remained the top premium car brand in 2016 while Mercedes-Benz took the second position.[142] Other European premium car brands are also present in the market, such as Rolls Royce, Audi, Porsche, Maserati, Lamborghini and Bentley as well as other European vehicle brands, for instance, Volkswagen, Peugeot, Mini and Volvo. The European share in the market is approximately 1%, whose prices are not competitive enough if compared to Asian car brands.

While there is also a significant y-o-y increase in car production, the Philippines absorbs the local manufacturing, except for the auto parts subsector whose exports accounted for 7% of total Philippine exports in 2010, totaling USD3.3 billion. Also the auto parts industry's contribution to employment generation is higher than in the car manufacturing subsector, generating approximately 68,000 jobs out of the 76,000 existing in the whole sector, distributed in 256 companies mainly located in Manila, Laguna, and Cavite. It is worthwhile mentioning that additional 340,000 Filipinos are employed in auto-supporting industries.[143]

Furthermore, since Meralco launched its first electric vehicle charging station in the Philippines in 2013, there is potential for the market of electric cars, e-trikes, e-jeeps or e-buses which European brands can strongly participate in. However, the lack of a real network of charging stations out of Metro Manila prevents further development.

However, the promising future of the automotive industry could be significantly affected by the uncertainty brought about by the new tax reform, namely the revision of the excise taxes on automobiles.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The proposed Tax Reform and Acceleration and Inclusion Act (TRAIN) bill has already been approved by the House of Representatives and is currently being debated in the Senate. With the President's certification of the TRAIN bill as a priority bill, it is expected to be enacted by the end of 2017. A comprehensive tax reform seeks to promote investment, job creation and reduce poverty incidence in line with the ultimate goal of the Administration of turning the Philippines into an upper middle class income country by 2022. In view of the large social and infrastructure investments needed in the upcoming years to improve productivity and connectivity, the current Administration estimates that one trillion pesos annually along with a y-o-y growth rate of at least 7% will be necessary to meet this target. In order to finance these investments, the TRAIN Bill establishes lower personal income taxes, broadens the VAT base, increases excise taxes on petroleum and automobiles and reduces the estate and donor's tax.
- In September 2016, the Automotive Dialogue of the Asia Pacific Economic Cooperation (AD), a platform for discussion between private automotive stakeholders and the regional governments, started talks on implementing a roadmap for electric vehicles.

136 The value of EU exports of vehicles and its components reached 200 billion euros in 2015, 2% of which was imported by ASEAN countries. The Philippines accounted for only 0.1% of total sales.

137 PSA (n.d.). The Use of Statistics in the Philippine Automotive Manufacturing Industry Roadmap. Retrieved: 25/05/2017. http://nap.psa.gov.ph/ncs/12thNCS/abstract/invited/IPS-Industry,%20Trade%20&%20Business%20Statistics_Mills.pdf.

138 ASEAN Automotive Federation (2017). Sales 2016. Retrieved: 25/05/2017. http://www.asean-autofed.com/files/AAF_Statistics_2016.pdf.

139 CAMPI (2016). 2016 is Another Grand Year for Automotive Industry with 24.6% Growth. Retrieved: 25/05/2017. http://www.campiauto.org/2016-is-another-grand-year-for-automotive-industry-with-24-6-growth/.

Price Bracket	Effective January 1, 2018	Effective January 1, 2019
Vehicles priced up to PhP600,00	Increased to 3%	Increased to 4%
Over PhP600,000 to PhP1.1 million	Increased to PhP18,000 + 30% in excess of PhP600,000	Increased to PhP 24,000 + 40% in excess of PhP600,000
Over PhP1.1 million to PhP1.6 million	Increased to PhP168,000 + 50% in excess of PhP1.1 million	Increased to PhP224,000 + 60% in excess of PhP1.1 million
Over PhP 2.1 million to PhP3.1 million	Increased to PhP668,000 + 80% in excess of PhP2.1 million	Increased to PhP824,000 + 100% in excess of PhP2.1 million
Over PhP 3.1 million	Increased to PhP1.468 million + 90% in excess of PhP3.1 million	Increased to PhP1.874 million + 120% in excess of PhP3.1 million

ADVOCACY

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

ISSUE DESCRIPTION

Although the European Union (EU) is among the biggest producers of motor vehicles in the world, the market share of European cars in the Philippines has been traditionally low, around 1%. This is due to bilateral or multilateral trade agreements of the Philippines with other Asian countries, namely Japan and South Korea. These agreements allow certain Asian vehicles enjoy a more competitive price, making it more difficult for EU-run automotive businesses to thrive in the Philippines.

Today, EU vehicles continue to incur 30% customs duties, 12% VAT and excise or ad valorem tax up to 60%, which overall increases the final retail price by 102%. However, the ongoing TRAIN bill may increase the tax burden even more. The initial proposal presented in Congress (HB No. 4774) established a 4-tier price back scheme, reaching a 200% tax rate for vehicles over PhP2.1 million. In February 2017, The Chamber of Automotive Manufacturers of the Philippines, Inc. (CAMPI) presented a 7-tier counterproposal which would effectively lower the tariff rates. However, the final bill approved by the House of Representatives (HB No. 5636) which is now being debated on in the Senate utilizes a 5-tier scheme which will result in a 120% tax rate. While this is better than the initial 4-tier scheme, it is still a considerable rate to be added to already high customs duties.

The automotive industry receives with optimism the progress in the negotiations of the FTA between the EU and the Philippines.[144] Even though there is still a long way to go, the FTA will definitely favor investments and will foster the development of mutually beneficial trade relations, removing tariff and non-tariff barriers to the products in the automotive industry.

RECOMMENDATIONS

RAISE THE EXCISE TAX ON AUTOMOBILES AT REASONABLE RATES.

We support the government's efforts to promote fiscal stability, economic growth, poverty alleviation and social and infrastructure development, but we would like to raise awareness of the short to long-term risks that this comprehensive tax reform poses to the automotive industry.

The estimates of the taxes collected with the new scheme are likely based on the upward trend in car imports which have registered positive growth rates during the last few years. However, a significant increase in the retail price of imported cars may reduce dramatically these sales, triggering unintended consequences. A decrease in sales will lead inevitably to a reduction in the tax collection by the Government, not only of the excise tax but of other revenues associated to the automobile sector. Other undesirable consequences could include the loss of jobs in the sector, the emergence of a grey market for European cars or the shutting down of high end car dealers that are not able to bear the financial burden as luxury cars that are already expensive will need to double their price.

Additionally, this measure will not necessarily help ease traffic congestion and pollution in Metro Manila. If the consumers find the new car prices out of reach, they will continue using their existing cars or will resort to the used cars market which may not offer Euro 4 compliant vehicles, delaying the plans of the Administration to implement clean air policies and giving way to a new market based on the maintenance of vehicles rather than developing a promising sector.

Therefore, we ask legislators to reconsider their current proposal to raise the excise tax on cars.

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 support the elimination of import tariffs for EU automotive vehicles in the EU – Philippines FTA text with immediate effect upon its ratification. We look forward to the completion of a FTA that creates a competitive market in the Philippines, with high quality standards in terms of environment, safety and health, based on the principles of openness, non-discrimination and transparency.

Therefore, we urge the government to consider the EU – Philippines FTA as a crucial factor to pave the way to a level-playing field for all market players in the Philippine automotive industry, aligned with the declared State policy in the Philippine Competition Act. This trade agreement can serve as a mechanism to set the "rules of the game" to ensure fair competition in the industry.

2. REVIEW OF THE AUTOMOTIVE MANUFACTURING DEVELOPMENT PROGRAMS

ISSUE DESCRIPTION

The Comprehensive Automotive Resurgence Strategy Program (CARS) was established by the Department of Trade and Industry (DTI) in May 2015 by Executive Order (EO) No. 182, series of 2015, with the intent of developing the automotive manufacturing industry, attracting foreign investment in the sector.

The program, implemented and coordinated by the Bureau of Investments (BOI), is limited to three models of four-wheeled motor vehicles with a volume no lower than 200,000 vehicles over the model life up to a maximum of six years. The CARS program offers fiscal incentives[145] valued in PhP27 billion, equivalent to approximately PhP50,000 in tax exemptions per vehicle, that are granted to the recipients through a tax payment certificate.[146]

So far, only the Toyota Vios and Mitsubishi Mirage are officially registered under the program. The program is still open for a third car model and Hyundai Asia Resources Inc. (HARI) is currently reviewing the possibility of joining it as the third player with its Eon Model. However, there has not been a formal application yet.

Despite the interest in the CARS program of European car makers, their participation has been hindered by the high production volume threshold imposed by the EO No. 182. While they would be required to produce 200,000 vehicles in 6 years, the top-performer European brands in the Philippines manage to sell around 1,000 units annually.

The EO No. 182 envisages a revision of the Motor Vehicle Development Program and other incentive schemes. According to Section 17, "the review, which should be completed within 6 months from the issuance of the EO No. 182 may explore the possibility of providing for new entrants intending to eventually participate in the CARS program a set of incentives during a limited transition period." Nonetheless, no review has been carried out so far.

While the existing vehicle development programs currently provide easy access to cheap cars and create Automotive sector jobs, the strategy may not be sustainable long-term. Other ASEAN countries have manufactured a larger amount of cars in comparison to the Philippines-for instance, in 2015, Thailand manufactured 1,913,001 vehicles, 1.2 million of which it exported. While the Philippines has managed to attract big players such as Toyota or Mitsubishi, the production is targeted domestically. If the right steps are taken, the archipelago could well become a regional hub for automotive production. However, this is unlikely to manifest if the said changes are not made before the completion of ASEAN integration.

RECOMMENDATIONS

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

European carmakers have shown interest in setting up manufacturing plants in the Philippines and the Filipino government should exploit this potential. The development of manufacturing plants for European cars would create jobs, develop an economy of scale in the automotive manufacturing sector and the country could become a regional hub for these particular

140 Co, B. (22/01/2017). Philippine Auto Industry sets new milestone in 2016 with 404,051 units sold. Retrieved: 25/01/2017. http://www.autoindustriya.com/auto-industry-news/philippine-auto-industry-sets-new-milestone-in-2016-with-404-051-units-sold.html.

141 CAMPI (2016). 2016 is Another Grand Year for Automotive Industry with 24.6% Growth. Retrieved: 25/05/2017. http://www.campiauto.org/2016-is-another-grand-year-for-automotive-industry-with-24-6-growth/.

142 Co, B. (22/01/2017). Philippine Auto Industry sets new milestone in 2016 with 404,051 units sold. Retrieved: 25/01/2017. http://www.autoindustriya.com/auto-industry-news/philippine-auto-industry-sets-new-milestone-in-2016-with-404-051-units-sold.html.

143 DTI (n.d.). DTI-BOI: Human Resource Development Programs in the Automotive Industry Cluster to generate 300,000 jobs by 2022. Retrieved: 25/05/2017. http://investphilippines.gov.ph/dti-boi-human-resource-development-programs-in-the-automotive-industry-cluster-to-generate-300000-jobs-by-2022/.

144 The EU officially launched negotiations with the Philippines in December 2015. The first round of talks was held in in May 2016 and a second of negotiation took place in February 2017.

145 The Fixed Investment Support (FIS): Requires new investments in the manufacture of parts and/or establishment of a shared testing facility.

The Production Volume Incentive (PVI): Requires the manufacture of at least 50% of the assembly by weight in the case of the body shell assembly and the manufacture of major components of the large plastic parts assemblies, exceeding 100,000 units in production volume.

146 Executive Order No. 182, s. 2015.

brands. It would also offer an additional value to the car industry in the Philippines with safe and environment-friendly car using the latest technology cars at a more affordable price, increasing the freedom to choose among a broad selection of models.

We share the desire of the government to develop a powerful automotive industry in the Philippines which requires the development of a sustainable plan. Therefore, we support the implementation of Section 17 of EO No. 182, that is to say, the review and consolidation of the existing motor vehicle development programs establishing more fiscal incentives to automotive companies committed to job creation and the stimulation of growth in the sector but unable to fulfil a high volume of production. We believe that encouraging new investments is essential to revitalize the Philippines automotive Industry. Since it appears unlikely that the Philippines can redirect other investments made in the region, such as in Thailand[147] or in Indonesia, towards the country, the government needs to include new investors in its strategy, particularly those that are not present in the region.

3. FACILITATION OF THE IMPORTATION OF VEHICLE PARTS

ISSUE DESCRIPTION

In the Philippines, imported automotive products must comply with the Philippine National standards (PNS) and need to go through a testing method implemented by the Department of Trade and Industry and the Bureau of Product Standards (DTI-BPS). These services have been outsourced to private companies. This testing method has proven to be long and complex, causing serious delays in the import procedure. In addition, the Import Commodity Clearance (ICC) process does not recognize international certifications, meaning that even licensed products by approved manufacturers must undergo a testing process and additional paperwork. Other government agencies can also obstruct the importation process. That would be the case of the Bureau of Customs (BOC) and its requirement of disclosing the production batch number when importing batteries, which is not mandatory in other countries. All these are examples of non-tariff barriers for EU automotive companies in the Philippines.

ASEAN member states agreed to harmonize the requirements for automotive products in line with the UNECE[148] Regulations of the 1958 Agreement, initially adopting[149] 19 UNECE regulations.[150] The Automotive Product Working Group (APWG)[151] is already working towards the adoption of 30 additional UNECE regulations.

The Committee on Harmonization of Vehicle Standards and Regulations (CHVSR)[152] was created in the Philippines in 2007 under the Department of Transportation and Communications (DOTC), with the intent of, among other tasks, pursuing the harmonization of vehicle standards in line with the objectives of the 1958, 1997 and 1998 WP29 Agreements, which provide the legal framework for vehicles, their systems, parts and equipment in terms of safety and environmental fundamentals and conformity of the products. However, the harmonization process has not been completed and ASEAN member states still have different national standards and technical regulations for automotive products, constituting a barrier to trade among them.

Having said that, the APEC[153] Automotive Dialogue (AD) in its 2016-2017 Work Plan pointed at the Philippines, along with Malaysia, as main countries to address tariff and non-tariff barriers, including standards and regulations, essential elements in the global automotive supply chain.[154] In the context of the ASEAN economic integration and the ongoing negotiations of the FTA between the Philippines and the EU, it is essential to eliminate trade restrictions affecting the import of automotive parts. In this sense, it is imperative to fully align to international standards, particularly UNECE Regulations.

RECOMMENDATIONS

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

We support the compliance with and recognition of internationally accepted standards for automotive parts, namely the UNECE Regulations, so that Filipino manufacturers will not be burdened to produce differently for the local market and for other countries, such as ASEAN member states, that demand certain safety and quality requirements. This is especially important as the government is trying to revitalize the Automotive Industry.

147 Toyota opened its first regional factory in Thailand in 1964.

148 United Nations Economic Commission for Europe.

149 AEC 0115 implementation schedule.

150 ECE R13 Heavy vehicle breaking, ECE R13H Breaking of passenger cars, ECE R14 Safety belt anchorages, ECE R16 safety-belts, ECE R17 Strength of seat, 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.

151 The APWG is a working group formed under the ASEAN Consultative Committee for Standards and Quality in August 2004, with the objective of join efforts in standards harmonization of automotive products within ASEAN.

152 Executive Order No. 628, s. 2007.

153 Asia-Pacific Economic Cooperation.

154 Asia-Pacific Economic Cooperation. APEC Automotive Dialogue 2016 – 2017 Work Plan.

We also recommend improvements in the importation process, recognizing international certificates and reducing the DTI-BPS processing time. These measures, along with the future completion of a FTA, will increase the competitiveness of the car industry and will help develop the parts manufacturing sector, leading to a greater exchange of automotive components to ASEAN car manufacturers.

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

ISSUE DESCRIPTION

According to the Clean Air Act of 1999 (RA No. 8749) and other rules and regulations issued by the Land Transportation Office (LTO), all vehicles must pass inspection in order to be deemed roadworthy in the Philippines.

In 2014, the government launched the Vehicle Inspection System (MVIS) project with the goal of developing a network of Motor Vehicle Inspection Centers (MVICs) across the country providing an efficient, effective, reliable and transparent service of motor vehicle inspection, able to ensure roadworthy and environmentally-sustainable vehicles. These centers are expected to use automated inspection methods that will be linked to the information system of the Land Transportation Office.[155]

The MVIS is to play a crucial part in ensuring safety and environmental standards of the increasing number of motor vehicles that may reach 34.75 million by 2036 according to government's estimates. Although in 2014 this project cost was estimated in PhP19.3 billion and it was agreed that a Build-Transfer-and-Operate (BTO) structure would be used for its implementation, today it is under revision and there is not indicative cost, PPP structure and cooperation period still determined.

The agency tasked to implement the MVIS is the Department of Transportation (DOTr) along with the LTO. Nonetheless, as mentioned above, the Motor Vehicle Inspection System (MVIS) Project is still under development.[156]

RECOMMENDATIONS

IMPLEMENT THE MOTOR VEHICLE INSPECTION SYSTEM AS A PPP PROJECT.

We support the implementation of the MVIS as a PPP project. We look forward to the setting-up of testing centers for heavy duty, light duty and two-wheeler vehicles across the country in line with global best practices. However, given the delay in its implementation, we suggest the government to authorize privately owned vehicle dealerships to carry out the tasks of the MVIS facilities until the network of MVICs is fully developed. Due to the increasing number of vehicles in the Philippines, additional inspection centers are necessary.

5. EFFECTIVE IMPLEMENTATION OF EURO 4 EMISSIONS STANDARDS

ISSUE DESCRIPTION

The Department of Energy (DOE) issued the Department Circular No.2015-06-0004 in August 2015 establishing new limits for gasoline and diesel oil specifications in line with the Euro 4 Emissions Standards. According to this regulation, the fuel sold in the Philippines from January 1, 2016 onwards cannot contain more than 50ppm[157] of sulfur and a maximum of 2% by volume of benzene. Therefore, new vehicles sold in the Philippines are also required to be equipped with a Euro 4 engine.

The Department of Environment and Natural Resources (DENR) also issued the Administrative Order (AO) No. 2015-04, setting the vehicle emissions limit in compliance with Euro 4 standards and the AO 2016-23[158] requiring all new vehicles equipped with Euro 4 engine to meet the United Nations Regulation (UNR) 83-05B and UNR 49-04 prior to the issuance of the Certificate of Conformity. These UNRs also establish international standards on pollutant emissions of vehicles according to their engine fuel requirements.

Despite efforts by the DOE and DENR to have carmakers comply with this regulation, implementation is slow. While the DOE's inspections keep both oil companies and gas stations in check, the standards for car emissions have not been enforced with the same strictness. Not all vehicles being sold are Euro 4 compliant. Older and in-use vehicles are not bound by the Euro 4 standards, thus car companies have an agreement which allows them to sell their existing car models with Euro 2 engines until the end of 2017.[159] Moreover, car companies are still selling cars with Euro 3 engines. It has also been noted that motorcycles on the market are only Euro 3 compliant to date. Many private emission testing centers (PETCs) also do not use the new standards for car renewals.

While Petron Corporation has already introduced Euro 6 standard fuel[160] in the Philippines and it may be a matter of time for other oil companies to upgrade their fuel standards, there is still much to be done in the area of emission standards for vehicles in the country. Some estimates show that it could take up to 15

155 PPP Center (n.d.). Motor Vehicle Inspection System. Retrieved: 26/05/2017. https://ppp.gov.ph/?ppp_projects=motor-vehicle-inspection-system.

156 Public-Private Partnership Center (28/03/2017). Status of PPP Projects. Retrieved: 26/05/2017. https://ppp.gov.ph/wp-content/uploads/2017/04/MISD_20170328_TABLE_status-of-ppp-projects.pdf.

157 ppm: parts per million.

158 Department of Environment and Natural Resources (DENR) Administrative Order (AO) No. 2016-23 dated 28/06/2016.

159 However, they will need to switch to Euro 4 engines by 2018.

160 Blaze 100 Euro 6.

years to replace all the vehicles currently in use that are not compliant with Euro 4 standards. Therefore, establishing Euro 6 standards[161] for vehicles remains a distant goal.

RECOMMENDATIONS

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

We would like to encourage the DENR, the BOC, the DTI, the LTO and other relevant government agencies to combine efforts for a stricter implementation of the emission standards. The BOC's involvement is essential in order to enforce the DAO No. 2015-04 in preventing the entry to the Philippines of all new vehicles not complying with the Euro 4 standards.

We support the DENR's plans to stop issuing registrations to new PETCs which are non-Euro 4 compliant[162] but a revision of the current testing facilities should also be done as they should handle higher standards. Additionally, we request to consider the role of car dealerships as they can ensure, through their aftersales service, that the vehicles maintain their road worthiness and that they will pass emission standards tests.

In view of the difficulties encountered in the implementation of this regulation, we suggest creating a timeline to gradually upgrade the emission standards for old and in-use vehicles.

Although the compliance with more stringent standards may entail an increase in the cost of cars,[163] it is a clear step towards a cleaner and less polluted environment, totally in accordance with the Philippine Clean Air Act 1999 (RA No. 8749), which aims to achieve healthy air for all Filipinos. We cannot ignore that traffic is the biggest source of pollution and vehicle emissions accounts for almost 80% of the air pollution in Metro Manila. Therefore, the correct implementation of this measure is essential to mitigate the environmental impact of vehicles.

161 In the European Union the current standards for light duty vehicles is Euro 6.

162 Go, K. C. (21/09/2016). DENR wants to stop new emission test centers, non-EU4 engines import. Autoindustriya.com. Retrieved: 26/05/2017. http://www.autoindustriya.com/auto-industry-news/denr-wants-to-stop-new-emission-test-centers-non-eu4-engines-import.html.

163 Isuzu Philippines projects 10% to 15% increase in estimated cost to make all its selling cars compliant with Euro 4 Standards.

High Priority Sector Papers
ENERGY AND RENEWABLES

INTRODUCTION

Demand for reliable and affordable energy constantly increases with the continued growth of the Philippines. This, together with the need for environmentally sustainable power generation, has become a pressing issue. Especially with the Philippines ranking third in the list of countries most vulnerable to climate change and its electricity rates being among the highest in Asia. Indeed, steady, affordable and indigenous energy is essential to sustain economic growth and reduce poverty in the country.

Thus, it is essential to implement a balanced energy mix policy with a significant share of renewable energy resources. Renewable energy can bring competitive power in the long run while reducing harmful emissions and generating means of employment. It is also important to increase the use of Liquefied Natural Gas (LNG) in place of traditional fossil fuels as a viable and cleaner alternative. In this context, it is necessary to continue implementing energy efficiency and conservation policies that can help save energy and reduce the greenhouse gas effect.

In recent years, the country has been on the right track in terms of advancing clean energy sources, however coal fuel plants expansion, poor enforcement, and weak implementation of the regulations threaten the sustainability of the country's fuel mix and the compliance to international commitments.

The fragmentation of the national grid also needs to be addressed by linking the Mindanao grid to that of Luzon and/or Visayas, thus providing stability and neutralizing power shortages in some areas that could be compensated with power sources from other regions.

European companies known to be global leaders in sustainable energy solutions, look forward to contributing their expertise in the development of the renewable sector, LNG and energy saving technologies such as building insulation. In order to facilitate a sustainable energy strategy we outline the following suggestions:

- Implementation of a sustainable energy mix policy
- Implementation of measures in support of increased renewable energy capacity
- Adoption of a downstream natural gas policy
- Establishment of a nationwide grid connection
- Support energy efficiency and conservation
- Revival of the Council of Advisers on energy affairs

SECTOR SITUATIONER

MARKET DATA

The Philippines is divided into three electrical grids: Luzon, Visayas, and Mindanao.

Luzon Grid. According to 2014 data, San Miguel Energy Corp. (SMEC) topped the list of power generation companies with the highest power generated at 18,507 GWh covering 33% of the 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.[163]

In the **Visayas**, Power Sector Assets and Liabilities Management (PSALM) continued to be the biggest player in the Visayas reaching 36% of the total power generation, producing a total of 3,970 GWh, mainly from the Leyte A & B Geothermal Power Plants. Global Business Power Corp. (GBPC), which obtains most of its power from its coal power plants located in Panay and Cebu, was second with 28% share while First Gen was third with 15% of electricity produced from its geothermal power plants in Leyte and Negros.[164]

In **Mindanao**, the government still dominates the power generation sector through the National Power Corporation's (NPC) Agus Pulangui Hydro Power Complex and PSALM's IPP contract with Mindanao Coal Power Plant. In 2014, NPC covered 48% of the generated electricity of the Mindanao grid with 4,458 GWh, followed by PSALM with 1,258 GWh, accounting for 14%. Alcantara Group, which owns oil-based power plants was third, representing 13% of the grid while APC covered 12% of total power generation in Mindanao.[165]

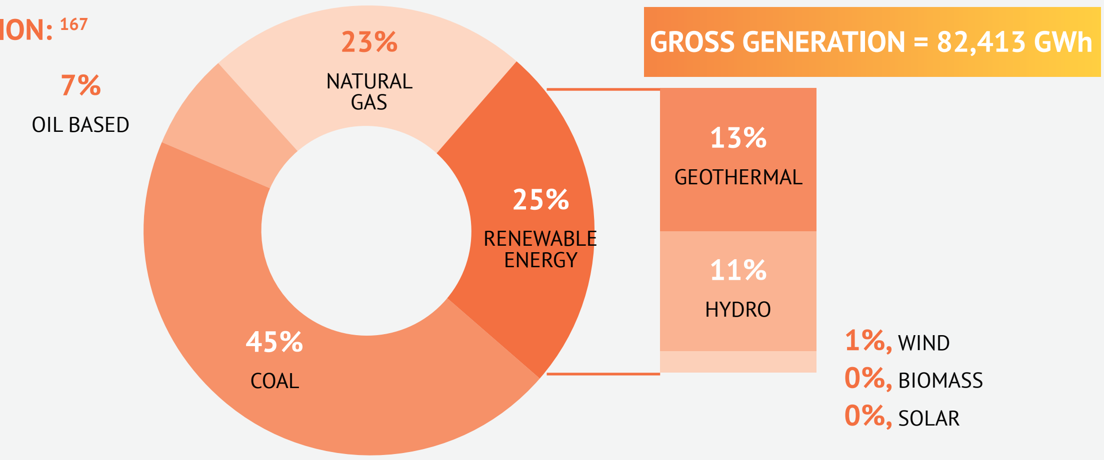
Overall, SMEC has 24% of the power generation for the national grid followed by First Gen with 17%. APC has 15% while the government through PSALM and NPC has 15%.[166] Ayala Corp. is now emerging as a fourth player in power generation.

Coal remains the country's main energy source. In 2014 it accounted for 45% of the gross generation, followed by renewable energy (25%), natural gas (23%), and oil (7%). Among renewable energy, geothermal represented 13% and hydropower 11%. Visayas relies mainly on geothermal plants while hydropower dominates the Mindanao power sector.

2016 was characterized by a significant increase in electricity consumption at 10% and peak demand at 8.7% attributed to several factors such as the increase in temperature and utilization of cooling equipment aggravated by the strong El Niño, the conduct of National and Local elections during the first half of the year, increase in economic growth, and entry of large power generating plants. The residential and industrial sectors remained the major drivers of electricity consumption in the country while Luzon remained the largest on a per grid basis.[168] Also in 2016, the vulnerability of the Mindanao grid was highlighted with the frequent emergency shutdowns of most power plants and several bombing attacks.

Renewable energy remains a sector of high interest for European companies. In terms of the sector's potential employment generation, a 2014 study by the UK's Energy Research Centre came to the conclusion that shifting 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.[169]

GROSS GENERATION: [167]



163 EPIRA (10/2015). 27th EPIRA Implementation Status Report, p. 28, 29. Retrieved: 03/07/2017. https://www.doe.gov.ph/sites/default/files/pdf/electric_power/power_industry_reforms/27th_epira_report%20_30_march_2016-final.pdf.

164 Ibid.

165 Ibid.

166 Ibid.

167 DOE (2016). 2015 Philippines Power Situation. Retrieved: 03/07/2017. https://www.doe.gov.ph/electric-power/2015-philippine-power-situation.

168 DOE (2017). Philippine Power Situation Report. Retrieved: 03/07/2017. https://www.doe.gov.ph/electric-power/2016-philippine-power-situation-report.

169 UK Energy Research Centre (11/2014). Low carbon jobs: The evidence for net job creation from policy support for energy efficiency and renewable energy. Retrieved: 03/07/2017. http://www.ukerc.ac.uk/publications/low-carbon-jobs-the-evidence-for-net-job-creation-from-policy-support-for-energy-efficiency-and-renewable-energy.html.

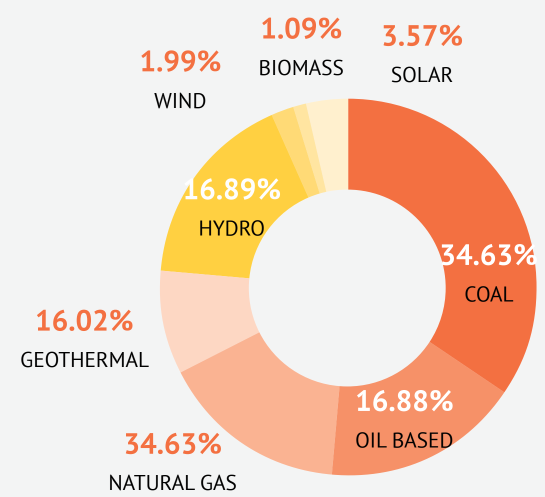
ELECTRICITY SALES AND CONSUMPTION, PER GRID (MWh)

	Luzon	Visayas	Mindanao
	7,465,905 25%	1,421,865 38%	1,438,119 37%
	7,478,511 25%	476,071 13%	596,920 15%
	6,592,978 22%	596,405 16%	1,229,184 31%
	1,105,503 4%	337,560 9%	238,224 6%
	4,779,351 16%	6,822 0%	8,734 0%
	2,918,793 10%	894,360 24%	424,392 11%
	30,341,041	3,733,082	3,935,573

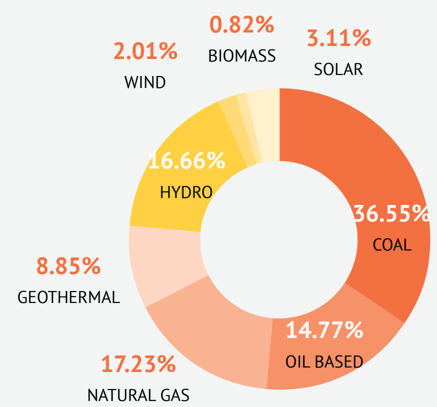
Source: DOE[170]

ELECTRICITY SUPPLY

Installed Capacity = 21,423 MW



Dependable Capacity = 19,097 MW



Source: DOE[171]

Power Generation 2016	Luzon		Visayas		Mindanao	
	MWh	%	MWh	%	MWh	%
Coal	33,143,458	49.80%	5,270,242	40.70%	4,889,542	43.10%
Oil-based	2,561,831	3.90%	637,405	4.90%	2,462,170	21.70%
Natural Gas	19,853,783	29.90%	0	0.00%	0	0.00%
Renewable Energy (RE)	10,938,477	16.40%	7,047,239	54.40%	3,993,743	35.20%
Geothermal	4,226,913	6.40%	5,974,487	46.10%	869,002	7.70%
Hydro	5,011,100	7.50%	63,532	0.50%	3,036,282	26.80%
Biomass	438,807	0.70%	276,053	2.10%	11,046	0.10%
Solar	494,946	0.70%	524,658	4.00%	77,412	0.70%
Wind	766,711	1.20%	208,509	1.60%	0	0.00%
Total generation	66,497,549	100%	12,954,886	100%	11,345,457	100%

170 DOE (2016). Power situation highlights. Retrieved: 03/07/2017. https://www.doe.gov.ph/electric-power/january-june-2016-power-situation-highlights.

171 Ibid.

172 Department of Energy (n.d.). Retrieved: 30/06/2017. https://www.doe.gov.ph/sites/default/files/pdf/energy_statistics/bgross_power_generation_by_plant_2016.pdf.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- President Rodrigo Duterte signed Executive Order (EO) No. 30, Series 2017 on June 28, 2017, creating the Energy Investment Coordinating Council (EICC) with the aim of streamlining applications for energy projects of national significance.

ADVOCACY

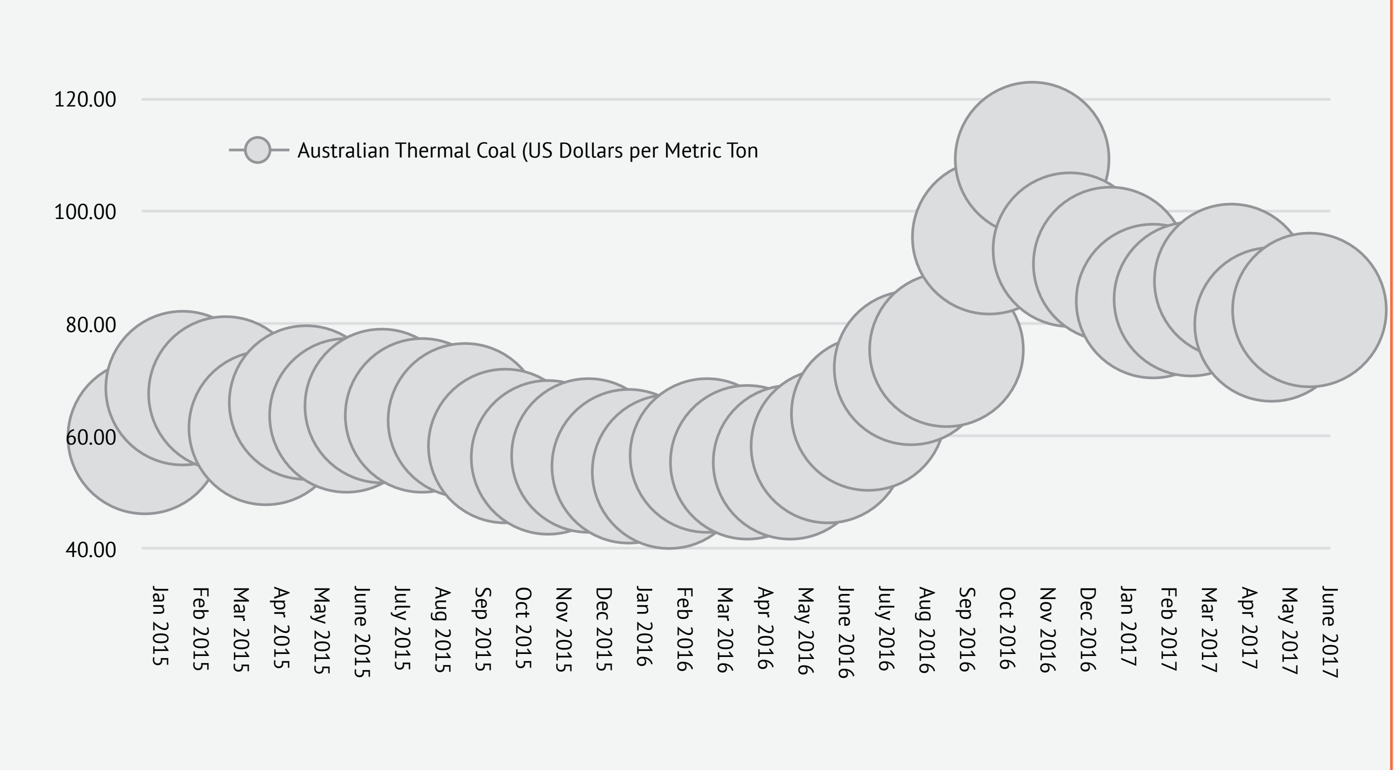
1. IMPLEMENTATION OF A SUSTAINABLE ENERGY MIX POLICY

ISSUE DESCRIPTION

The particular feature of the power industry lies in the need to match supply and demand of electric power in real-time at all times. For the time being, the only affordable energy storage option for the Philippines is pumped storage hydro (PSH) whose capacity remains small relative to the total demand.[173]

There is a common notion that the best way to increase electric power supply reliability while reducing its cost is to build coal power plants as, under standard assumptions, coal power has the lowest "levelized cost of electricity" (LCOE). However, this simplistic view of coal power neglects practical realities. The most important cost parameter for any fossil fuel power plant is the cost of fuel as coal price movements are automatically reflected in the delivered electricity price of coal power plants. The graph below shows the movement of Australian thermal coal prices from January 2015 to June 2017. Australian thermal coal price is the basis for the Newcastle Coal Index, the benchmark coal price index used in all Philippine transactions, even for the purchase of local Semirara coal.[174]

According to the graph, between the first half of 2016 and November 2016, coal price doubled from below USD55 to above USD100. Mindanao has borne the brunt of this increase as its generation from coal increased 240%.



173 Data provided by EPBN Energy Committee members.
174 Ibid.

In the Philippines, coal-fuel power plants are the largest source of energy accounting for 36.5% of the country's energy mix. The share of renewable energy (RE) in the power mix reaches 31%, with hydropower and geothermal prevailing over other renewable resources. Gas and oil plants account for 17.2% and 14.8% respectively.

However, coal is expected to account for 56% of the energy mix by 2020 and to expand up to 80% by 2030[175], with the entry of coal-fueled power plants in the next few years, mainly in Mindanao. The expansion of coal is in direct contrast to the Intended Nationally Determined Contributions (INDC), announced in 2015 and provided to the Paris Agreement, by which the Philippines committed to reduce carbon emissions by 70% by 2030.[176]

Looking at the grid breakdown, natural gas production can only be found in Luzon and constitutes 22.9% of the installed grid generating capacity. However, coal still dominates the generating capacity of the grid at 35.3% followed by renewable energy at 27.5%. In the Visayas grid, renewable energy accounts for 47.9%, with geothermal dominating at 29.4% of the grid capacity. Nonetheless, coal still accounts for 32.1% of the grid capacity. In Mindanao, the largest share is also renewable energy, providing 40% of the generating capacity of the grid, with hydro representing 33.5% of the total. Coal is the second energy source accounting for 33.8% of the grid capacity.[177]

During the Aquino Administration, the Department of Energy (DOE) released Circular 2015-07-0014, prescribing a fuel mix of 30-30-30-10, that is to say, a 30% share of power sources from coal, 30% from renewables, 30% from natural gas, and 10% from other sources, particularly oil.

The Duterte Administration is determined to abandon the previous Administration's energy mix policy in favor of a "70-20-10 formula" removing the quotas on specific technologies. This will leave the decision on the kind of power plants to be built in the Philippines in the hands of the developers, based on the system requirement of 70% base load, 20% mid-merit and 10% peaking power.

A clean energy mix policy will provide competitive, affordable and steady power in the long term, necessary for the sustainable development of the industry, for investors and for domestic consumers. Therefore, the Philippines needs a balanced fuel mix that gradually reduces dependence on coal in favor of renewable energy resources.

While coal may seem a cheaper source of energy at first, it is subject to fluctuations in price. Moreover, coal has undesirable effects on health and the environment,[178] including impacts on local biodiversity, water pollution, and air pollution, accounting for over 40% of the global carbon emissions. On the other hand, the use of renewable energy provides an environmentally friendly and affordable solution and has the potential to create job opportunities in the country.

175 DOE (n.d.). Retrieved: 03/07/2017. https://www.doe.gov.ph/energist/index.php/about-ener-gist/2-uncategorised/11385-energy-mix-policy-sought-vs-power-price-spikes.
176 UNFCCC (n.d.). Retrieved: 03/07/2017. http://www4.unfccc.int/submissions/INDC/Published%20Documents/Philippines/1/Philippines%20-%20Final%20INDC%20submission.pdf.
177 DOE (27/03/2017). 2016 Power Statistics. Retrieved: 03/07/2017. https://www.doe.gov.ph/sites/default/files/pdf/energy_statistics/ainstalled_gen_capacity_and_dependable_gen_capacity_2016.pdf.
178 In 2012 coal related air pollution in China caused 670,000 deaths and an economic loss of 1.8 trillion RMB, equivalent to 3.7% of China's GDP.

Furthermore, according to the Maplecroft's Heat Stress Index of 2015, South-Asian economies, including the Philippines, could be up to a quarter less productive than today due to heat stress. Due to heat stress too, the Philippines could lose up to 16% of its labor capacity over the next three decades. Therefore, the Philippines will face a direct effect of climate change, resulting in productivity and competitiveness losses. This is one more reason to adopt policies that can help fight climate change.[179]

The Philippines needs to formulate its power mix policy not based on economics alone, but also taking into account other aspects such as energy security, health and the environment.

RECOMMENDATIONS

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

We strongly support the formulation and enforcement of a sustainable energy mix policy with a significant share of renewable energy resources and an increased use of LNG while we recommend reviewing the existing licenses for the development of additional coal plants.

We respectfully call on the current Administration to consider the expansion of renewable energy sources as a means of reducing the number of coal fired plants, in order to ensure alignment with the Philippines' international commitments to the environment, particularly the Paris Agreement on Climate Change, signed by the Philippines in 2017. This will catapult the country towards a position of renewable energy leadership in Southeast Asia, which is possible thank to its bountiful resources. This will not only reduce the environmental impacts and negative health effects on the population but will also help attain reliable and affordable energy for all Filipinos in the long term.

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

ISSUE DESCRIPTION

The share of renewable energy (RE) to total power-generating capacity has been historically high in the Philippines. It stands at approximately 31%, hydropower being the main source, followed by geothermal.

The Renewable Energy Act of 2008 (RA[180] No. 9513) was enacted to promote the production and use of RE in the country, thus reducing the dependence on fossil fuels. The use of RE is bolstered by providing fiscal and non-fiscal incentives to private sector investors and equipment manufacturers, such as the Renewable Portfolio Standards (RPS), the Feed-in-Tariff (FIT) system, net metering, fiscal incentives or the green energy option.[181] However, constraints in the implementation of the RPS and the FIT system remain.

The RPS, regulated in Chapter III, Section 6 of the RA No. 9513, aims to increase demand for RE by setting the minimum percentage of generation from RE resources to be met by all electricity suppliers and generating companies. However, the regulation establishing the RPS[182] is still being formulated.

On the other hand, the FIT scheme, developed by Resolution No. 16, Series of 2010 and implemented by Transco, is an energy supply policy that has supported the development of RE in the Philippines by offering long-term agreements, typically for 20 years, for the sale of renewable energy electricity at a fixed rate and with priority connection to the grid. Eligible RE sources include wind, hydro, solar, geothermal, and biomass. The rates depend on the technology type and other project-related factors.[183] These FIT rates are covered by the Feed in Tariff Allowance (FIT-All), which is a uniform charge (in PhP/kWh) to be paid by all on-grid electricity consumers.[184]

However, the way this mechanism is implemented has raised concerns among RE developers. Firstly, the DOE and the Energy Regulatory Commission (ERC) have applied a "first to build, first to FIT" system[185] for qualification of the FIT rates, which increases the risk for RE developers as there is no guarantee that their projects would remain operational and that they will be able to recover the cost of their large capital investments under the FIT scheme once their projects are completed. Therefore, due to the existing uncertainties, the RE developers will increase the cost of capital that will inevitably raise the electricity price for end users. Secondly, the lack of transparency in the awarding process of the FIT rates became evident with the over-subscription to the 500-megawatt solar installation target set under the Aquino administration that left several projects with no fixed FIT rates.[186] Additionally, the lack of interest of the new Administration to approve additional installation targets significantly increases the risk for RE developers in the Philippines. If RE developers are unable to qualify for the FIT scheme or incentives are not renewed, many operators of renewable projects, specifically solar power developers, will need to shut down operations in the country.[187]

179 Verisk Maplecroft (28/10/2015). Heat stress threatens to cut labour productivity in SE Asia by up to 25% within 30 years. Retrieved: 03/07/2017. https://maplecroft.com/portfolio/new-analysis/2015/10/28/heat-stress-threatens-cut-labour-productivity-se-asia-25-within-30-years-verisk-maplecroft/.

180 Republic Act (RA).

181 Fiscal incentives: 7-Year Income Tax Holiday, Duty-free and VAT-free Importation. Net-metering: A consumer-based incentive for RE system owners that add electricity to the grid. Green energy option: A mechanism that provides end-users the option to choose RE Resources as their source of energy.

182 DOE Circular providing rules and guidelines governing the establishment of the renewable portfolio standard (RPS). Retrieved: 03/07/2017. https://www.doe.gov.ph/announcements/draft-department-circular.

183 For example, the FiT rates for wind power is set at 7.40 PHP/kWh and for solar power at 9.68 PHP/kWh.

RECOMMENDATIONS

IMPLEMENT THE RENEWABLE PORTFOLIO STANDARDS IN THE SHORTEST POSSIBLE TIMEFRAME.

We support the enactment of the Downstream Natural Gas Industry Development Act that would provide the legal framework for the development of the emerging natural gas industry in the Philippines. We welcome initiatives such as the DOE's Downstream Natural Gas Roadmap 2017-2040. However, legislative measures are necessary to ensure the development of long term natural gas infrastructure, to regulate import-export activities and to promote the use of natural gas. The inclusion of provisions with clear regulatory guidelines, long term policy objectives and an incentives scheme will pave the way for private sector investments, necessary for the development of the sector.

APPROVE ADDITIONAL INSTALLATION TARGETS WHICH ARE HIGH ENOUGH TO MITIGATE THE RISK FOR DEVELOPERS CREATED BY THE FIRST COME FIRST SERVED SYSTEM.

We recommend the approval of additional installation targets in line with Resolution No. 16, Series of 2010, adopting the Feed-In-Tariffs rules, that establishes the mandate of ERC to review and adjust the FITs when the installation target per technology has been achieved. With regard to solar energy, the last 500 MW installation target was exceeded by 390 MW and, as a consequence, many solar power projects could not avail of the FIT rates.

With a new round of FIT, those solar sector projects could be covered by the preferential rates, guaranteeing that they will remain operational. The wind sector will also welcome a new round of targets as the last allocation set by the NREB has already been exhausted. This would send a positive message to potential investors in renewable energy as the uncertainty associated to the FIT awarding process would be mitigated with successive installation targets.

The mechanisms set out by the Renewable Energy Act, if implemented properly, can contribute to the socioeconomic development in rural areas, to the reduction of harmful emissions and to the decrease in costs and power prices in the long term. They will also help the Philippines achieve the target of 50% in RE of the total installed capacity by 2030.

3. ADOPTION OF A DOWNSTREAM NATURAL GAS POLICY

ISSUE DESCRIPTION

The gas industry is divided into two major sectors. The (1) upstream sector, that includes the exploration and production of natural gas and (2) the downstream sector, which involves the processing of raw natural gas and its distribution.

While gas exploration and production in the Philippines is regulated by the Oil Exploration and Development Act of 1972 (PD No. 87), amended by PD No. 1857 in 1983, there is not a comprehensive set of regulations governing the downstream sector. However, there are laws, industry rules, and regulations formulated by the DOE[188] that provide a legal framework for the distribution and supply of natural gas.[189]

The biggest gas field in the Philippines is the Malampaya Gas Field located in Northern Palawan. It was the second gas discovery in the Philippines after the already decommissioned San Antonio Gas Field. The Malampaya Deepwater Gas-to-Power project, which includes the upstream and downstream sectors, fuels three gas-fired power plants located in Batangas with a total generating capacity of 2,700 megawatts. This project, developed by a consortium formed by Shell Philippines Exploration BV, Chevron-Texaco Philippines Inc. and the Philippine National Oil Company Exploration Corporation under Service Contract (SC) 38[190], has been providing 40-45% of Luzon's power generation since 2001, and producing approximately 146 billion cubic feet of natural gas per year.

Since the depletion of the Malampaya reserves is expected by 2024, there is an increasing need to diversify power supply in Luzon to ensure energy security and LNG, the cleanest fossil fuel[191], presents an excellent alternative to produce electricity.[192]

184 Resolution No. 16, Series of 2010. Retrieved: 03/07/2017. https://www.erc.gov.ph/.../ResolutionNo16_s_2010_final_FITrules.pdf.

185 First come, first served.

186 The FiT awarding process is particularly contentious for solar developers as building solar power plants requires the use of highly expensive technology.

187 Business World (12/05/2017). Solar operators locked out of FiT may need to shut down. Retrieved: 03/07/2017. http://www.bworldonline.com/content.php?section=Economy&title=solar-operators-locked-out-of-fit-may-need-to-shut-down&id=145075.

188 The Public Service Law (Commonwealth Act No. 146), the Downstream Oil Industry Deregulation Act of 1998 (RA No. 8479), the EO No. 172 that created the Energy Regulatory Board, the Electric Power Industry Reform Act of 2001 (RA No. 9136), the Department of Energy Act of 1992 (RA No. 7638), EO No. 66, designating the Department of Energy (DOE) as lead agency in the development of the Natural Gas Industry, DOE Circular No. 2002-08-005 about Interim Rules and Regulations Governing the Transmission, Distribution and Supply of Natural Gas, DOE Special Order No. 2002-12- 050 (12-03-2002) that created the Natural Gas Office.

189 DOE (n.d.). Natgas. Retrieved: 28/06/2017. https://www.doe.gov.ph/natgas.

190 Ibid.

191 Natural gas produces around half the Greenhouse Gas Emissions compared to coal and natural gas fired power plants emit less than one tenth of the Sox and NOx particulates compared to coal fired generation.

192 From a cost perspective, gas fired power generation is competitive with coal fired generation at mid merit and at base-load power generation. A study carried out by IHS on a total system basis between 2015 and 2030 shows that a balanced energy mix scenario with about 30% gas is about 15% cheaper than a high coal scenario.

The flexibility of natural gas also makes it the ideal complement to a desirable increasing amount of renewables in the energy system. In this context, the current Administration plans to develop a LNG facility in the Philippines by 2019. To this end, the state-owned Philippine National Oil Co. (PNOC) has already received unsolicited proposals from 26 different groups.

Therefore, it is necessary to develop a comprehensive policy framework for a viable long-term downstream infrastructure. During the 17th Congress, the Downstream Natural Gas Industry Development Act[193] Bill has been filed but has not progressed so far. A similar initiative was deliberated during the 16th Congress and did not succeed. On the other hand, the DOE has launched the Downstream Natural Gas Roadmap 2017-2040 which aims to establish an investment driven and efficient natural gas industry, regulating monitoring for bidding contracts, infrastructure development and import-export operations.[194]

RECOMMENDATIONS

ENACT A DOWNSTREAM NATURAL GAS INDUSTRY DEVELOPMENT LAW.

We believe that importation of LNG and its distribution throughout the Philippines must be ensured to guarantee a well-balanced energy system in the near future, particularly after the depletion of Malampaya in 2024. Therefore, we support the enactment of the Downstream Natural Gas Industry Development Act that would provide the legal framework for the development of the emerging natural gas industry in the Philippines. We welcome initiatives such as the DOE's Downstream Natural Gas Roadmap 2017-2040. However, legislative measures are necessary to ensure the development of the long term natural gas infrastructure, to regulate import-export activities and to promote the use of natural gas. The inclusion of provisions with clear regulatory guidelines, long term policy objectives and an incentives scheme will pave the way for private sector investments, necessary for the development of the sector.

4. ESTABLISHMENT OF A NATIONWIDE GRID CONNECTION

ISSUE DESCRIPTION

The Electric Power Industry Reform Act (EPIRA) of 2001 (RA No. 9136) regulates the power industry in the Philippines, encouraging greater competition and more private-sector investments. It aims to (1) restructure the electricity sector distinguishing between generation, transmission, distribution and supply and to (2) privatize the National Power Corporation (NPC). While power generation and supply are open to the private sector, distribution and transmission are regulated by the Energy Regulatory Commission (ERC).[195] EPIRA also created the National Transmission Corporation (TransCo), a government agency in charge of the power transmission system that links power plants to the electric distribution utilities nationwide. In 2009, TransCo turned over the management and operation of the country's transmission system to the National Grid Corporation of the Philippines (NGCP), after obtaining a concession and the corresponding congressional franchise for a total of 50 years (RA No. 9511).[196]

The Philippine transmission system is composed of three grids: (1) Luzon, (2) Visayas, which are interconnected and (3) Mindanao. However, many islands in the country are not connected to any of these grids, relying on localized power plants. Furthermore, it is estimated that 10.9% of the population have no access to electricity.[197]

Mindanao's grid vulnerability and Visayas' potential deficiency highlight the need for an immediate interconnection of the grids. Mindanao that is highly reliant on hydropower, faced serious power supply shortages in 2016 as water sources across the island dried up due to El Niño effect and in 2015 during the maintenance shutdown of a major power plant.

The unification of the country's three main grids would compensate for the deficit in some areas of the Philippines via the surplus from others. In fact, Mindanao is expected to increase its electricity generating capacity in the upcoming years with the opening of new coal fired power plants[198] and could share its power reserves with Visayas.

The interconnection project was first conceived in 1984[199] but it was never implemented. In early 2016, the ERC approved a study on the Visayas-Mindanao interconnection project of the NGCP,[200] the transmission system operator for three grids, which could be completed by 2020. The current Administration also considers the interconnection project as a priority and is studying the possibility of funding the project using the Malampaya funds.

193 Senate Bill (SB) No. 2668.

194 Department of Energy. (2017). Downstream Natural Gas Roadmap 2017-2040. Retrieved: 28/06/2017. https://www.doe.gov.ph/pep/downstream-natural-gas-roadmap-2017-2040.

195 DOE (n.d.). EPIRA (RA No. 9136). Retrieved: 30/06/2017. https://www.doe.gov.ph/epira-ra-9136.

196 Transco (n.d.). Retrieved: 30/06/2017. http://www.transco.ph/about.

197 The World Bank (n.d.). Access to Electricity. Retrieved: 30/06/2017. http://data.worldbank.org/indicator/EG.ELC.ACCS.ZS.

198 FDC power plant, GN Power Coal, Therma South Coal, and SMC Davao Coal.

199 The interconnection project is based on a study done by the Japan International Cooperation Agency (JICA).

200 The proposed connectivity project divides the region into Leyte-Surigao for the eastern route and Cebu-Zamboanga for the western route.

RECOMMENDATIONS

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

We support the development of an integrated national grid system by linking the Mindanao grid to the Visayas. The unification of the three main grids would put an end to the operational problems of a fragmented grid system, making energy more accessible and facilitating power transmission to other parts of the country, thus serving more areas. The interconnection is essential to facilitate economic growth and to ensure energy security across the country. Additionally, the maintenance and expansion of the grid should be prioritized to ensure the system is able to accommodate changing energy supply patterns and a growing power demand. Therefore, the NGCP, the franchisee, should ensure the stabilization of the grid and develop quality power.

5. SUPPORT ENERGY EFFICIENCY AND CONSERVATION

ISSUE DESCRIPTION

Existing legislative initiatives on energy efficiency and conservation emphasize the interest of the government to ensure a reliable, affordable, safe and sustainable energy system in the Philippines. In 2004, the DOE launched the National Energy Efficiency and Conservation Program (NEECP) with the objective of promoting awareness on an optimum use of energy. It opened the door to other programs and projects[201] that aimed to strengthen the implementation of an energy efficiency policy.

In the present context, where the forecasts show that energy demand will grow by 78% between 2014 and 2030 and where transport and industry sectors will be the dominant end users, the Philippine Energy Efficiency Roadmap 2014-2030 sets energy reduction targets and establishes short, medium and long term actions on different sectors (transport, industry, residential buildings, commercial buildings) as well as on cross-cutting issues.[202] Additionally, the NEECP 2016-2020, which is a short term action plan containing sectoral initiatives, implements the strategic goals included in the Philippine Energy Efficiency Roadmap.

Furthermore, the 2017 Investment Priorities Plan (IPP) developed by the Board of Investors (BOI) and PEZA´s Resolution No. 15-239 of 2015 include fiscal and non-fiscal incentives for manufacturing companies or investment projects that promote energy efficiency and conservation.

From the private sector, a group formed by 27 companies that calls itself the Philippine Energy Efficiency Alliance Inc (PE2) has proposed the creation of the Philippine Council for an Energy-efficient Economy (PCE3), a public-private-civil society platform that would provide strategic direction towards the continued adoption of energy-efficient technologies, best practices, business models and financial mechanisms.[203]

Nonetheless, according to the 2016 Regulatory Indicators for Sustainable Energy (RISE), a report prepared by the Word Bank every two years, the Philippines lacks a national action plan to increase energy efficiency as well as financing mechanisms, performance standards and building codes.[204] Therefore, and despite progress in this area, the Philippines needs to institutionalize a framework on energy efficiency, establishing more incentives to undertake energy efficiency measures among end users, namely large consumers. It is worth highlighting that the Philippines and Malaysia are the only countries of the ASEAN-6 with no energy efficiency law.

The Energy Efficiency and Conservation Act (Enercon Bill) filed as Senate Bill (SB) No. 1531 in the Senate during the 17th Congress aims to institutionalize a legislative framework for energy efficiency and conservation, establishing an incentive scheme for energy, efficiency and conservation (EEC) projects through fiscal and non-fiscal stimulus, including tax credit on imported EEC equipment, regulating energy data collection and setting energy performance standards. However, it is currently pending in the Ways and Means Committee.

201 Government Energy Management Program (GEMP), DOE Circular 93-03-05 on Energy Consumption Monitoring, DOE Circular 2008-09-0004 on ESCO Accreditation system.

202 DOE (n.d.). Philippine Energy Efficiency Roadmap 2014-2030. Retrieved: 03/07/2017. https://www.doe.gov.ph/sites/default/files/pdf/announcements/energy_efficiency_and_conservation_roadmap2014-2030.pdf.

203 Rivera, D. (09/06/2017). Philippines scores low on energy efficiency - World Bank. Retrieved: 03/07/2017. https://www.philstar.com/business/2017/06/09/1708002/philippines-scores-low-energy-efficiency-world-bank.

204 WB (2016). RISE Report. Retrieved: 03/07/2017. http://documents.worldbank.org/curated/en/538181487106403375/pdf/112828-REVISED-PUBLIC-RISE-2016-Report.pdf.

RECOMMENDATIONS

ENACT AN ENERGY EFFICIENCY AND CONSERVATION ACT.

We support the enactment of the Energy Efficiency and Conservation Act that would finally institutionalize a legislative framework for energy efficiency and conservation providing incentives for end users who invest in energy efficient technologies. Measures to reduce energy consumption in order to preserve resources and to reduce the environmental impact of energy use are particularly important in the present context where energy demand is projected to grow 3.4% annually between 2013 and 2040 and the industry is expected to account for about 40% of the total final energy demand in 2040 in view of the government's manufacturing revival program.[205] Therefore, the Energy Efficiency and Conservation Act will be key to ensure a safe and sustainable energy system in the Philippines.

6. REVIVAL OF THE COUNCIL OF ADVISERS ON ENERGY AFFAIRS

ISSUE DESCRIPTION

The current DOE was created by the Department of Energy Act of 1992 (RA No. 7638) in an attempt to rationalize the organization and functions of all government agencies involved in energy-related issues. The mandate of the DOE is "to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution and conservation".[206] Nonetheless, the fragmentation of the sector and the lack of coordination between governmental agencies, particularly at a regional level, is still a constraint as policy development, energy security, grid and energy source development are addressed in a devolved manner.

Against this background, an institutionalized forum for public-private cooperation is a must for the development of comprehensive energy policies. Section 14 of the Department of Energy Act stipulates the creation of a Council of Advisers on Energy Affairs, consisting of five members from the industry, labor, and consumer sectors to advise the President on energy issues, especially on private sector initiatives and proposals.[207] However, the Council is not currently operational.

RECOMMENDATIONS

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

We support the revival of the Council of Advisers on Energy Affairs (CAEA), provided by Section 14 of the Department of Energy Act. The Council will be a perfect avenue to design a coordinated energy policy considering the sector's stance and concerns. A regular dialogue among government agencies, business organizations and other stakeholders of the sector is key to the development and the correct implementation of a comprehensive national energy policy that will ensure sustainable, stable, secure, sufficient, accessible and reasonably-priced energy to all Filipinos. We recommend that documents resulting from this Council be made public in order to provide a more transparent process.

205 APEC (2016). APEC Energy Demand and Supply Outlook. 6th Edition. Retrieved: 03/07/2017. http://aperc.ieej.or.jp/file/2016/5/10/APEC_Outlook6th_VolumeI.pdf.

206 RA No. 7638. An Act creating the Department of Energy rationalizing the Organization and Functions of Government Agencies Related to Energy and for Other Purposes. Retrieved: 03/07/2017. https://www.doe.gov.ph/sites/default/files/pdf/issuances/ra_7638.pdf.

207 Ibid.

High Priority Sector Papers
FOOD AND BEVERAGE

INTRODUCTION

The food and beverage sector of the Philippines is considered to be one of the country's top contributors to economic growth. In the ASEAN region, the Philippines is one of the largest markets for retail processed food, and offers a great number of business opportunities. While the regulatory framework has improved, considerable challenges remain to be addressed. Lack of coordination between understaffed government agencies, delays in the registration process, weak enforcement mechanisms, and parallel importations are usually encountered by various stakeholders, including EU exporters and related establishments.

A boost in the consumption of alcoholic beverages from the EU has been observed due to a growing interest in wines and spirits and the expansion of middle-income groups. However, the distributors and importers of European alcoholic beverages, particularly champagne and sparkling wine, have been negatively affected by a disproportionate and skewed tax system, which discourages legal operators.

On a different note, the increasing importance of consumer health and safety along with the rise in obesity in the Philippines should bring together the private and public sector in advocating for a healthier lifestyle - a goal that cannot be achieved if the sector is left to act through its own means.

All points considered, with the aim of developing and strengthening a competitive and fair food and beverage industry, we make the following recommendations:

- Business facilitation
- Continuous improvement of the registration process and regulation process
- Creation of a Philippine platform for consumer health, diet and physical exercise
- Improvement to the fiscal environment for alcoholic beverages
- Enforcement of anti-smuggling measures and implementation of the national single window
- Protection of Geographical Indications (GIs)

SECTOR SITUATIONER

MARKET DATA

The food and beverage sector of the Philippines, which accounts for 10% of the GDP, is one of the top contributors to the country's economic growth within the manufacturing industry. The household expenditure of food and non-alcoholic beverages reached PhP4.9 trillion in 2016, 43.1% of the total household consumption.[208]

In 2016, 42% of the Fast-Moving Consumer Goods (FMCG) was sold through traditional trade channels (sari sari stores and wet markets) despite the rapid expansion of supermarkets and convenience stores in the Philippines. From 2011 to 2014, over 835 new convenience store outlets and over 210 supermarkets were opened. The increased patronage of convenience stores is mostly due to their ability to respond to shoppers' immediate needs.

Comparison of value contribution to total FMCG per channel (in %):[209]

Despite the decrease in prices, FMCG registered a y-o-y growth in 2016, mainly due to the increase in the sales volume as Filipino households are purchasing FMCG products in larger baskets. Beverages represent one fifth of the total.[210]

It has been observed that the consumer is shifting to healthier choices, choosing "lite" or "less sodium" options and including products in the shopping cart such as cereal or yogurt. The 16% y-o-y growth of energy drinks may indicate more engagement with fitness activities and sports.

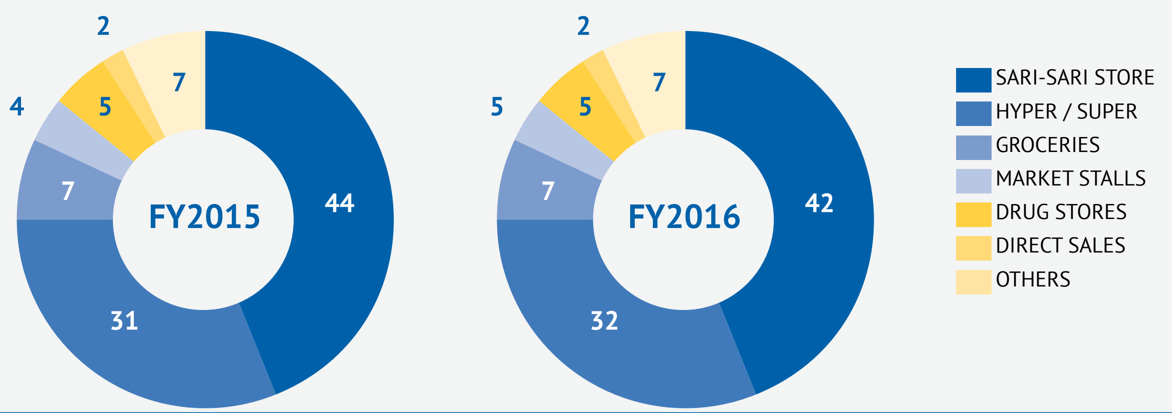
It has also been noted a growing interest in wine. Particularly, wine originating in the EU increased 6% in total volume in 2015.[211]

Philippine food exports to the EU in 2016 were valued at EUR834 million while imports from the EU reached EUR1.01 billion in the same period. The Philippines's main exports to the EU were palm oil and tropical fruits while the top products imported from the EU were meat, pet food, milk powders and spirits and liquors.[212] The bilateral trade in this sector is complementary as the EU provides goods that are not locally produced in the Philippines, such as meat and dairy products.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- With regards to the registration and regulation process, the FDA Circular 2016-007 dated June 15, 2016 requires the registration of raw materials for all kinds of processed-food products (low risk, medium and high risk) and the DoH-FDA and DA-NMIS Joint Administrative Circular No. 02 series of 2016 transferred the jurisdiction over the processed meat from the National Meat Inspection Service (NMIS) to the Food and Drug Administration (FDA) in July 2016.
- Concerning new taxation, the tax reform package filed in Congress as House Bill (HB) No. 5636 seeks to impose an excise tax of PhP10.00 per liter on volume capacity on sugar sweetened beverages (SSB) followed by an additional 4% annual increase.
- The Philippine Rapid Alert System for Food and Feed (PhilRASFF) was launched in March 2017 under the Trade Related Technical Assistance (TRTA) 3 Project supported by the European Union (EU) and implemented in partnership with the FDA. The PhilRASFF is a state-of-the-art web-based alert system for food authorities to immediately respond to food safety incidents, including contaminated food products in the Philippines or at the border and foodborne disease outbreaks involving marketed products.[213]

Comparison of value contribution to total FMCG per channel (in %):



208 PSA (2016). Household final consumption expenditure (HFCE) slows down. Retrieved: 12/04/2017. http://psa.gov.ph/nap-press-release/sector/Household%20 Final%20Consumption.

209 Kantar Worldpanel (22/03/2017). FMCG Monitor: An update of the Philippine FMCG market (FY2016). Retrieved: 12/04/2017. https://www.kantarworldpanel.com/ph/news/fmcg-monitor-fy-2016.

210 Ibid.

211 Euromonitor International (2016). Wine in the Philippines. Retrieved: 17/04/2017. http://www.euromonitor.com/wine-in-the-philippines/report.

212 EU (13/02/2017). Agri-Food Trade Statistical Factsheet. Retrieved: 08/06/2017. https://ec.europa.eu/agriculture/sites/agriculture/files/trade-analysis/statistics/outside-eu/countries/agrifood-philippines_en.pdf.

213 PhilRASFF. Retrieved: 16/08/2017. http://philrasff.org/about_as.php.

ADVOCACY

1. BUSINESS FACILITATION

Starting a business in the Philippines involves at least 16 procedures and takes an average of 28 days. However, starting a business in the food and beverage industry may take up to one year. Given the cumbersome and complex process, the World Bank has placed the Philippines 171 out of 190 countries in the "Starting a Business" category of its Doing Business Report 2017.[214]

In fact, after registering a business with the Department of Trade and Industry[215] (DTI) and the Securities and Exchange Commission[216] (SEC), it is mandatory to secure other local and regional permits, such as the barangay clearance or the business permit. This business permit, also known as mayor's permit is a municipal license from the city or municipality where the business is located, meaning that the registration procedure and specific requirements vary across cities and may often change.[217]

After other administrative procedures,[218] businesses in the Food & Beverage Industry in the Philippines need to apply for a License to Operate (LTO) with the FDA. Although the online application process for the LTO, regulated by the FDA Circular No. 2016-004, is supposed to streamline the process, obtaining the LTO is still time-consuming. Concerning the Certificate for Product Registration (CPR) process with the FDA, EPBN Food and Beverage Committee members have reported that the flow of the process has worsened in 2017, despite improvements in the regulatory framework in 2015 and 2016. Problems also extend to the Bureau of Customs (BOC) where the import process is long and burdensome.

Furthermore, businesses must face several types of taxes at local and national level[219] and often have issues with value-added tax (VAT) reimbursements.

This cumbersome process discourages potential foreign investors willing to invest in the region while it is also detrimental for micro and small local businesses which try to forge their way in the Philippines.

RECOMMENDATIONS

PROMOTE THE EASE OF DOING BUSINESS IN THE PHILIPPINES, PARTICULARLY FOR THE FOOD AND BEVERAGE INDUSTRY.

The ease of doing business is crucial for the Philippines' economic growth as it has direct implications for foreign direct investments. Therefore it is necessary to create a competitive business environment, particularly in the food and beverage industry, with the aim of attracting more investors in this sector. We recommend a simplification of the process and the establishment of a fast-track process for licensing and registration.

2. IMPROVEMENT OF THE REGISTRATION AND REGULATION PROCESS

The FDA[220] is an agency under the Department of Health (DoH) mandated to ensure the safety, efficacy or quality of health products. Within the FDA structure, the Center for Food Regulation and Research (CFRR) is the designed department to regulate food and beverages.

The legal framework for the Food and Beverage Industry can be found in the Food Safety Act of 2013 (Republic Act No. 10611) and the joint DA-DoH Administrative Order (AO) No. 20015-007[221] which seek to strengthen the food safety regulatory system in the Philippines to protect consumer health and facilitate market access of food. It adopted some EU practices, particularly the use of science-based risk analysis, traceability and a rapid alert system. It also stipulates that the Department of Agriculture (DA) and the DoH will set food safety standards in line with the Codex Alimentarius.[222] In this context the FDA AO 2014-0030[223] that introduced new regulations on the labelling was aligned with the Codex.

Concerning the Certificate for Product Registration (CPR) process, the FDA issued in February 2016 the Circular No. 2016-003 publishing the guidelines for the registration process and unifying licensing requirements. This Circular, for which the EPBN Food and Beverage Committee participated in industry consultations, will improve the efficiency of the

214 WB (2017). Doing Business. Philippines. Retrieved: 17/08/2017. http://www.doingbusiness.org/data/exploreeconomies/philippines.

215 Registration at DTI confers exclusive rights to use a business name.

216 Registration with the SEC is necessary for the acquisition of legal personality.

217 DTI (n.d.). Start your business. Retrieved: 16/08/2017. http://www.dti.gov.ph/businesses/msmes/start-your-business#business-registration-and-permits-licenses.

218 Deposit of the paid-in minimum capital at the bank, notarization of articles of incorporation and treasurer's affidavit, obtaining a tax registration number (TIN) with the Bureau of Internal Revenues (BIR), Registration with Social Security, PhilHealth and Pag-Ibig.

219 Annual community tax, taxes over sales.

220 The FDA was created by the Republic Act (RA) No. 3720, series of 1963, amended by Executive Order (EO) No. 175, series of 1987, otherwise known as the "Food, Drugs and Devices, and Cosmetics Act", and the RA No. 9711 otherwise known as "The Food and Drug Administration Act of 2009".

221 Implementing Rules and Regulations (IRR) of RA No. 10611. Joint DA-DoH AO No.20015-007 of February 20, 2015.

222 The Codex Alimentarius or Food Code is a collection of internationally recognized standards, codes of practice and guidelines relating to food, food production and food safety.

223 The Revised Rules and Regulation Governing the Labeling of Prepackaged Food Products Further Amending certain Provisions of AO NO. 88-B s. 1984 or the "Rules and Regulation Governing the Labeling of Prepackaged Food Products Distributed in the Philippines," and for other Purposes.

registration process. Medium and high-risk pre-packed processed food products should be filed through the Integrated Application form as stated in the FDA Circular No. 2014-003.[224] Meanwhile, the products classified as low risk can be registered through the Electronic Registration system (e-registration), in accordance with the FDA AO No. 2014-0029.[225]

Additionally, the FDA Circular No. 2016-007[226] dated June 15, 2016 established that food establishments must notify the sources of raw materials to be used in the manufacture of their low risk, medium risk and high risk prepackaged processed food products, a measure that is congesting the application process on a large scale.

The computerization of the registration process for food products is a significant breakthrough in the improvement of the registration and regulation of the food and beverage sector. However, EPBN Food and Beverage Committee members have reported significant delays, particularly from January 2017, in the e-registration process with the FDA which can take up to 4 months in some cases, needing constant follow-up by the food establishment. These delays harm particularly the import of "limited editions" which after a few months are no longer available.

Shortcomings in the system, the lack of sufficient staff, and the absence of technical competence in the FDA are other identified issues that hamper an efficient registration process. Furthermore, the DoH-FDA and DA-NMIS Joint Administrative Circular No. 02 series of 2016 transferred the jurisdiction over processed meat from the NMIS to the FDA, adding more workload to an already understaffed FDA.

RECOMMENDATIONS

ADDRESS INEFFICIENCIES IN THE CPR PROCESS TO FACILITATE PRODUCT REGISTRATION.

We welcome the computerization of the registration process for food and beverage products. Nonetheless, it is necessary to identify the major impediments and develop corresponding measures to optimize the process. It becomes increasingly important to address current bottlenecks in the system in order to provide an efficient and fast registration process.

We recommend the following measures to facilitate product registration:

- An amendment of the FDA Circular No. 2016-007, exempting European processed food products that already comply with stringent standards in the EU, from registering each and one of the raw materials used in their manufacturing. The finished product should be registered instead.
- To increase the bandwidth and upgrade the maximum limit of attachments as some supporting documents that need to be submitted require a larger storage capacity.
- To increase the budget of the FDA in order to hire skilled workers.
- To revert the processed meat functions to the NMIS and thus reducing heavy workload for the FDA.

ENFORCE POST-MARKET SURVEILLANCE.

We applaud the adoption of the Food Safety Act of 2013 and their Implementing Rules and Regulations (IRR) dated February 20, 2015[227] which seeks to strengthen the food safety regulatory system in the Philippines by adopting EU practices such as the use of science-based risk analysis or a rapid alert system. In this context, we commend the efforts of the Administration to improve the capacity of the regulatory agencies of the DA,[228] as well as the DoH and the FDA, for the proper implementation of the Food Safety Act, with the support of the TRTA 3 Project and the Better Training for Safer Food (BTSF) programme.[229]

An important milestone in the implementation of the Food Safety Act is the establishment of the Philippine Rapid Alert System for Food and Feed (PhilRASFF), a state-of-the-art web-based alert system for food authorities to immediately respond to food safety incidents. These include contaminated food products found on the Philippine market or at the Philippine border, as well as food-borne disease outbreaks involving marketed products. In cooperation with the EU RASFF, ASEAN RASFF and the International Network of Food Safety Authorities (INFOSAN), the PhilRASFF system enables competent authorities to file notifications and exchange information - whether as a result of inspections or through foreign notifications - on consumer complaints or companies reporting food safety incidents. PhilRASFF will also strengthen the capacity of the Philippines to efficiently

224 FDA Circular No. 2014-003. Filing and Receiving of Registration, Licensing and Other Applications Using the Integrated Application Form.

225 FDA AO No. 2014-0029 dated 8 September 2014 on Rules and Regulations on the licensing of food establishments and registration of processed food and other food products.

226 RA No. 9711 "An Act Strengthening and Rationalizing the Regulatory Capacity of the Bureau of Food and Drugs (BFAD) by Establishing Adequate Testing Laboratories and Field Offices, Upgrading its Equipment, Augmenting its Human Resource Complement" dated July 28, 2009.

227 Joint DA-DoH AO No. 2015-0007 "The Implementing Rules and Regulations of RA No. 10611".

228 The Bureau of Fisheries and Aquatic Resources (BFAR), the Bureau of Agriculture and Fisheries Standards (BAFS), the Bureau of Animal Industry (BAI) and the National Meat Inspection Service (NMIS).

229 The Better Training for Safer Food (BTSF) provides training to the corresponding authorities in the Philippines to ensure the safety of food exports to the EU market.

tackle food safety risks and to contribute to the overall safety of food marketed in the ASEAN. The PhilRASFF was implemented by the TRTA 3 in partnership with the Philippines Food and Drug Administration (FDA). Launched in March 2017, we all look forward to the system being fully operationalized in the country.

Making sure that all the players comply with the legislation is essential to ensure food safety and quality. Therefore, we strongly recommend the continuation of capacity-building measures and the enforcement of post-market surveillance by the FDA in order to protect consumers from unsafe food and beverages resulting from adulterated, parallel imported, expired or wrongly stored products.

REVIVAL OF A REGULAR DIALOGUE BETWEEN THE FDA AND THE PRIVATE SECTOR.

We respectfully request the revival of a regular dialogue between the FDA and the private sector that was active until mid-2016. Institutionalized consultation with Food & Beverage Industry stakeholders will ensure more transparent processes and will help reach pragmatic solutions, where the Administration can benefit from the technical expertise of the private sector.

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

ISSUE DESCRIPTION

The 8th National Nutrition Survey conducted between June 2013 and April 2014 by the Food and Nutrition Research Institute of the Department of Science and Technology (FNRI-DOST) showed the prevalence of obesity among Filipinos which rose to 5% for children from 0 to 5 years old, to 9.1% for children from 5 to 10 years old and to 31.1% in the case of adults.

It goes without saying that obesity is associated with a large number of non-communicable diseases that happen to be leading causes of morbidity and mortality in the Philippines such as diabetes, heart disease and cancer.

Since we are facing a societal problem, the solution demands active engagement from all sectors, from government and private sector to civil society. EPBN along with the members of its Food & Beverage Committee, committed to help the Government in this fight against the scourge of modern civilization, is promoting the creation of a Philippine Platform for consumer health, diet and physical exercise. This platform seeks to provide a meeting point for all stakeholders so that they can combine and coordinate their efforts to address obesity in the Philippines and attain the target of reducing by one third premature mortality from non-communicable diseases.

With a comprehensive multi-sectoral approach, the platform will help implement concrete actions to improve consumer information and education on healthy eating, health and physical exercise, responsible marketing and advertising practices and provide healthier products at an affordable price. It may also serve as a public-private cooperation forum for developing legislation oriented to improve the consumers' health.

In this context, the debate about an excise tax on sugar sweetened beverages (SSB) has been on the table over the last few years with the aim of curbing their consumption. Particularly two bills concerning this fiscal measure have been filed in Congress: The HB No. 3365,[230] which meant to impose a 10% ad valorem tax on soft and carbonated drinks and the HB No. 292,[231] which sought to impose an excise tax of PhP10.00 per liter on volume capacity on sugar sweetened beverages (SSB). At the present time, this latter proposal, along with a 4% yearly increase has been now substituted by the Tax Reform for Acceleration and Inclusion (TRAIN) bill which is still being debated in Congress.[232]

However, while a SSB tax would lead to a drop in consumption of these drinks, the said measure would trigger negative consequences, according to an Economic Impact Study of this tax prepared by the University of Asia and the Pacific[233] in 2016, which shows that an increase in the price would result in a decrease in consumption, and it, in turn, would lead to a loss of PhP20.04 billion in sales, PhP30.03 billion from VAT[234] and CIT[235] and 29,317 jobs.

RECOMMENDATIONS

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

Considering that the causes of obesity, besides genetic, environmental or psychological factors, are mainly linked to eating and exercising habits, we propose a comprehensive multi-sectoral approach, focusing not only on the consumption of SSB. Therefore, EPBN strongly supports the creation of a Philippine Platform for consumer health, diet and physical exercise that is expected to be launched in 2017 under the lead

230 Pending with the Committee on Ways and Means since November 25, 2013.

231 The HB No. 292 has been approved by the Committee on Ways and Means but has now been substituted by the HB5636.

232 Approved by the House of Representatives. Transmitted to the Senate for deliberation on July 11, 2017.

233 Terosa CL, Martin KJC, Hidalgo AG (30/06/2016). An Economic Impact Study of the SSB bill on the Beverage Industry in the Philippines. University of Asia and the Pacific. School of Economics.

234 Value-Added Tax.

235 Corporate Income Tax.

of the DoH, which will bring together chambers of commerce, industry associations, the private sector, consumer groups, nutrition experts and congressmen with the aim to bring long-term health benefits to the Filipino consumer. A best practice can be found in the EU Platform on Diet, Physical Activity and Health established in 2005 in the EU.

AVOID ADDITIONAL TAXES ON SUGAR SWEETENED BEVERAGES.

We believe that the fight against obesity needs a comprehensive approach. Penalizing only the consumption of SSB will not prevent the consumer from eating unhealthy options, including sugar. Besides, while the present draft seeks to tax all SSB, [236] a significant portion of the population with limited income[237] would experience difficulties affording certain drinks such as fruit juices or coffee products. This kind of measure will affect exclusively and negatively the volume production of sugar beverages, including non-caloric sweetened drinks, with undesirable consequences in the economy. We encourage instead the private sector to join the Philippine Platform for consumer health, diet and physical exercise with concrete actions and with the ultimate goal of improving consumer health in the Philippines.

4. IMPROVEMENTS TO THE FISCAL ENVIRONMENT FOR ALCOHOLIC BEVERAGES

ISSUE DESCRIPTION

The **excise tax** on alcoholic beverages is regulated in the Sin Tax Reform Law or RA No. 10351[251] of 2012. It establishes a hybrid tax system with an *ad valorem tax* rate and a specific tax to be applied over local and imported products. However, it has been observed that champagne and sparkling wines must shoulder disproportionate tax rates making these products extremely uncompetitive. While the excise tax per liter for sparkling wines and champagnes is PhP818.90 for bottles of 750 ml volume capacity and whose NRP[252] is over PhP500.00, still wines containing up to 14% of alcohol by volume only bear PhP35.10 per liter. It has also been noted that increases on excise taxes result in a drop of the sales. Proof of that is that the total volume sales of alcoholic drinks declined in 2015 while wine, taxed at much lower rates and offering a more affordable price, registered a positive growth.

High taxes also incentivize the proliferation of smuggled goods and tampered bottles which, besides being sold at lower prices in the Philippines after evading taxation, pose a potential risk for human health. Therefore, the sin tax does not achieve its goal of reducing consumption of certain beverages. Indeed, there is a decrease in sales of the legally imported sparkling wines and champagnes but an increase of the smuggled ones, which are of dubious quality.

Furthermore, only imported alcoholic beverages are required to apply **tax stamps** on their products, putting European companies at a competitive disadvantage, which sometimes need to wait months to obtain the stamps. The Bureau of Internal Revenue (BIR) is planning to impose the use of tax stamps on all alcoholic beverages; however this plan has not been implemented yet. Early 2016, the EPBN Food & Beverage Committee joined industry consultations with the BIR and the APO[253] Production Unit, regarding the alcohol tax stamp, but some doubts remain on when and how to implement this policy effectively.

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, which is in addition increased every year. A more proportionate and simplified excise tax system, along with simpler importation processes, will facilitate control and legal importation of alcoholic drinks, thus preventing smuggling and unfair competition. If the current trend continues, distributors of luxury brands will need to exit an unfair and anti-competitive market reducing even more competition and legal importation, echoing the lesson of the *Laffer Curve* "too much tax kills the tax".

236 Milk, infant formula, water and 100% natural juices are not subject to this tax.
237 25% of the population in the Philippines live below the poverty line.
238 An Act restructuring the excise tax on alcohol and tobacco products by amending sections 141, 142, 143, 144, 145, 8, 131 and 288 of RA No.8424 otherwise known as the national internal revenue code of 1997, as amended by RA No. 9334 and for other purposes.
239 Net Retail Price.
240 Body in charge of printing the tax stamps.

PARTICULARS	2017	2018 ONWARDS
A. DISTILLED SPIRITS, AD VALOREM & SPECIFIC TAX		
1) AD VALOREM TAX RATE - Based on the Net Retail Price (NRP) per proof (excluding the excise and value-added taxes); and	20%	20%
2) SPECIFIC TAX - Per proof liter	PhP21.63	Effective 1/1/2016, the specific tax rate shall be increased by 4% every year thereafter
B. WINES, per liter of volume capacity		
1) Sparkling wines/ champagnes, where the NRP (excluding the excise and VAT) per bottle of 750ml volume capacity, regardless of proof is:		Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
PhP500.00 or less	PhP292.47	
More than PhP500.00	PhP818.90	
2) Still wines and carbonated wines containing 14% of alcohol by volume or less	PhP35.10	
3) Still wines and carbonated wines containing more than 14% (of alcohol by volume) but not more 25% of alcohol by volume	PhP70.20	
4) Fortified wines containing more than 25% of alcohol by volume	Taxed as distilled spirits	
C. FERMENTED LIQUORS, per liter of volume capacity		
1) If the NRP (excluding excise and VAT) per liter of volume capacity is:		Effective 1/1/2018, the specific tax rate shall be increased by 4% every year thereafter
PhP50.60 and below	PhP23.50	
More than PhP50.60	PhP23.50	
2) If brewed and sold at microbreweries or small establishments such as pubs and restaurants, regardless of the NRP	PhP32.76	Effective 1/1/2014, the specific tax rate shall be increased by 4% every year thereafter
NOTE: IN CASE OF FERMENTED LIQUORS AFFECTED BY THE "NO DOWNWARD RECLASSIFICATION " PROVISION, THE 4% INCREASE SHALL APPLY TO THEIR RESPECTIVE APPLICABLE TAX RATES		

Source: Bureau of Internal Revenues[241]

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

EPBN supports the application of the alcohol tax stamp on all alcoholic beverages, including local produced and imported products, and the establishment of effective enforcement mechanisms which is essential for the successful implementation of this measure. We look forward to participating in industry consultations with the BIR during the drafting of this initiative to make sure the expertise and experience of the private sector is taken into consideration.

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

ISSUE DESCRIPTION

The lack of coordination of all the government agencies involved in the importation of alcoholic beverages, namely BOC, FDA, and BIR, along with a weak enforcement structure, seem to be the main causes of the proliferation of smuggled and parallel imported goods in the Philippines.

Despite an improvement in the implementation of anti-smuggling measures, there are still numerous cases of tampered bottles available in the market that have not been imported by their authorized distributors and that are for sale at significantly lower prices, without including the excise tax on alcoholic beverages. This situation discourages companies that are legally importing alcoholic beverages in the Philippines and that see how their profits are reduced while illegal sales of their products are on the rise.

241 BIR (n.d.). Excise Tax. Retrieved: 14/07/2017. https://www.bir.gov.ph/index.php/tax-information/excise-tax.html.

Although the Bureau of Internal Revenue (BIR) is planning to apply tax stamps on all alcoholic beverages, on both locally produced and imported, so far only the imported ones are required to carry it, which makes it more difficult to trace tampered or smuggled products.

The enforcement structure should be improved starting with the control during the importation process, surveillance in retail stores, and the investigation into allegations of smuggling. It should be borne in mind that a simple importation procedure will allow better control in the fight against smuggling. Lower taxes will also increase the quantity of product that is legally imported.

RECOMMENDATIONS

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

We look forward to the full implementation of the National Single Window (NSW),[242] which is a computerized internet-based system that facilitates the import- export process with a single entry point. The NSW should be implemented by all agencies, particularly by the BIR, BOC and FDA, which are key bodies in the strategy against alcohol smuggling. The coordination between agencies is essential to combat smuggling and parallel importation of alcoholic beverages and the NSW is a perfect tool for it. Additionally, we recommend increasing the bandwidth and ensuring that the NSW is fully automated and operational all time. Interactivity is vital to ensure an effective and efficient system, so that importers or government can correct errors in documents directly instead of paralyzing the process or allowing prolonged consultations between agencies.

TRAIN FDA AND BOC STAFF SO THAT THEY CAN IDENTIFY COUNTERFEIT PRODUCTS.

We suggest offering capacity building training sessions to FDA staff, BOC personnel and evaluators so that they will be able to identify counterfeit products. One of the problems we face is that FDA and BOC workers are unable to distinguish between forged or genuine goods. A reporting system should be implemented, allowing companies or individuals to denounce smuggling followed by subsequent actions to investigate that reported situation. FDA workers should play a more active role in the fight against contraband.

STRENGTHEN ENFORCEMENT MECHANISMS THROUGH AN INTEGRATED PPP APPROACH.

We believe that a public-private alliance can be highly beneficial in order to strengthen enforcement mechanisms when it comes to anti-smuggling. The private sector can provide innovative processes and technologies, such as the use of Quick Response (QR) codes, can add transparency to the process and help building stronger cases against smugglers, who often go unpunished due to the weak enforcement structure or the connivance of some public servants with the smugglers. A best practice can be observed in the UK Intellectual Property Office (IPO) which has successfully implemented PPPs to enforce anti-counterfeit measures in the consumer goods segment.

6. PROTECTION OF GEOGRAPHICAL INDICATIONS (GIs)

ISSUE DESCRIPTION

Geographical indications (GIs) are those "indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its Geographical origin."[243]

The Intellectual Property Code of the Philippines[244] (IP Code), in Section 4, includes Geographical indications in the enumeration of recognized forms of intellectual property rights. The IP Code, however, does not define GIs or provide a specific legal framework for their protection in the country. The Intellectual Property Office of the Philippines (IPOPhil) has drafted Rules and Regulations on GIs and conducted public consultations but they have not been finalized yet.

Meanwhile, most ASEAN member countries, namely Singapore, Thailand, Vietnam, Cambodia, Lao PDR, Malaysia, Indonesia, and Myanmar, have already enacted GI legislations or are in the process of adopting one. Furthermore, there are over 175[245] GIs currently registered in the ASEAN region covering various products, such as pineapples, mangos, coconuts, coffees, teas, silks and other textiles, stones, salted fishes, rice, and carved woods and other handicrafts. The ASEAN countries that have enforced a GI framework have seen an increase in the trade of these specific GIs.

The protection of GIs is a priority for EU food and beverages companies as it may help to promote those products to consumers, prevent the unauthorized use of them or prevent similar products from benefiting from that "given quality" or characteristic attached to a particular GI.

242 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

243 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

244 RA No. 8293.

245 ASEAN (n.d.). GI Database. Retrieved: 16/08/2017. http://www.asean-gidatabase.org/gidatabase/.

It is essential to develop a protection framework to avoid situations such as that of the Manila hemp. The Manila hemp refers to a strong fiber sourced from a plant mainly cultivated in Manila called the abaca and which is used to create cables and ropes. Since it was not legally protected, the plant was cultivated in other countries, increasing competition from other places and diluting the particular quality of the Manila hemp.

Producers, distributors and retailers are well aware of the importance of according protection to the products that can be registered as GI. In this sense, mango growers from Guimaras are pushing for the certification of Guimaras mango as a GI. The EU, under the TRTA3, has trained more than 500 producers to develop a Code of Practice, the first step in the process to obtain the certification as a GI.

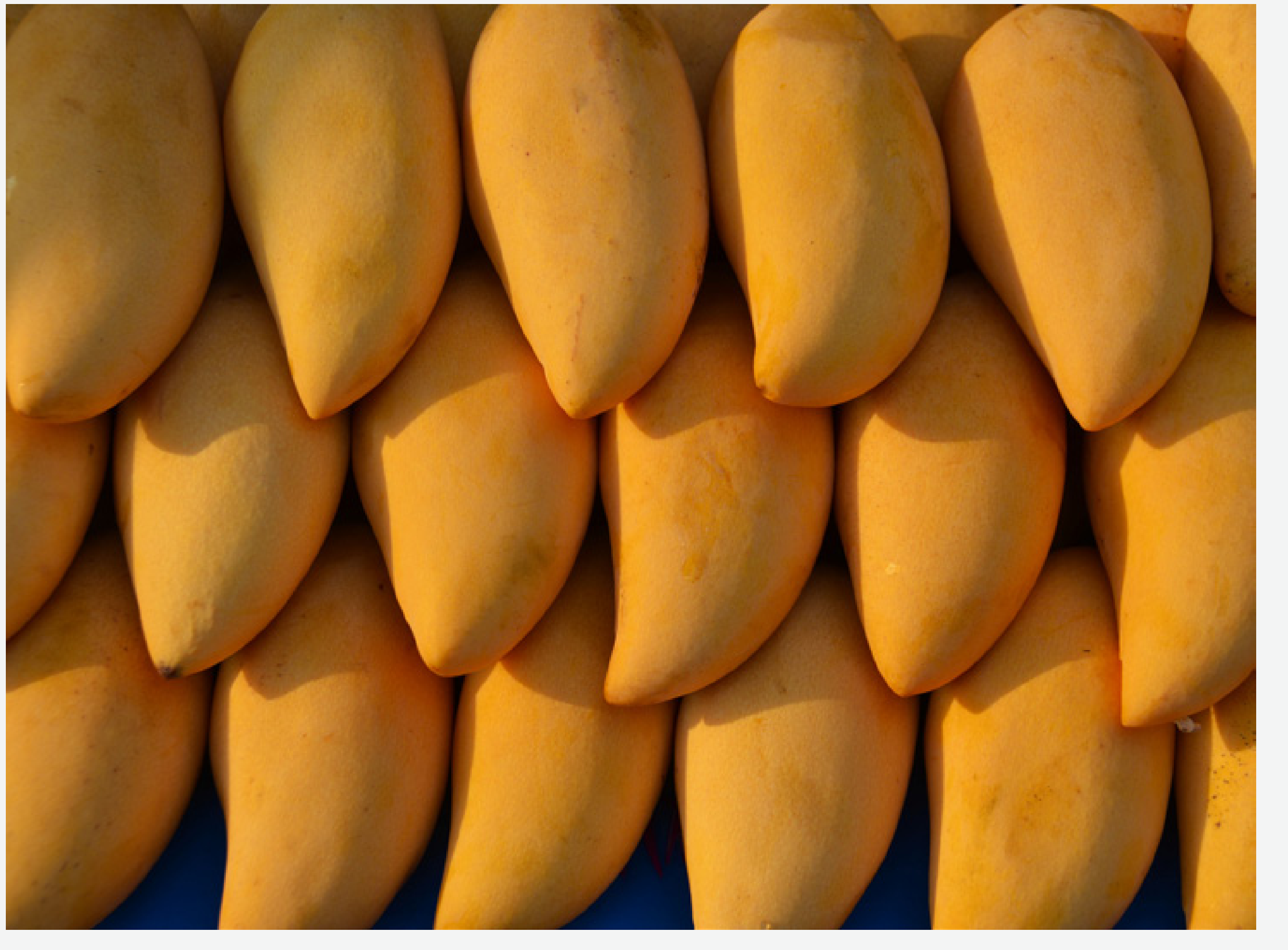
The recognition of GIs is pivotal for both EU and domestic food & beverages products, raising their value and providing them with a competitive advantage worldwide.

The adoption of a legal framework for GI is necessary to improve the legislation for intellectual property protection and to pave the way during the negotiations of the EU – Philippines Free Trade Agreement (FTA) which undoubtedly will include a chapter on GIs.

RECOMMENDATIONS

IMPLEMENT A GI PROTECTION FRAMEWORK.

We look forward to the adoption of the Rules and Regulations on GIs by IPOPhil. Creating a legal framework for GIs can only bring benefits to producers and consumers. To maximize these benefits it is crucial to adopt a system on EU standards. With such a strict legal framework, consumers will have the guarantee of the quality of the products they purchase and Filipino producers will benefit from the great influence of GIs on European consumers.



High Priority Sector Papers
HEALTHCARE

INTRODUCTION

Over the last few decades, the Philippine healthcare sector has undergone considerable changes and in turn, has experienced dramatic improvements; as evidenced by the decline in the levels of communicable diseases,[246] as well as the rates of child and maternal mortality, those changes are in line with the Millennium Development Goals (MDGs).[247] Albeit there still being significant barriers to the overall successful attainment of national healthcare goals such as poor accessibility, low affordability, low equity, and inefficiencies.

While using the motto "All for Health towards Health for All" and acknowledging the achievements of the Universal Healthcare Program[248]—launched in 2010—the Duterte Administration presented its new health agenda during the latter part of 2016. The aforementioned agenda is based on the ACHIEVE strategy,[249] which aims to continue providing universal healthcare, achieving health-related Sustainable Development Goals (SDGs), increasing transparency, and delivering further equitable and inclusive services.

An adequate, nationwide healthcare infrastructure must be set up and developed in order to facilitate access to medicine, guarantee universal health insurance, and provide better services. Setting this up requires assistance from the private sector to boost historically low investments. This will necessitate more transparent regulatory processes and inclusive consultations.

The participation of EU health-related companies, through PPPs, can support the Administration's goals of developing infrastructures, implementing immunization programs, and providing quality innovative medicine. To that end, it is necessary to ensure:

- Continuation of initiatives to achieve universal healthcare for all Filipinos
- Facilitation of patient access to medicine
- Strengthening the regulatory framework
- Institutionalization of a public-private sector dialogue

SECTOR SITUATIONER

MARKET DATA

The Philippines, as a major exporter of health workers, has experienced a brain drain of skilled professionals who find better opportunities abroad while initiatives such as the Return Service Agreement[250] (RSA) try to stop this tendency. Although the Professional Regulations Commission licenses approximately 2,600 physicians, 67,000 nurses, 3,900 midwives, and 1,400 medical technologists[251] every year, health workers are unevenly distributed across the country. While 70% of health workers are in the private sector in urban areas serving 30% of the population, many poor and rural areas remain underserved.[252]

In 2014, the total health **expenditure** of the Philippines reached 4.7% of the GDP,[253] still below the minimum 5% of the GDP recommended by the World Health Organization (WHO), lagging behind its ASEAN neighbors in terms of per capita healthcare spending with USD329. Nearly half of those health care costs are paid out of patients' own pockets.

Out of the 1,800 **hospitals**[254] licensed in the Philippines, 60% are privately owned, 4% are Hospitals run by the Department of Health (DoH),[255] and the rest are managed by Local Government Units (LGUs). With a total bed capacity of over 100,000, the Philippines has 1 bed available for every 1,000 Filipinos, half of the average capacity recommended by WHO.

The **medical supplies market** is characterized by its large dependence on imports, importing virtually 100% of the medical equipment and around 65% of medical disposables. The only local production of the Philippines is limited to prototype units, spare parts and disposables such as gloves, syringes and needles.

On the other hand, the **Pharmaceutical industry** is one of the country's fastest growing sectors. The Philippines has the third largest pharmaceutical market among ASEAN members after Indonesia and Thailand with an estimated value of PhP166 billion in 2016.[256]

Although a great part of pharmaceutical products, both raw materials and finished products are imported, the local production is dominated by one toll manufacturer, Interphil Laboratories, that shares the market with the other 60 licensed pharmaceutical manufacturers. Distribution is channeled through two local companies, Zuellig Pharma and Metro Drug which control 85% of the market.

Most of the biggest foreign pharmaceutical companies, such as Sanofi, GlaxoSmithKline (GSK), Roche, Astrazeneca, Pfizer, Abbott, Zuellig, Wyeth, Novartis and Novo Nordisk are present in the market. They account for approximately 75% of it, leaving the other 25% to large domestic firms: United Laboratories, Pascual Laboratories, Natrapharm, and GV International are some of them. However, in terms of volume, local pharmaceutical companies accounts for 75% while multinational pharma companies account for 25% of the total. Growth of volume is higher in local pharmaceutical companies than in multinationals.

Although the pharmaceutical companies registered a negative growth after the implementation of the Maximum Drug Retail Price (MDRP) scheme in 2008, the sector is growing. Actually, it accounts for the 59% of the total medical cost, 85% of which is out-of-pocket.

Since the passing of the Generics Law (RA No. 6675 of 1988), there has been an increasing demand for these lower priced medicines and it is expected to grow even more in the upcoming years, now that their perception is changing for the better. Generics are more readily accepted by consumers who do not necessarily link the low price to low quality.

The government is developing measures to increase the rate of generics substitutions for prescribed brands. Nowadays only 25% of the doctors[257] prescribe generics and only two out of 5 consumers are offered these medicines in drugstores. Generics now account for 65% of the market equivalent to PhP85.80 billion in 2014, while originator brands reached PhP46.20 billion in the same period. Data show that 6 out of 10 Filipinos buy generics which is favoring a rapid expansion of private generics drug store chains such as the Generics Pharmacy[258] or Generika.

246 HIV/AIDS, malaria and other diseases.

247 The United Nations Millennium Declaration signed in 2000, committed world leaders to combat poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women, and established 8 Millennium Development Goals (MDGs), to be achieved by 2015. The MDGs have been superseded by the 17 Sustainable Development Goals.

248 Universal Health Care Implementers Project (UHCIP).

249 (1) Advance quality, health promotion and primary care, (2) Cover all Filipinos against health-related financial risk, (3) Harness the power of strategic HRH development, (4) Invest in eHealth and data for decision-making, (5) Enforce standards, accountability and transparency, (6) Value all clients and patients, especially the poor, marginalized, and vulnerable and (7) Elicit multi-sectoral and multi-stakeholder support for health.

250 The RSA requires students in this field to commit to serving in the Philippines during five years after graduation.

251 Oxford Business Group (2016). The Philippines' health sector undergoing significant changes. Retrieved: 04/05/2017. https://www.oxfordbusinessgroup.com/overview/upgrading-system-health-care-undergoing-series-changes-could-reshape-sector.

252 ADB (n.d.). Sector Assessment (Summary): Health and social protection. Retrieved: 12/05/2017. https://www.adb.org/sites/default/files/linked-documents/cps-phi-2011-2016-ssa-05.pdf.

253 World Bank (2014). Philippines - Health expenditure, (% of total GDP). Retrieved: 05/05/2017. http://data.worldbank.org/indicator/SH.XPD.TOTL.ZS?locations=PH&page=5.

254 Ibid.

255 Oxford Business Group (2016). The Philippines' health sector undergoing significant changes. Retrieved: 04/05/2017. https://www.oxfordbusinessgroup.com/overview/upgrading-system-health-care-undergoing-series-changes-could-reshape-sector.

256 Data provided by the Healthcare and Pharmaceutical Committee.

257 There are reports of doctors who persist in prescribing the originator brand long after the expiration of the patent on that drug and despite the presence in the market of much cheaper brands.

258 1650 stores.

However, Mercury Drug continues to be leader in Pharmacy retail, accumulating 50% of the stores. To compete with these generics, many foreign companies are significantly reducing the prices of their original equivalent products, in some cases by up to 60%.

Regarding the Insurance subsector, the Philippines' market remains the smallest among ASEAN members with 35 companies, a USD16.6 billion life insurance market and a non-life insurance market accounting for USD3.4 billion in assets. The private sector competes with Government Service Insurance System (GSIS), a government-owned and controlled corporation (GOCC) that provides life insurances and retirement and disability benefits for government employees.[259]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The Philippine Health Sector Reform Contract signed in 2014 with the EU is still in force. Over the last decade the support from the EU has amounted to PhP6.5 billion and has been earmarked to different health care programmes including those improving maternal and child health in remote areas, supporting first line health care or distributing medicines to rural health units. Currently, the EU in cooperation with other international organizations is working with the DoH on the implementation of a pilot program aimed at supporting recovery from shabu addiction while keeping families together and facilitating development of social and job skills.[260]
- In August 2016, the DoH issued Department Personnel Order No. 2016-3224, creating the Task Force on Zero corruption.
- The new Health Agenda based on the **ACHIEVE Strategy**[261] was launched at the end of 2016. Under the targets of Equity, Quality, Efficiency, Transparency, Accountability, Sustainability, and Resilience, the DoH seeks to guarantee a better access to medicines, universal health insurance, and improved service delivery networks, not only in terms of facilities but also of an even distribution of healthcare professionals nationwide. The new strategy aims to strengthen the implementation of the Responsible Parenthood and Reproductive Health Act (RA No. 10354 of 2012) and to provide support of Drug Abuse treatment throughout the country. During the War Against Drugs initiated by the Duterte Administration 700,000 people surrendered between June and November 2016. With 2% of the drug abusers in need of treatment, Executive Order No. 4 provided the establishment of Drug Rehabilitation Centers in the Philippines.
- In 2017 the Health budget amounted to PhP96.3 billion, with PhP53.22 billion to fund universal healthcare for Filipinos, compared to PhP86 billion allocated to the DoH in 2014.
- The third edition of the **Philippine Medicines Policy 2017 – 2022**,[262] based on the principles of accessibility, availability and affordability of essential medicines, proposes the creation of a Price Regulation Board that would set maximum retail drug prices. It also establishes policies that "delink the cost of research and development to the prices of medicines" and requires the pharmaceutical industry to furnish data on costs, taxes and other expenses regarding their off-patent medicines.

ADVOCACY

1. CONTINUATION OF INITIATIVES TO ACHIEVE UNIVERSAL HEALTHCARE FOR ALL FILIPINOS

ISSUE DESCRIPTION

During the last two decades of healthcare **reforms**, the Administration has aimed to provide universal health coverage in the Philippines. Reform milestones started with the establishment of the Philippine Health Insurance Corporation (PhilHealth) and its national health insurance program in 1994 (RA No. 7875).[263] Reforms continued with the launch of the Universal Healthcare (UHC) program in 2010 that increased the number of poor families enrolled in PhilHealth and facilitated the attainment of Health-related Millennium Development Goals. Other relevant measures include (1) the increase in the use of communication technologies in the health sector, (2) the "no balance policy" introduced in 2011, exempting enrolled members and indigent patients from paying when using healthcare services or (3) the automatic coverage under PhilHealth to Filipino citizens over 60 years old,[264] which represent 10% of the population.[265] More recently, the Duterte Administration launched the Philippine Health Agenda and the ACHIEVE Strategy aiming to expand benefits.

259 ADB (n.d.). Sector Assessment (Summary): Health and social protection. Retrieved: 12/05/2017. https://www.adb.org/sites/default/files/linked-documents/cps-phi-2011-2016-ssa-05.pdf.

260 EU (27/03/2017). EU's support to the Philippine Health Agenda. Retrieved: 15/08/2017. https://eeas.europa.eu/delegations/armenia/23481/eus-support-philippine-health-agenda_en.

261 (1) Advance quality, health promotion and primary care, (2) Cover all Filipinos against health-related financial risk, (3) Harness the power of strategic HRH development, (4) Invest in eHealth and data for decision-making, (5) Enforce standards, accountability and transparency, (6) Value all clients and patients, especially the poor, marginalized, and vulnerable and (7) Elicit multi-sectoral and multi-stakeholder support for health.

262 Philippines Hospital Association (n.d.). The Philippine Medicines Policy 2017-2022. Retrieved: 08/05/2017.http://www.pha.org.ph/images/letters/Draft_PMP_2017-2022.pdf.

263 Amended by the RA No. 9241 of 2003 and the Amended National Health Insurance Act of 2012 (RA No. 10606).

264 RA No. 10645 of 2014.

265 Indexmundi (08/10/2016). Philippines age structure. Retrieved: 04/05/2017. http://www.indexmundi.com/philippines/age_structure.html.

However, the **inequity** in the access to healthcare services remains a major concern. In December 2016 the DoH stated that eight million Filipinos are still not covered by PhilHealth and the limited coverage of enrolled members still results in high levels of out of pockets payments.

The main issue concerning public **healthcare delivery**, besides insufficient government investment, is the overspecialization in curative services and the lack of comprehensive preventive programs. Under PhilHealth coverage, public hospital stays are free of charge. However, diagnostic tests or medicines are born by the patients when the predetermined rates are exceeded. Outpatient consultations coverage is very limited. With the high cost of out-of-pocket payments and the inexistence of a full insurance coverage, citizens afflicted with a long-term disease can easily slide into poverty.[266] Service delivery has also been difficult due to decentralization[267] and administrative fragmentation. While the DoH remains the main governing agency, the sector operates at three levels. LGUs are responsible for their own health services and primary care which, given their limited budget and the lack of skilled personnel, are unable to deliver quality healthcare, resulting in long waiting times, poor hygienic facilities, poor record keeping or overcrowding. A lack of monitoring and an inefficient referral system has also been observed.

A Universal Health care Bill[268] has been filed in Congress aiming at strengthening primary health and outpatient services. If this bill is passed into law, all Filipinos will be automatically enrolled to PhilHealth and there will be a gradual extension of the healthcare services that are provided free of charge, including diagnosis and provision of outpatient medicines. LGUs will become the initial entry point to the healthcare system and will be allowed to purchase medicines included in the Philippine National Drug Formulary (PNDF). This bill also identifies sources of funding. While EPBN Healthcare and Pharmaceutical Committee welcomes the positive features of this bill, there remain concerns about procurement, board members appointment and modernization of government hospitals and rural clinics.

RECOMMENDATIONS

EXPAND PHILHEALTH COVERAGE FOR HEALTH SCREENING AND TREATMENT FOR CHRONIC DISEASES.

We are of the opinion that increasing healthcare coverage, namely primary care service and outpatient medicines, will bring tangible benefits not only in terms of the well-being of the citizens but will also ease the financial burden of public hospitals in the long term. With the current limited PhilHealth coverage and the substantial out-of-pocket expenses generated during the use of primary health services, many patients must decide between (1) proceeding with payment, thus putting on households a financial burden that cannot shoulder in many cases or (2) avoiding medical consultations, which could result in the development of health complications derived from untreated illnesses over a long period of time, particularly non-communicable diseases. If the right emphasis is put on **prevention**, covering economically routine checkups or the treatment of diseases when the first symptoms appear, it would certainly reduce the number of patients that need to be hospitalized every year in the Philippines. We therefore recommend expanding philHealth coverage for health screening and out-patients medicines to treat chronic diseases

STRENGTHEN PRIMARY HEALTHCARE.

In order to strengthen primary healthcare, **capacity building** among LGUs is a must. Local health centers are not only the frontline provider of health services in the Philippines but their workers are health educators at the same time. Therefore, health workers need to be trained in proper screening procedures and medical assessment, particularly in addressing the increasing cases of non-communicable diseases[269] which are among the leading causes of morbidity and mortality in the Philippines. Training health professionals will definitely improve the effectiveness in the delivery of health services. In this sense, the industry is willing to share its best practices with health facilities run by LGUs.

While we welcome all initiatives aiming to protect patients in need of medical assistance, such as the Anti-Hospital Deposit Law (RA No.8344) that specifically prohibits hospitals from refusing persons seeking immediate medical help for not paying a deposit, we also believe that the legislator should provide mechanisms for **cost recovery.**

We also encourage actions aiming to improve **coordination** of healthcare programs, standards, systems and policies. The Unified Health Management Information System (UHMIS) is a positive step forward in

266 WHO (2012). Health Service Delivery Profile. Philippines. 2012. Retrieved: 04/05/2017. http://www.wpro.who.int/health_services/service_delivery_profile_philippines.pdf?ua=1.

267 Local Government Code of 1991 (RA No.7160).

268 House Bill (HB) No. 5784.

269 Cardiovascular diseases, cancer, diabetes, chronic respiratory and renal diseases.

this direction, collecting and reporting the information necessary for improving health service efficiency and effectiveness.

CREATE A COMPREHENSIVE DISEASE AND PATIENT REGISTER.

We support the creation of a comprehensive disease and patient registry under the DoH that would allow monitor trends in health, would help identify the needs and set the priorities or would address supply chain issues in terms of purchasing and distributing medical devices. In short, it would contribute to deliver the right care to patients.

IMPROVE DISTRIBUTION OF HEALTH PROFESSIONALS ACROSS THE COUNTRY.

As government hospitals face a shortage of nurses and doctors, we recommend the enactment of measures that will increase the number of medical practitioners in those facilities in order to accommodate both charity and paying patients. EPBN suggests that medical students be required to serve a minimum number of years in government hospitals. Additionally, we recommend increasing the salary of healthcare professionals as low salary is the main reason that pushes doctors and nurses to work abroad or for the private sector.

CONSOLIDATE HEALTHCARE FUNDING (INCLUDING FUNDING FROM PCSO, PAGCOR, ETC).

EPBN advocates a consolidation of healthcare funding by aligning different sources, such as DoH, PhilHealth, Philippine Charity Sweepstakes Office (PCSO), Philippine Amusement and Gaming Corporation (PAGCOR) or LGUs. This measure will reduce out-of-pocket spending and support the plans of the Administration to expand PhilHealth coverage to vulnerable populations.

2. FACILITATION OF PATIENT ACCESS TO MEDICINES

ISSUE DESCRIPTION

The DoH is the governing body for ensuring access to basic public health services through the provision of quality health care and regulation of providers of health goods and services, including medicines. The Food and Drug Administration (FDA)[270] is the main body for pharmaceutical regulations whose main goal is to ensure the health and safety of food and drugs available to the public. In the Philippines, companies involved in the import, manufacture, packaging, distribution, retail and export of drugs need to register their products with the FDA, after obtaining a License to Operate (LTO).

Access to affordable safe quality drugs has persisted as a priority health issue and it is the primary goal of the Philippines' national Medicines Policy. The Legal framework for a sustainable access to cheap medicines is provided by the (1) Generics Act of 1988 (RA No. 6675), (2) the Executive Order (EO) No. 49 of 1993, that establishes the mandatory use of the Philippine National Drug Formulary (PNDF) Volume 1 as the basis for public procurement of medicines, (3) the Philippine Health Insurance Corporation Board Resolution No. 265 of 1999, referring to the PNDF as the basis for claim reimbursements for drugs and (4) the Universally Accessible Cheaper and Quality Medicines Act of 2008 (RA No. 9502) that seeks a better access to essential drugs.

Having said that, the PNDF is an essential component of the Medicines Policy since 1993. The **PNDF** is basically a list of essential medicines registered with the FDA and prepared by the National Formulary Committee (NFC) in consultation with experts in the healthcare sector that guides the procurement and supply of medicines in the public sector, along with schemes for reimbursement of medicine costs. This list includes effective and affordable drugs that satisfy the priority healthcare needs of the majority of the population. However, patients who are covered by the public health system can access only the drugs listed on the PNDF, meaning that new medicines would not be an option.

Although the PNDF application process has been recently revamped, the lack of transparency on the decision criteria, timeline and evaluation process is still a major concern. This lack of accountability also affects the evaluation of a health technology to be included in the national reimbursement plan or in the PNDF, thus obstructing the efficient inclusion of new medicines that in some cases need up to three years to be listed.

In an effort to improve transparency for the people, the DoH and national government hospitals have made tender prices and drug prices accessible online through the Drug Price Watch. This information on price and inventories is provided by the Electronic Essential Drug Price Monitoring System (e-EDPMS), created by the DoH to monitor essential drug prices and stocks of medicines in the local market with the intent of detecting overpricing practices.

270 The FDA handles the registration of processed foods, drugs, medical devices, in-vitro diagnostic reagents, cosmetics and household hazardous substances.

On the other hand, the **Universally Accessible Cheaper and Quality Medicines Act** of 2008 (RA No. 9502), enacted to ensure access to affordable quality drugs and medicines to all Filipinos, empowered the government to regulate the price of off-patent drugs and set the foundations of two mechanisms; the Maximum Drug Retail Prices (MDRP) scheme that was implemented in 2009 and the Government-Mediated Access Pricing (GMAP).

The **MDRP**, established by the EO No. 821 of 2009, set initially the maximum retail prices of 5 drug molecules[271] and subsequently 16 molecules more, calling for a 50% reduction in price. Meanwhile, the **GMAP** is a tool of voluntary price reduction operated between the government and the industry that has covered 201 pharmaceutical formulations and affected 29 companies, bringing prices down between 10% and 70%.[272]

While the objective of theses mechanisms was to improve the affordability of medicines for illnesses identified as the leading causes of morbidity and mortality,[273] this goal has not been achieved. Actually, these measures improved the affordability for the patients that could already afford them but did not facilitate their access among low-income groups. Most of the reduced-price medicines continue to be out of reach for the most disadvantaged social groups, even low cost medicines imported from India and Pakistan that are currently available in the Philippines. The expansion and improvement of benefit packages of PhilHealth to cover outpatient medications are necessary to truly ensure access to quality medicines by the poor as drug price reduction has proven to be an ineffective measure to reduce the financial burden for low-income households.

Furthermore, sector studies reveal that the non-controlled drugs tend to increase their prices to make up for the loss of the controlled ones.[274] Also, the control of drug prices usually forces the exit of actors out of the market, subsequently leading to oligopolies and reducing competition. Therefore, pharmaceutical companies that exclusively offer innovative products would not be economically sustainable in the Philippines and would need to exit the market.

The Philippine Government announced that there is an ongoing revision of the MDRP. This MDRP Phase II seeks to enlarge the list of price-controlled drugs used for the most frequent illnesses in the Philippines and make the GMAP mechanism compulsory. This list will be ready in 2017.

A bill[275] has been filed in Congress seeking to amend the Universally Accessible Cheaper and Quality Medicines Act of 2008 (RA No. 9502) by creating a body operating under the DoH, the Drug Price Regulatory Board (DPRB), which would be comprised of health professionals and consumer representatives, would determine the maximum retail price of drugs and medicines (MDRP) and would develop policies for fair pricing of medicine. A similar proposal was filed during the 14th Congress but the Senate version did not include a DPRB and focused only on amending the intellectual property law and parallel importation with the expectation that competition would lower prices.

Other strategies under the Presidential Directives include the implementation of a "generic-only" prescription policy among doctors,[276] the centralization of the government procurement of medicines, the development of a special economic zone for the Pharmaceutical Industry (Pharmazone) or the lifting of the tariffs on the importation of raw materials and active pharmaceutical ingredients (APIs) for the manufacturing of pharmaceuticals.

RECOMMENDATIONS

BROADEN MEDICINE ACCESS FOR PATIENTS THROUGH A CENTRALIZED POOLED PROCUREMENT OF MEDICINES AND A PRICE NEGOTIATION MECHANISM FOR INNOVATIVE THERAPIES.

We laud the initiative to establish a centralized pooled procurement of essential medicines. However we believe that this should be further expanded to other medicines and suppliers. A centralized pooled procurement of medicines would give the public sector leverage in bringing down drug prices, by increasing the volume of purchased medicines and negotiating with the Industry. Therefore, we suggest improving planning and procurement processes through long-term contracts.

We also believe that price-volume negotiation system under a multi-year contract would be a feasible and practical solution for the inclusion of patented innovative therapies that in some cases need years to be listed on PNDF.

The EPBN Health and Pharmaceutical Committee supports the government in its goal to provide affordable medicines and looks forward to working closely with the DoH to find solutions towards a sustainable access to medicines.

271 Amlodipine, Atorvastatin, Azithromycin, Cytarabine, Doxorubicin.

272 Data provided by the Pharmaceutical & Healthcare Association of the Philippines (PHAP).

273 Cardiovascular disease, diabetes, hypertension, infectious diseases, cancer, end stage renal disease, intravenous fluids.

274 Selvaraj, S. (30/07/2007). How Effective Is India's Drug Price Control Regime?. Retrieved: 20/05/2017. https://cdn1.sph.harvard.edu/wp-content/uploads/sites/114/2012/10/RP256.pdf.

275 HB No. 3252.

276 Amendment of RA No. 6675 or the "Generics Act of 1988".

STRENGTHEN MARKET COMPETITION, SUPPORT SUSTAINABLE LOCAL MANUFACTURING AND USE MDRP ONLY AS LAST RESORT.

EPBN, in its pursuit of a free and competitive environment, supports a non-regulated market. We believe that the MDRP scheme should be exclusively a reserve instrument and a temporary measure in the absence of effective competition. Indeed, the use of price control can be counterproductive as it can discourage investors from operating in the market or it could dampen growth rates with the subsequent reduction on tax contributions. Actually, since the price reduction policy was established in 2009, some companies have scaled down operations and cut jobs to confront its financial implications. Therefore, we pursue a competitive business environment that would allow market forces to create jobs, lower prices and promote research and development, allowing research-based pharmaceutical companies to address the medical needs of Filipinos.[277] In this context, we commend the efforts of the government to promote local manufacturing which foster market competition and broaden medicines choices for Filipinos.

If the government decides to maintain the MDRP mechanism, we strongly encourage interaction with the private sector. Consultations with medical practitioners, patient groups and manufacturers of pharmaceutical products, and taking their proposals and visions into account, are essential to identify key life-saving drugs. This would confer benefits to all parties involved, ensuring that patients and the Administration could access cheaper medicines, maintaining an economically sustainable healthcare industry.

The pharmaceutical industry has proven to be collaborative with the Administration in promoting equitable access to quality medicines in the Philippines as many companies have voluntarily reduced the prices of several medicines even before the enactment of RA No. 9502 and have been providing a discount for senior citizens on their medicines. The industry is committed to partnering with the government with the goal to improve access to medicines.

IMPROVE THE APPLICATION PROCESS AND INSTITUTIONALIZE INTERACTION WITH THE PRIVATE SECTOR IN THE DETERMINATION OF THE MEDICINES THAT ARE INCLUDED IN THE PNDF.

We champion for further interaction with the Industry, whose experts can provide valuable inputs during the discussions about the inclusion or exclusion of medicines in the PNDF and during decision making processes of public health related issues. Granting an observer seat to a representative of the pharmaceutical sector in the discussions on Philippine National Formulary would ensure that expertise, technical knowledge and accurate up-to-date information is taking into account in reaching clear-cut and timely decisions. This would not only help EU health care companies operate in a more transparent environment but will directly benefit patients who will be able to access an updated and realistic essential list of medicines to treat their ailments.

3. STRENGTHENING THE REGULATORY FRAMEWORK

ISSUE DESCRIPTION

Reliable access to quality medicines is a fundamental part of the human right to health. In this sense, the FDA, created by RA No. 3720, as a regulatory body under the DoH, is mandated to ensure the safety, efficacy or quality of health products, including drugs, medical devices, biologicals or vaccines. However, legal loopholes and lack of enforcement often pose a direct threat to the health or safety of Filipinos.

After identifying a number of regulatory issues that need to be addressed, EPBN makes the following recommendations in order to ensure that Filipinos have such access to quality and safe medicines and medical devices.

RECOMMENDATION

ENFORCE BIOSIMILARS POLICIES PROPERLY AND IMPROVE TRANSPARENCY ON BIOSIMILAR PRODUCT LABELING.

A biosimilar product[278] is a biological medicinal product, derived from living organisms, containing a similar version of the active substance of its reference product. Biological products derived from completely independent and different manufacturing processes

277 It takes 10 to 15 years for research-based pharmaceutical companies to develop a medicine or vaccine at an average cost of USD1.5 billion.

278 Biosimilars include hormones, small proteins, vaccines, fusion proteins and monoclonal antibodies (mAbs).

279 Other forms of biosimilars:

Non-comparable biologics (NCBs): Biosimilars that do not meet the requirements of similarity to the original medicinal product since they have not been through strict requirements.

Biobetters: Superior products to the originator biologic with improved administration of the product, greater stability and better performing indicators.

are not identical. Biosimilars[279] are different from generics, as generic drugs are identical copies of their reference products and are produced via chemical synthesis. Biological medicinal products, which account for approximately 20% of the total global share of pharmaceutical sales, are crucial to treating life-threatening conditions brought about by all diseases. In this sense, biosimilars can be a viable and economical alternative, improving access to medicines for patients, if suitably developed clinically, manufactured to the correct standards and used appropriately.[280]

Due to the complexity of re-creating a product which is made by living organisms, strict quality, safety, and efficacy criteria need to be followed. Analytical, nonclinical, and clinical studies are also necessary to obtain a full product profile.[281]

EPBN Healthcare and Pharmaceutical Committee welcomes the Administrative Order (AO) 2014-0016 issued by the FDA on April 11, 2014 and recognizes the FDA commitment to abide by the "Guidelines on Evaluation of Similar Biotherapeutic Products (SBPs) for the Registration of Biosimilar Products" established by the World Health Organization (WHO). However, these guidelines should be properly enforced by the corresponding government agencies.

Additionally, we strongly recommend improving transparency in biosimilar products labeling by combining relevant information on both the biosimilar and the reference product. This will support safe and effective use of the product, thus enabling healthcare professionals to make informed decisions which are in the patient's interests. Transparency in labels will also help doctors and patients understand biosimilars, leading to an increased acceptance and uptake of these products that have the potential to increase competition and support a sustainable healthcare system.

ENHANCE ANTI-COUNTERFEIT SURVEILLANCE AND ENFORCEMENT.

We welcome the positive reforms that have been carried out by the FDA in the past years and look forward to the continuation of the Technical Assistance program of the EU and further measures aimed to improve the process, further automation and capacity building of personnel in support of a better regulation and anti-counterfeit enforcement.

Despite the enactment of the Act Prohibiting Counterfeit Drugs (RA No. 8203), the unregistered and fake medicines cases continue increasing year after year. The FDA confiscated only in 2015 PhP5.9 million worth of this products. In order to curb the proliferation of counterfeit drugs, we suggest increasing criminal penalties for those caught manufacturing, trading or providing them. Considering the seriousness of the problem that directly involves the citizens' safety, a multi-sectoral approach should be adopted. A partnership between the government agencies, including the Bureau of Customs (BOC) and patent holders is advisable to fight against counterfeit drugs along the supply chain.

DEVELOP A LEGAL FRAMEWORK FOR STANDARDS IN THE MEDICAL DEVICE SECTOR.

Given the lack of regulation concerning medical devices in the Philippines, and always with the patient's safety in mind, we support the harmonization of medical device standards. Such harmonization along with the proper implementation of medical equipment management programs should be a requirement to grant licenses and accreditations to healthcare facilities. This measure would also standardize services in maintenance, testing and calibration of those devices and would need additional controls to prevent the importation or use of devices that do not meet the standards. The Philippines needs to make sure that it has access to high-quality equipment that is appropriate for its specific medical needs.

MAINTAIN DATA CONFIDENTIALITY OF THE EDPMS.

We welcome the efforts of the DoH to improve transparency with the launch of the Electronic Essential Drug Price Monitoring System (e-EDPMS). The e-DPMS, that monitors drug prices, also collects private information of suppliers. Therefore, we suggest developing and enforcing a data protection policy assuring the pharmaceutical industry that all commercial and private information provided to monitor drug prices and their stock will be secure and used solely for the purpose that it is being collected. Failing to do so would lead to a legal insecurity situation.

280 Tabernero, J. (16/01/2017). Biosimilars: a position paper of the European Society for Medical Oncology, with particular reference to oncology prescribers. Retrieved: 14/08/2017. http://esmoopen.bmj.com/content/1/6/e000142.

281 Ibid.

ENFORCE THE IMPLEMENTATION OF THE MEXICO CITY PRINCIPLES BY ALL INDUSTRY PLAYERS.

The Mexico City Principles (MCP) is a Code of Ethics that defines how pharmaceutical companies, particularly small and medium enterprises, should market, distribute, promote and advertise their products. This initiative was signed by the representatives of the APEC members during the Hawaii meeting in 2011.

Before 2011, the Philippines had not developed any ethical regulation for the pharmaceutical sector. After the adoption of the MCP, the Philippines not only officially adopted the MCP,[282] it also created a Committee[283] for the Adoption of the Mexico City and Kuala Lumpur[284] principles and published the "implementing guidelines on the promotion and marketing of prescription pharmaceutical products and medical devices".[285]

EU pharmaceutical companies operating in the Philippines have already adhered to these regulations. In fact, they have always operated within a strict legal framework and are governed by a strongly implemented ethics code.

We look forward to an effective implementation of the guidelines on the promotion and marketing of pharmaceutical products by all industry players. To that end, we recommend creating a multi-stakeholder body in charge of following-up the level of engagement of the different industry players. This body will also channel ethical interactions among healthcare professionals and will be invested with disciplinary powers as a sanctions scheme is essential to have a strict enforcement of the MCP. EPBN also suggest the creation of a whistleblowing hotline to support the enforcement.

ESTABLISH A HOSPITAL ACCREDITATION PROCESS THAT GUARANTEES HIGH SAFETY STANDARDS IN THE DELIVERY OF HEALTHCARE SERVICES.

We recommend the establishment of a hospital accreditation process prior to the reimbursement of healthcare services to hospitals with the goal of ensuring that the delivery of healthcare services consistently meets certain levels of safety and accountability. At all times, hospitals have to meet certain standards determined by the DoH Standards Development Department and these standards need to be developed by team of experts in the areas of hospital management or quality assurance in healthcare. In order to ensure the welfare of patients and that hospitals strive to maintain quality and safety standards, PhilHealth should be assigned to conduct comprehensive on-site audits.

4. INSTITUTIONALIZE A PUBLIC-PRIVATE SECTOR DIALOGUE

ISSUE DESCRIPTION

The EPBN Healthcare Committee was part of an institutionalized monthly PPP dialogue with the DoH through the Office for Health Regulations during 2015.

A continuous dialogue between the public sector and the industry can be mutually beneficial in finding solutions for health-related bottlenecks.

EPBN and ECCP have already met with Congressmen and Government Officials during 2016 and 2017 with the intent of continuing inclusive discussions on health issues, supporting the continuity of the EU Health Support Programme and stating its wish of having an institutionalized platform for dialogue.

RECOMMENDATIONS

INSTITUTIONALIZE REGULAR DIALOGUE BETWEEN GOVERNMENT AND PRIVATE SECTOR.

The EPBN Healthcare Committee respectfully requests the establishment of regular dialogue between the health stakeholders and the DoH Pharmaceutical Division, PhilHealth and FDA. This way, the government can identify the initiatives which the private sector can contribute to and can benefit from its expertise. An institutionalized public-private sector dialogue would be advantageous when it comes to determine the medicines to be included in the Philippines National Formulary, to identify the benefits provided by PhilHealth, to implement health legislation and policies or to cooperate in the delivery of services.

282 FDA Circular No. 2014-024.
283 DoH Circular No. 2014-0389.
284 Code of Ethics for the Medical Device Sector.
285 AO No. 2015-0053.

High Priority Sector Papers
ICT-BPM-KPM

INTRODUCTION

For the past decade, the Philippines continues to be one of the undisputed leaders in Information Communication Technology (ICT)/ Business Process Management (BPM) / Knowledge and Process Management (KPM) services. It has developed a thriving ecosystem for the sector to flourish given its highly literate, English-speaking young workforce and it being home to some of the world's biggest transnational companies. The Philippines also catalyzed the flow of more revenues with an estimated USD22.9 billion posted in 2016.[286]

With the Fourth Industrial Revolution[387] coming apace in all segments of society and the global economy, improvements in the Philippine ICT/BPM/KPM sector are necessary for the country to reap the benefits of the industry in an age of digital disruption. Therefore, maintaining competitive incentives for investments, ensuring continued improvement of broadband service, and implementing a national skills development strategy and action plan with focus on science, technology, engineering, and mathematics (STEM) skills are measures we look forward to having materialize soon.

SECTOR SITUATIONER

MARKET DATA

The IT-BPM industry has created a significant foothold in the country as one of the most lucrative markets today. In 2016 alone, it generated the most number of jobs in the country, creating 1.15 million places for full-time employment from 1.04 million in 2015 and 3.67 million indirect jobs (i.e. real estate, transportation, banking). In addition, the Information Technology and Business Process Association of the Philippines (IBPAP) is targeting to create 650,000 new direct jobs in the next six years.

Aside from overseas Filipino workers (OFW) remittances, the industry doles out the largest share of the country's revenue for 2016, recording USD22.9 billion that represents 7.5% of the country's GDP. This figure is higher than the previous year's USD20.5 billion. Moreover, its sourcing market is perceived to grow to USD294.4 billion worldwide by 2022. By the end of the target timeline, the IT sector expects to achieve a 5.6% growth while BPM looks forward to a 6.2% increase.

To capitalize on this, the industry is currently looking to create IT centers in promising urban places with the potential to support the necessary infrastructure. These will be called the "Top 10 Next Wave Cities" which includes Baguio, Dagupan, Dumaguete, Cagayan de Oro and "Top 10 Emerging Cities" such as Laoag, Puerto Princesa, Roxas City and Zamboanga.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The EPBN is ecstatic to see that the 10-point socio-economic agenda of the current administration lists promotion of science and technology as high priority. We are optimistic that more and more reforms in the sector will transpire within this administration.
- Furthermore, the EPBN supports and welcomes the recent publication of the National Broadband Plan (NBP) which seeks to address the need for universal, faster and affordable Internet Access. The NBP contains three major broad strategies, namely: 1) establishment of policy and regulatory reforms; 2) government investment in broadband infostructure; and 3) support for the stimulation of broadband demand. The EPBN will continue to monitor the realization of the NBP in line with its various advocacies.
- Also, after several years, the EPBN finally welcomes the enactment of the Data Privacy Act which seeks to protect individual personal information and upholds the right to privacy through the processing of personal information. The EPBN also applauds the National Privacy Commission for making decisive steps towards ensuring data privacy. The deadline for compliance has already been set on September 9, 2017. We believe this will encourage and attract even bigger business opportunities such as 'big data', among others.

ADVOCACY

1. MAINTAINING COMPETITIVE INCENTIVES FOR ICT-BPO INVESTMENTS

ISSUE DESCRIPTION

Undeniably, the remittances from the overseas Filipino workers and the revenues from the ICT-BPO-KPM sector are instrumental to the country's economic growth. Outlooks even anticipate BPO revenues to outpace OFW remittances by 2018. Given this fact, it is but imperative to encourage incentives for this sector.

Currently, the ROHQ and the BPO sector enjoy the following incentives:

- Income Tax Holiday (ITH), 5% Gross Income Tax (GIT), and the corresponding VAT zero-rating incentives on the activities under ITH while VAT exemption on activities under the 5% GIT regime provided for under Republic Act (RA) No. 7916 or the Philippine Economic Zone Authority (PEZA) Law;
- 10% corporate income tax of the Regional Operating Headquarters (ROHQ) and 15% preferential tax rate for ROHQ employees provided for under Executive Order (EO) No. 226 or the Omnibus Investments Code of 1987/BOI Law.

The EPBN appreciates the intention of the Tax Reform Acceleration and Inclusion (TRAIN) bill to bring about equity and eradicate poverty by adjusting the personal income tax schedule. However, we also take note of its several provisions which may have adverse impacts to ROHQ and the ICT-BPO sector particularly the removal of the ROHQ preferred tax and the removal of the zero VAT rating for PEZA companies.

ON THE REMOVAL OF REGIONAL HEADQUARTERS (ROHQ) PREFERRED TAX:

Reduced Operations and Employment

The removal of the ROHQ preferred tax rate, an incentive guaranteed to investors when they move their ROHQ operations to the country, would have a high impact on the sector's ability to employ highly-paid professionals.

Decrease in Spending and Losses in Terms of Income Tax

The loss of jobs of highly paid professionals in the country would further result in millions of pesos loss in terms of income tax. This has a snowball effect, also affecting indirect employment opportunities created by highly paid professionals through means of expenditure.

Lower Competitive Advantage

Removing the said incentive will put the Philippines at a disadvantage in comparison with other ASEAN (e.g. Malaysia, Singapore) countries which grant the same privileges to companies with regional headquarters on their soil. Malaysia is now host to more captive in-house service centres than the Philippines, and offers full income tax exemption for ROHQ employees in qualifying income streams. On the other hand, Singapore provides customized incentive packages with lower concessionary tax rates.

It would also become very difficult to provide a strong and clear rationale behind putting new investments into the Philippines, given this sudden change.

286 Tholons (2017). Tholons Services Globalization Index™ 2017. Retrieved: 27/07/2017. http://www.tholons.com/TholonsTop100/pdf/Tholons%20Top%20100%20-%202017%20v.7.pdf.

287 Schwab, K. (2016). The Fourth Industrial Revolution. Geneva: World Economic Forum.

ON THE REMOVAL OF THE ZERO VAT RATING FOR PEZA COMPANIES:

The proposed measure is in total disregard of the "cross-border" doctrine. The removal of the VAT zero-rating or exemption on sale of goods and services to PEZA-registered entities will be in total disregard of the legal fiction that PEZA ecozones are considered outside the Philippine territory under the "cross-border doctrine" – that anything consumed within the zone is considered consumed outside the Philippines, and anything sold to enterprises located within the zone is considered export sale.

Increase in Cost Base of Companies / Investors

This would significantly increase the cost base of companies, especially if the VAT refund process is not fully functional--especially as this process cannot be used for foreign sales as well where VAT cannot be charged from those customers.

The significance of this change, possibly, is in timing. Many of the customer contracts within the industry were signed for multiple years with locked pricing; investments are calculated for a longer period than a few months. A sudden cost increase might yield unfavorable changes in the environment, especially when the USA is currently pulling off-shored jobs back onshore. A request for a price increase might turn against the Philippines, resulting in jobs lost.

Decrease in LGU Income

The immediate effect of this decision would be felt by the local government units – especially in provincial locations. The first sites to be closed would likely be those outside Metro Manila, as Manila is the preferred location for foreign customers. This would then hurt the local governments first by reduced employment and second, via loss of income, as currently the local governments get part of the income tax these entities are paying after the PEZA income tax holiday has ended – which is in most cases already has.

Unclear and Ambiguous Proposed Amendments of the Current Law

We also noted that Senate Bill (SB) No. 1408 enumerated certain provisions of special laws which are expressly proposed to be repealed. However, repealing of this provision does not contain the repeal of Republic Act (RA) No. 7916 (otherwise known as the PEZA law). Thus, the interpretation of the legislative intent of SB No. 1408 is unclear, specifically on the exemption under Section 109 (k).

RECOMMENDATIONS

KEEP THE CURRENT BUSINESS AND LEGAL FRAMEWORK GOVERNING THE BPM INDUSTRY UNCHANGED.

As tax incentives indeed play a major role in maintaining investments in the country, we suggest the following courses of action:

- We strongly urge the current legislative body to keep the current business and legal framework governing the BPM industry stable and unchanged, especially as the dollar earnings of the IT-BPM industry and overseas workers' remittances are the only two pillars that are keeping the country's balance of payments healthy.
- We support the broadening of the VAT base as long as the claim for VAT refunds will be available under a credible, well-tested, and efficient refund process. The current VAT refund process is tedious, costly and uncertain. If the proposed bill is implemented without improving the VAT-refund process, unclaimed VAT will be considered as a cost and will continue to taint investors' perception of ease of doing business in the Philippines.

- One future solution might be to re-consider the share of the income tax between the LGUs and national government, towards a more favorable proportion accorded to the LGUs. The tax revenue could be used more locally for the benefit of the communities/employees actually involved in the employment and income generated in the industry.

2. CONTINUED IMPROVEMENT OF BROADBAND SERVICE

ISSUE DESCRIPTION

It is generally recognized that the quality and cost of broadband in the Philippines is not globally up to par. In its latest publication, Akamai's State of the Internet Q1 2017 report positioned the Philippines 100th globally in terms of average connection speed, at 5.5 Mbps. The Philippines pales in comparison to its peers in the Asia-Pacific region.[288] South Korea ranked 1st, Hong Kong 4th, Singapore 7th, and Japan 8th, the aforementioned countries have retained their relatively high figures from past quarterly reports.

Moreover, the 2016 World Economic Forum reports that the Philippines has the 2nd most expensive broadband services among the ASEAN member-states, next to Myanmar. In this context, wealthier neighboring economies such as Singapore and Malaysia put high premiums on Internet connection given their quality of living, whereas telecom providers in the Philippines charge high despite the country's relatively lower income status.[289]

When it comes to households with access to Internet connection, the Philippines ranked 64th among the developing countries in a 2016 report by ITU's and UNESCO's Broadband Commission. According to the Commission report, there are only 28.30% of households with Internet in the country when the survey was conducted in 2015.[290]

RECOMMENDATIONS

IMPROVE INFRASTRUCTURE AND ADDRESS REGULATORY BOTTLENECKS.

In light of the foregoing issues faced by the industry, we believe that the status quo needs to be improved and below-listed bottlenecks should be addressed:

- **Market Access Barriers** – By virtue of Commonwealth Act (CA) No. 146, telecommunications are designated as a public utility and are therefore subject to 60-40 foreign ownership restrictions and a Congressional franchise requirement for a service provider. Such limits the injection of capital investment and application of global technological innovations by foreign investors.
- **Lack of Market Competition** – Currently, fixed and mobile broadband services are dominated by two major market players, which leave little room for new entrants to enter and compete in the market. It is widely acknowledged that market competition is integral to ensuring consumer friendly cost and high quality of services.
- **Regulatory Framework** – The DICT law terminated other IT and communications-related agencies and merged their various roles into the Department of ICT (DICT). The NTC, the National Privacy Commission and Cybercrime Investigation and Coordination Center are now attached agencies of the DICT. Despite various efforts in streamlining the operations of various government agencies, there is much left to be sought of the current situation on telecommunications and broadband services.
- **Inadequate Infrastructure** – The EPBN commends the current administration's strong will in rolling out various infrastructure projects. Despite significant improvements, there is a lack of adequate 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, needs to be injected to put in place the latest technologies which will help larger and faster internet coverage. The consequences of the infrastructure gaps are further worsened due to the lack of infrastructure sharing in areas with a low population concentration.[291]

While we welcome the National Broadband Plan, it is our sincere hope that the Plan pursues its outlined strategies:

ADOPT THE "OPEN ACCESS" APPROACH.

- There is a strong need to unlock the market through lowering of regulatory barriers and cost of entry for market players offering internet services.
- It is important to enforce fair and open competition across all segments: from 'landing' to the 'last mile'.
- Promotion of transparency and a level playing field is also central to the improvement of the telecommunications sector.

288 Akamai Technologies (2017). Akamai's State of the Internet Q1 2017 Report. Retrieved: 28/07/2017. https://www.akamai.com/fr/fr/multimedia/documents/state-of-the-internet/q1-2017-state-of-the-internet-connectivity-report.pdf.

289 Singapore and Malaysia ranked 72nd and 91st respectively in the Affordability pillar of the Readiness subindex.

290 Broadband Commission (2016). The State of Broadband 2016: Broadband Catalyzing Sustainable Development. Retrieved: 28/07/2017. https://www.itu.int/dms_pub/itu-s/opb/pol/S-POL-BROADBAND.17-2016-PDF-E.pdf.

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

UPDATE LAWS AND REGULATORY FRAMEWORK TO PROMOTE AND INCENTIVIZE INVESTMENT AND INNOVATIONS IN COMMUNICATIONS AND CONNECTIVITY.

- Amendment of the RA No. 7925 – abolition of the requirement for a telco Congressional franchise and opening up the market so that Internet infrastructure can be built and operated by any able service provider- whether private or public, of any scale, of any nationality.
- The Commonwealth Act No. 146 - exempting certain segments of the Internet infrastructure as a public service, particularly those that do not serve the public directly. The EPBN appreciates the efforts of Congress to move forward in amending the Public Services Act, and hopes that momentum will not be lost.

3. CONTINUED SKILLS DEVELOPMENT WITH AMPLIFIED FOCUS ON STEM CAPABILITIES

ISSUE DESCRIPTION

The 10-point socio-economic agenda of the current administration lists promotion of science and technology as high priority. This, comes as no surprise given the fact that the focus on STEM would facilitate innovation and creative capacity towards self-sustaining, inclusive development. Undeniably, technology has been a game-changer, and continues to evolve over time.

More so, rapid industry evolution is shifting towards an increased reliance on higher levels of IT and technology. In fact, the "New IT" such as software development and animation are rapidly developing which in turn demand more complex ICT skills. Therefore, for the country's ICT-BPM-KPM industry to continuously grow and create higher value added job generation, it becomes increasingly important to enhance its competitiveness in higher value services, in line with global trends.

It then follows that STEM skills must be enhanced, across all levels of ICT profession, as such are integral in keeping up with evolving industry trends such as analytics, robotics and artificial intelligence. It's of extreme importance that the workforce catches up with the fast-paced world of technology.

On a similar note, we believe that upgrading facilities will help facilitate learning. Based on the computer inventory for some of the public high schools in Cebu City, there are 1,035 computers for 40,696 students or a ratio of 39.3 students per computer. This is dismal in comparison to Singapore's ratio of one student per tablet. As we believe that computers and high connectivity are essential to learning, the ratio of 39.3 students per computer is a real stumbling block. Meanwhile, companies in the business of information technology and business process outsourcing (IT/BPOs) have usable computers which are ready for disposal or donation. The aforementioned companies have expressed willingness to give the computers to public schools but are constrained by the rules on sending equipment from economic zones to the customs territory.

ECCP sought the advice of the Department of Finance to be able to effect such donations exempt from various taxes. We were then directed to the University of the Philippines (U.P.) system, as U.P. has its own charter which allows it to receive donations and distribute the same to other exempt institutions without need of payment of donor's tax, customs duties and taxes, and value added tax. Moreover, the U.P. system covers various regions so we can be assured that the donated computers can reach educational institutions in the provinces which are in greater need of computers. We will continue our discussions with concerned parties so as to make contribute to those in need, easily fill a gap and fight poverty.

RECOMMENDATION

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

The EPBN maintains its earlier position of implementing a national skills development strategy and action plan for the ICT/BPM/KPM sector with a focus on the STEM skills. This is envisioned to respond to current and future sector demands, as well as narrow the aforementioned skills gap.

Additionally, in line with the IBPAP roadmap 2016-2022, the EPBN recommends the establishment of an industry-led IT-BPM talent attraction ecosystem; the development of career progression path and skill mapping, the creation of effective skills development avenues, the embarkation of a nationwide effort to enhance English proficiency and STEM across early stage education, near-hires and the existing workforce, and the continued roll-out of initiatives to upskill existing manpower in a specialized competency areas. In this way, the industry will significantly prepare the workforce to meet the demands of the future.

High Priority Sector Papers

TRANSPORTATION INFRASTRUCTURE

INTRODUCTION

The high levels of economic growth in the past years along with a fast growing population have outpaced the Philippines' infrastructure development. Enhancing connectivity and addressing traffic congestion in Metro Manila and Metro Cebu will strengthen the country's competitiveness and productivity, which is currently handicapped by infrastructure gaps.

The Duterte Administration is determined to reverse decades of under-investment in the sector by increasing the infrastructure spending gradually to 7.4% of GDP by 2022, which is expected to improve the country's competitiveness, generate employment and enhance inclusive growth.

The EU infrastructure sector is willing to participate in the development of infrastructure in the Philippines and share its advanced technology to improve the connectivity of the country. However, a level playing field must be ensured. To this end, restrictive policies that hinder economic growth or discourage private sector participation need to be reviewed.

In order to facilitate the development of transport facilities we make the following recommendations:

- Removal of foreign ownership restrictions
- Improvement of the PPP Program
- PCAB Licensing for fully foreign owned contractors
- Comprehensive, pro-growth infrastructure development
- Development of the Philippine Blue economy

Photo by Joaquin Legaspi

SECTOR SITUATIONER

MARKET DATA

The Duterte Administration seeks to reverse persistent low public investment in the Philippines with a Golden Age of Infrastructure Development.[291] For the FY 2017, PhP847.2 billion were allocated to infrastructure, accounting for 5.3% of the Philippines' GDP while the 2018 budget for infrastructure will amount to PhP1.09 trillion, representing 6.3% of GDP. The current Administration intends to increase infrastructure spending to 7.4% of GDP by 2022, thus spending around PhP9 trillion from 2017 to 2022 on infrastructure alone.[292]

Transport infrastructure in the Philippines consists of roads, railways, airports and ports. Water transport plays an important role due to the archipelagic nature of the country. However, **road transport**, with more than 215,000 km of roads, is the dominant subsector accounting for 98% of passenger traffic and 58% of cargo traffic. The low quality of the road network is mainly due to an inadequate construction method, low quality of the materials employed, high prevalence of the overloading of trucks, poor maintenance and fund mismanagement. A network of tolled expressways has been developed in Central Luzon to link the major economic and transport centers in Metro Manila and adjacent provinces.[293] Urban transport in the Philippines is characterized by ineffective transport planning and weak traffic management while urban public transport is dominated by jeepneys, utility vehicles, and tricycles. There are, however, plans to launch a Bus Rapid Transit (BRT) system in Manila and Cebu.

Out 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 Ninoy Aquino International Airport (NAIA) in Manila, with Mactan International Airport in Cebu being the second-busiest.[294]

With regard to **sea transport**, of the approximately 1,300 ports, about 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 (CPA) ; the remainder are the responsibility of other government agencies or local government units (LGUs). The major seaports are in Manila, Batangas, and Subic. International cargo and container traffic has grown steadily in recent years.[295]

The **railway system** consists of Light Rail Transit (LRT) and Metro Rail Transit (MRT) lines in Metro Manila and rundown heavy rail lines in Luzon. The three LRT lines commenced operations in 1984 (LRT-1), 1999 (MRT-3), and 2003 (LRT-2). Two lines are owned and operated by a government-owned corporation, the Light Rail Transit Authority (LRTA), while the third (MRT-3) 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.[296] A contactless ticket system was implemented in 2015 to allow passengers to commute on the three lines utilizing a common fare system. There are currently ongoing projects to upgrade and extend the three existing metropolitan rail lines and plans to construct new LRT lines (LRT-4, LRT-5, LRT-6) and the first subway line (MRT-7).[297] However, the railway system needs to be revived in other areas of the country such as Bicol and Mindanao.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The enactment of the Right-of-Way Act of 2016 (RA No. 10752) in March 2016 and the IRR in June 2016, aimed to simplify the mode of acquiring right-of-way for government projects, thus removing obstacles that have caused long delays to major infrastructure projects in the past.
- The Build Build Build Program was launched in April 2017, highlighting that infrastructure is a top priority for the Duterte Administration with a 3-year infrastructure program amounting to PhP3.6 trillion from 2018 to 2020. The Build Build Build Program includes projects that seek to generate employment, attract investments and promote sustainable inclusive growth.

291 The "Golden Age of Infrastructure" comprises at least 75 big-ticket infrastructure projects, with 61 of them in the pipeline of projects for the Build Build Build Program alone.

292 Diokno, B. (06/07/2017). Presentation made during The Re-thinking Infrastructure Building event organized by ICCPI. The City Club. Makati. Metro Manila. The Philippines.

293 ADB (2012). Transport Sector Assessment, Strategy and Road Map. Retrieved: 23/06/2017. https://www.adb.org/sites/default/files/institutional-document/33700/files/philippines-transport-assessment.pdf.

294 Ibid.

295 Ibid.

296 Ibid.

297 Oxford Business Group (2017). The Report. The Philippines 2017. P. 147.

ADVOCACY

1. REMOVAL OF FOREIGN OWNERSHIP RESTRICTIONS

ISSUE DESCRIPTION

Foreign investment brings benefits to the economy promoting economic development, providing opportunities in employment or developing the productivity of resources. However, the current legal framework is restrictive for foreign participation in the infrastructure sector.

The Foreign Investment Act of 1991 (RA No. 7042, amended in 1996 by RA No. 8179) liberalized the entry of foreign investment into the Philippines and provided at the same time the Foreign Investment Negative List[298] (FINL) containing the sectors in which foreign investment is restricted. According to this law, foreign investors are allowed to invest in all areas except those reserved for Filipinos under the Philippine Constitution and other existing laws. In fact, the Philippine Constitution of 1987 restricts foreign ownership of public utilities to 40%. Currently, most transportation infrastructure is considered public utilities according to Section 13(b) of the Public Service Act of 1936 (CA No. 146). As a new FINL is expected to be issued in September 2017 replacing the 10th FINL, EPBN hopes that the new list will ease foreign participation restrictions in infrastructure.

The Government Procurement Reform Act (RA No. 9184) also allows foreign participation in public procurement processes. Nonetheless, the procurement process is subject to the Flag Law of 1936 (CA No. 138), which adopts as a general principle the preference for Filipino bidders, which is also in line with the RA No. 5183.[299] Therefore, foreign firms are only eligible to participate in the procurement of infrastructure projects if they form a joint venture with a local company and provided that they do not hold over 40% of the joint venture's equity.

The current legislative framework represents a substantial barrier to foreign investment in infrastructure in the Philippines. The inadequate public investment in the sector, the lack of transparency and reported cases of corruption in procurement processes also hinder the development of the sector, failing to meet the country's needs. European infrastructure companies are willing to contribute to increase the Philippines' competitiveness with long-term investments and the use of innovative solutions. However, they demand a more transparent and liberalized environment.

Given that the Legislative Executive Development Advisory Council[300] (LEDAC) has included the review of the Public Service Act and the Government Procurement Reform Act in its priority agenda, we are confident that the amendments to these Acts aiming to encourage foreign participation in the sector will be adopted in the near future.

RECOMMENDATIONS

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

We recommend the amendment of the Public Service Act of 1936 filed in Congress, adjusting Section 13 (b) in line with the current socio-economic environment and with the purpose of truly serving the public. We suggest updating the definition of public utility in a way that it includes only services that are serving the public in the present context, and which often are limited to water and electricity.

We also suggest making a distinction between (1) the supply of services and (2) the physical structure where the services are provided, not considering the latter a public utility. Therefore, foreign contractors could participate without restrictions in the construction of the physical infrastructure reserving the provision of services to Filipino firms.

In this sense, we support House Bill (HB) No. 5828 and Senate Bill (SB) No. 1441 which seek to amend CA No. 146 defining public utility as "a public service that regularly supplies the public and regularly transmits and distributes to the public through a network its commodity or service of public consequence". This bill also enumerates the scope of public utility limiting it to "electric power transmission, electric power distribution, water pipeline distribution and sewerage pipeline system", that is to say, water and electricity.

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 removing the provisions of the Government Procurement Reform Act that subject the procurement process to the Flag Law of 1936, thus eliminating the general principle of preference for national goods and services. We believe that a fully competitive, transparent and efficient procurement process will encourage the participation of EU firms, bringing down the project cost and the price of services, offering improved construction techniques and designs and providing additional benefits to the economy through economic growth and employment.

Therefore, we support all initiatives such as SB No. 459 which mandates video-recording all procurement-related conferences and SB No. 274 that requires the mandatory posting of the BAC[300] decisions on government websites, strengthening public monitoring and accountability of the procurement process.

2. IMPROVEMENT OF THE PUBLIC PRIVATE PARTNERSHIPS (PPPs) PROGRAM

ISSUE DESCRIPTION

The 1987 Constitution of the Philippines paves the way for Public Private Partnerships (PPPs), establishing in Section 20 that "the State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments." In 1990, the Philippines pioneered the regulation of private sector participation in infrastructure development in Asia with the enactment of the RA No. 6957[301], otherwise known as the Build-Operate-and-Transfer Law (BOT Law) which was amended by the RA No. 7718 in 1994.

The Philippines' PPPs Program is ranked as one of the best programs in the region due to the creation of a PPP Center and a Project Development and Monitoring Facility (PDMF) that provides funds and pre-investment activities of potential PPP Projects. The present PPP Center, mandated to facilitate and coordinate the country's PPP program, was established in 2010 under the Aquino Administration by virtue of the Executive Order (EO) No. 8[302], although different Administrations have tried to engage the private sector in the Philippines' infrastructure development with a similar body[303] since 1986. More recently, the Duterte Administration specifically mentioned Public-Private Partnerships in the 10 point socio-economic agenda as an essential component to develop the country's infrastructure.

In March 2017, the Administration launched the "Build, Build, Build" program, revealing the new strategy on infrastructure development. The key feature of the new program is the preference for the hybrid type of PPPs, that is to say, an inclination for government funds or Overseas Development Assistance (ODA) to finance the construction of infrastructure projects, contracting PPPs for operation and maintenance only. The hybrid model, however, may create serious challenges during the operation and maintenance phases as the government will be required to manage the conflict between developers and operators of said infrastructure projects.

Given that the current government is inclined to accept ODA from China, Japan or Korea, which requires contracting firms from the particular country that is granting economic aid, European firms may see their participation significantly reduced.

The EU business community acknowledges the benefits that the creation of a PPP Center along with the BOT law and IRR has brought to the economy. Following the adoption of these measures, there has been a significant increase in infrastructure investment by the private sector in the Philippines. However, there is a need for improvement in the operation of the PPP Center. As it stands, the center lacks technical staff for the following tasks: consultations, awarding of projects, and quality control. There is also a need to amend current legislation to bring it into line with the current economic environment.

The members of the EPBN Infrastructure Committee have raised their concerns on the HB No. 5720[304], filed during the 17th Congress. This Bill seeks to remove the automatic grant of franchise for projects under the BOT Law and the PPP program and requires project proponents to secure a legislative franchise for public utilities from Congress in order to qualify as a bidder. This measure will definitely cause further delays in the implementation of PPP projects.

The "Golden Age" of infrastructure in the Philippines that the current Administration is trying to attain will only be possible with the passage of legislation favorable to PPPs with the private sector being the main engine for growth and development. The use of PPPs offers alternative financing solutions to the Philippines' infrastructure needs and contributes to free up public resources that can be used in social services.

298 The current FINL was published in May 2015.

299 An Act regulating the award of contracts for the supply to, or procurement by, any government-owned or controlled corporation, Company, agency or municipal corporation of materials, equipment, goods and commodities, and providing penalty for the violation thereof.

300 LEDAC is a consultative and advisory body to the President on national development programs and policies.

301 Bids and Awards Committee.

302 "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for other Purposes".

303 "Reorganizing and Renaming the Build-Operate-and-Transfer (BOT) Center to the Public-Private Partnership (PPP) Center of the Philippines and Transferring its Attachment from the Department of Trade and Industry to the National Economic and Development Authority and for Other Purposes."

304 President Corazon C. Aquino created the Asset Privatization Trust (APT) and the Committee on Privatization (COP) with the Presidential Proclamation No. 50 in 1986, President Ramos established a BOT Center together with the Coordinating Council of the Philippine Assistance Center (CCPAP) by Memorandum Order No 166. President Joseph E. Estrada converted the CCPAP-BOTC into the Coordinating Council for Private Sector Participation (CCPSP) by virtue of Administrative Order No. 67. President Gloria Macapagal-Arroyo turned the CCPSP into the BOT Center in 2002 through the EO No. 144.

305 An Act further amending RA No 6957 as amended by RA No. 7718 otherwise known as an Act authorizing the financing, construction, operation and maintenance of infrastructure projects by the private sector, and for other purposes.

RECOMMENDATIONS

SET A PREFERENCE FOR A SINGLE CONTRACT TO DESIGN, BUILD, FINANCE, OPERATE AND MAINTAIN AN INFRASTRUCTURE PROJECT.

EPBN recommends the generalized use of a single contract for the design, building, financing, operation and maintenance of infrastructure projects so that the responsibility of a project, from construction to operation and maintenance, lies with a single contractor. The Administration would deal only with one party and that contractor would design and build the facility at optimal cost taking into account the duration of the contract.

AMEND THE LEGISLATIVE FRAMEWORK THAT GOVERNS PRIVATE SECTOR PARTICIPATION IN INFRASTRUCTURE DEVELOPMENT TO ENHANCE COMPETITIVENESS AND TRANSPARENCY OF THE PPP PROCESS.

We recommend amending the legislative framework that governs private sector participation in infrastructure development in order to enhance the competitiveness and transparency of the PPP process. We support the bills filed in the 17th Congress[306] which aim to incentivize the mobilization of private resources, to institutionalize and strengthen the PPP program, as well as the enactment of the PPP Act which would maximize the potential of PPPs, supporting the goal of the current Administration of speeding up the implementation of infrastructure projects.

Among the proposals discussed in Congress, we highlight the HB No. 348, which seeks to prohibit the issuance of temporary restraining orders against PPP projects, to remove the 50% cap on government participation, and to increase the threshold amount of PPP projects to be approved.

On the other hand, we strongly oppose the passage of HB No. 5720 that would only hinder the implementation of PPP projects.

ESTABLISH THE USE OF THE SWISS CHALLENGE FOR UNSOLICITED PROPOSALS.

EPBN stresses the pivotal role of unsolicited proposals which can fast track the implementation of big infrastructure projects. In particular, we propose that the Swiss challenge be adopted as the method to process unsolicited proposals in order to establish a competitive and transparent process.

Pipeline of Projects[307]

Projects under Review by Implementing Agencies
New Nayong Pilipino at Entertainment City Project
LRT Line 6 Project
NAIA PPP Project
North-South Railway Project- South Line – Operations and Maintenance Component
Batangas-Manila (BatMan) 1 Natural Gas Pipeline Project
Davao Sasa Port Modernization Project
Projects under Procurement
Operation and Maintenance of LRT Line 2
Road Transport Information Technology (IT) Infrastructure Project (Phase II)
Regional Prison Facilities through PPP
Unsolicited Proposals under Evaluation by the Implementing Agency
East-West Rail Project
New Manila International Airport Project
Manila-Taguig Expressway Project
Clark International Airport Project
For Approval of Relevant Government bodies
For ICC Approval: Manila Bay Integrated Flood Control, Coastal Defense and Expressway Project
Projects under Conceptualization/ Development
Integrated Transport System-North Terminal Project
Rural Dairy Industry Development Project
Judiciary Infrastructure Development through PPP Project
Naval Base Mactan Project
North Luzon Expressway (NLEX) East Toll Road Project
San Ramon Newport Project

306 HB No. 163, HB No. 348, HB No. 778, HB No. 1346, HB No. 3737, SB No. 66, SB No. 228, SB No. 951.

307 PPP Center (n.d.). Pipeline of Projects. Retrieved 15/06/2016. http://ppp.gov.ph/?page_id=26075.

Central Luzon Link Expressway (CLLEX) Phase II, Cabanatuan-San Jose Section and Operation and Maintenance of Phases I (Tarlac- Cabanatuan, Nueva Ecija) and II Project
Central Spine Roll-on/Roll-off (RoRo)
Cebu Bus Rapid Transit (BRT) Project – System Manager and Operator Contracts
Manila Heritage and Urban Renewal Project
Clark Green City Food Processing Terminal
Manila-East Rail Transit System Project
R1-R10 Link Mass Transport System Development Project
LRT Line 4 Project
Operation, Maintenance and Improvement of Kennon Road and Marcos Highway
Camarines Sur Expressway Project
PPP for School Infrastructure Project (PSIP) Phase III
Sucat Gas Power Plant
Duty Free Retail Development Project
Motor Vehicle Inspection System
Laguna Lakeshore Expressway-Dike Project
Awarded
Completed and Operational Projects
Daang Hari-SLEX Link Road (Muntinlupa-Cavite Expressway) Project
PPP for School Infrastructure Project (PSIP) – Phase I
Automatic Fare Collection System
NAIA Expressway Project (Phase II)
Projects under Construction
PPP for School Infrastructure Project (PSIP) – Phase II
Mactan-Cebu International Airport Passenger Terminal Building
Metro Manila Skyway (MMS) Stage 3
Southwest Integrated Transport System (ITS) Project
MRT Line 7
Bulacan Bulk Water Supply Project
Civil Registry System – Information Technology Project (Phase II)
Projects under Pre-Construction
LRT Line 1 Cavite Extension and Operation & Maintenance
Cavite-Laguna Expressway
South Integrated Transport System Project
NLEx-SLEx Connector Road

3. PCAB LICENSING FOR FULLY FOREIGN OWNED CONTRACTORS

ISSUE DESCRIPTION

All contractors, including subcontractors and specialty contractors, must obtain a license to conduct business in the country. For public sector projects Government Registration is also required.[308] The legal framework regulating licensing of contractors is established by the Contractors' License Law of 1965 or RA No. 4566, amended by PD No. 1746, which seeks to ensure the safety of the citizens, allowing only qualified and reliable contractors to undertake construction. The authority in charge of the issuance, suspension and revocation of the licenses of contractors is the Philippines Contractors Accreditation Board[309] (PCAB), one of the implementing boards of the Construction Industry Authority of the Philippines (CIAP), an attached agency of the Department of Trade & Industry (DTI). The tasks of the PCAB also include the investigation of violations of RA No. 4566 and the adoption of a code of ethics for contractors.

According to the law, the applicants for a PCAB license are required to "show at least two year experience in the construction industry, and 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 and of the public."[310]

While both foreign and domestic contractors must obtain a PCAB license to operate, the licensing rules contain a nationality distinction, establishing different financial requirements for each type. Therefore, local firms can apply for regular licenses which allows them to engage in multiple construction activities throughout a one-year period subject to different financial requirements between PhP900,000 and PhP90 million depending on the license category. Under PCAB Board Resolution No. 333 Series of 2013, which created a Quadruple A or AAAA category, foreign firms with less than 60% Filipino equity can only be granted special licenses to engage in private domestic construction projects if there is a minimum investment of PhP1 billion. Furthermore, special license holders need a separate license for each contract.[311]

308 Government Registration must be renewed every 3 years.

309 Created by the Presidential Decree No. 1746.

310 RA No. 4566, Article IV, Section 20.

311 PCC (2017). Policy Note. No. 1, series of 2017.

PCAB-Categorization and Classification Table

Category	Stockholder's Equity
AAAA	**PhP1,000,000,000**
AAA	PhP90,000,000
AA	PhP45,000,000
A	PhP9,000,000
B	PhP4,500,000
C	PhP3,000,000
D	PhP900,000

Source: Department of Trade and Industry

This nationality distinction contradicts the constitutional principle against unfair competition. Article XII, Section 19 of the Philippines' Constitution states that "no combinations in restraint of trade or unfair competition shall be allowed". This discrimination in the licensing process also lacks legal basis. The Contractors' License Law does not provide for any nationality criteria in order to be qualified as a contractor. In addition to this, the DOJ stated in 2011 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.[312]

This discriminatory regulation clearly hinders competition, creates an uneven playing field between foreign and domestic firms, and hampers potential investments in the construction industry by foreign companies. According to the Philippine Competition Commission (PCC), in 2015, out of 1600 special licenses issued, only 20 were granted to foreign firms and new local firms only accounted for 12% of total licenses, while more than 70% were renewals to existing licenses. This is proof of how competition is limited in this field, favoring major local players. Also, simulations of license applications in one year period, carried out by the PCC, show that foreign firms have to pay 12 times more than local firms in application fees under the same level of activity. This non-competitive environment does not incentivize firms to innovate resulting in increasingly costly construction projects using inferior quality materials[313] and inefficient construction methods, including low to no safety standards.

During the ongoing case between Manila Water Company Inc (MWCI) and PCAB, the PCC filed an *amicus curiae brief* before the Supreme Court on December 19, 2016 asking the Supreme Court to nullify PCAB's nationality requirement in its current licensing scheme for contractors in the construction industry as, according to its brief, competition in the construction industry would result in improvements in production processes, leading to economic benefits for the country.[314]

In March 2017, House Resolution (HR) No. 898[315] was filed in Congress, urging a discussion on the restriction of foreign participation in construction activities with the aim of revising the existing special license which hinders potential economic growth. The House Committee on Economic Affairs held a hearing on August 29, 2017 on this HR and directed the PCC to submit a position paper on the matter.

RECOMMENDATIONS

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

We recommend the amendment of Rule 3.1 of the IRR of RA No. 4566 that reserves the use of regular licenses to Filipino firms of at least 60% equity. We believe that this nationality distinction should be removed, allowing foreign firms to acquire regular licenses (AAA category) under the same conditions as local contractors.

The lifting of the restrictions on foreign contractors, promoting fair competition and creating a level playing field for both domestic and foreign players will only bring positive benefits to the economy. The participation of foreign firms in the construction industry will generate growth and employment through Foreign Direct Investment (FDI).

The Philippine Competition Commission estimates a PhP210 billion increase in private construction activities, where foreign owned contractors can share technical expertise with local firms. Public construction will also gain through knowledge transfer and the use of new technologies provided by foreign contractors. The increase in competition will definitely have a spillover effect to the wider economy.

4. DEVELOPMENT OF THE PHILIPPINES' BLUE ECONOMY

ISSUE DESCRIPTION

The Philippines, a nation of more than 7,000 islands, has become the world's fourth largest shipbuilding nation, after China, South Korea and Japan. A pool of qualified and well-trained skilled manpower, a positive investment climate with no foreign ownership restrictions and an adequate geographical structure[316] and location have favored a rapid growth in the sector.

312 DOJ LML M-21/11-622 dated September 21, 2011.

313 PCC (2017). Policy Note. No. 1, series of 2017.

314 PCC (06/01/2017). PCC weighs in on competition issue to PCAB-Manila Water construction case. Retrieved: 10/08/2017. http://phcc.gov.ph/pcc-weighs-competition-issue-pcab-manila-water-construction-case/.

315 "Resolution strongly urging the appropriate Committee to conduct an inquiry, in aid of legislation, on the desired economic policy direction of the Philippines with regard to foreign participation in the ownership and operation of corporations and firms engaged in the business of construction of buildings and other infrastructure in the Philippines."

316 (1) Protected areas for ships against rough seas and strong winds, (2) adequate space and water depth for anchorage near the yard, (3) sea channels favorable to sea trials.

The Maritime sector is among the key contributors to the country's growth, employing more than 60,000 welders nationwide and generating around USD5 billion in the Philippines.[317]

The sector has traditionally focused on the repair industry, purchasing second-hand vessels from overseas. However it is now transitioning towards a shipbuilding industry, where there are four major shipbuilding companies: Herma, Hanjin, Tsuneishi and Keppel.

The development of the Philippine shipbuilding industry is supported by the Domestic Shipping Development Act of 2004 (RA No. 9295) which provides incentives to encourage domestic and international investments. More recently, the Marina, the maritime industry authority, is currently formulating the Maritime Industry Development Plan (MIDP) with the goal of transforming the Philippines into a major maritime nation. This 10-year maritime industry roadmap aims to accelerate and expand domestic shipping services, ship repair and building, and to develop the Philippines as a human resource capital for ship management and maritime services.[318]

Concerning the development of shipping lines, essential in a country largely dependent on maritime transportation, there has been a massive investment in the domestic industry in the past four years.[319] Furthermore, the enactment of amendments to the Cabotage Law (RA No 10668) in 2015 allowing foreign cargo vessels to stop at multiple ports under certain conditions opened a way for more cost-efficient shipping options for importers and exporters.

While EPBN Infrastructure Committee strongly believes in the country's potential to develop a radiant Blue economy, certain barriers hindering its full development need to be addressed, such as the safety of ships not complying with the modernization program, the safety of shipping lanes, the reduction of shipping costs, the development of port infrastructure, the streamlining of BOC processes and the creation of an attractive ship registry.

The Philippines needs to maximize the great potential of a booming sector situated on some of the busiest trade routes in the world.

RECOMMENDATIONS

ENSURE THE SAFETY OF SHIPS AND SHIPPING LANES TO ENHANCE THE MARITIME SECTOR'S COMPETITIVENESS.

We support the enactment of legislation to ensure an efficient, safe, secure and adequate maritime transportation industry, furthermore secure shipping lanes are vital to develop and improve domestic and regional maritime routes. Therefore we champion a modernization of the domestic fleet and the compliance with maritime safety and environmental standards.

To further pursue the development of the Maritime industry, we also believe that the competitiveness of the domestic shipping sector needs to be enhanced by reducing requirements and conditions currently imposed on international shipping companies, which should be seen as partners in the development of this sector.

These measures will provide benefits to a sector with a great potential of contributing to inclusive growth and generating sustainable employment opportunities.

5. COMPREHENSIVE, PRO-GROWTH INFRASTRUCTURE DEVELOPMENT

ISSUE DESCRIPTION

The Global Competitiveness Index[320] 2016-2017 showed that the inadequate supply of infrastructure in the Philippines is the second most problematic factor for doing business, after the inefficient government bureaucracy. Out of 138 countries, the Philippines was ranked 106 for roads, 89 for railroads, 113 for port infrastructure and 116 for airports. According to the Department of Trade and Industry (DTI), the Philippines has the highest logistics costs in Southeast Asia. This accounts for 24 to 53% of wholesale prices, furthermore shipping and port handling costs account for 8 to 30%.

In addition, it is estimated that traffic congestion in Metro Manila costs the Philippine economy about PhP3 billion pesos a day and this could rise to PhP6 billion pesos a day by 2030 if no action is taken.[321] These numbers highlight the negative impact of poor quality infrastructure and an unsustainable traffic system to the country's productivity and competitiveness.

Congestion at airports and ports also hinders the Philippines' connectivity and productivity. Port congestion in 2014 and 2015 revealed Manila Harbor's overcapacity. Moreover, Ninoy Aquino International

317 Danish Export Association (26/06/2015). $5 Billion maritime business in the Philippines. Retrieved: 10/08/2017 https://www.dk-export.dk/nyt-og-presse/nyheder/$5-billion-maritime-business-in-the-philippines/.

318 Port Calls Asia (05/06/2017). Marina launches 10-year maritime industry roadmap. Retrieved: 10/08/2017. http://www.portcalls.com/marina-launches-10year-maritime-industry-roadmap/#.

319 The Philippines has acquired at least 60 shipping vessels from Europe between 2013 and 2017.

320 WEF (2016). Global Competitiveness Index 2016-2017.

321 Senate of the Philippines. Retrieved: 23/06/2017. http://www.senate.gov.ph/press_release/2017/0124_legarda1.asp.

Airport (NAIA), the primary gateway of the country, is unable to expand flight services and improve efficiency, with 2 runways[322] serving 4 terminals. Delays are frequent in an airport where passenger traffic has doubled since 2006.

After the Philippines Development Plan (PDP) 2011-2016 identified the insufficient infrastructure as a major limitation in achieving inclusive growth, the PDP 2017-2022 emphasized the importance of infrastructure development. The launch of *Dutertenomics* or the *Build Build Build Program* in 2017 seeks to compensate for the traditional under-investment by increasing infrastructure spending to 7.4% of GDP by 2022. This program seeks to promote overall infrastructure development with many of the projects to be carried out in Mindanao.

In order to ease infrastructure constraints, the Traffic Crisis Act[323] filed during the 17th Congress seeks to streamline the management of traffic and transportation in urban areas such as Metro Manila, Cebu and Davao, granting emergency powers to the President.

Besides the efforts of the Administration to relieve traffic congestion, many infrastructure-related measures are in the spotlight, such as the project to expand Clark International Airport or the Sangley Airport Development project at the former Danilo Atienza Air Base to address the growth of air traffic in Luzon. Concerning port efficiency, the government seeks to promote Subic and Batangas Ports as alternatives to Manila Harbor. Also a Terminal Appointment booking system (TABS) was implemented in 2016, establishing an online system that enables port users to select the time slots for delivering and withdrawing cargoes.

However, an integrated plan in infrastructure is highly needed in order to provide the Philippines with an adequate infrastructure, vital to increase investment and tourism in the country.

RECOMMENDATIONS

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

We welcome the increase in infrastructure investment, which is vital to the economic growth of the Philippines. We also support a National Logistics Master Plan that includes infrastructure and policy development, which is essential to improve the capacity and quality of the transport infrastructure, to strengthen regulatory and institutional capacity, and to develop the appropriate policies aimed at enhancing connectivity, trade and investment.

We list below some of the important actions to be considered in an integrated plan for infrastructure:

- Develop and implement an urban development policy, facilitating long-term solutions to address traffic congestion that include rail development projects (LRT) and BRT systems, that is to say, a high quality bus-based transit system that delivers fast and cost-effective services.
- Unify as much as possible payment systems to reduce gridlocks at metros and toll stations. A best practice can be found in the Octopus System implemented in Hong Kong.
- Continue existing infrastructure policies and develop new projects, modernizing airports and seaports and developing RORO facilities at ports, where wheeled cargo carried on ships can be driven on and off the ship on its own wheels or using a platform vehicle.
- Continue increasing the total infrastructure investment level to bring it over 10% of GDP.
- Encourage more participation from the private sector in infrastructure projects, namely through PPPs.
- Provide a more competitive environment and ensure faster implementation of Government projects by reforming the Government Procurement Act to create a level playing field for foreign investors and domestic firms.
- Support the creation of new integrated economic poles in both South and North of Luzon to better balance the population movement and commercial activities.

322 One domestic runway and one international runway that cross each other.
323 HB No. 4334. Pending with the Committee on Transportation since 09/11/2016.

SECTOR PAPERS

Sector Papers

CONSUMER GOODS AND RETAIL

INTRODUCTION

Largely driven by consumption (nearly 70% of GDP), consumer goods and retail remains an important and booming sector within the Philippine economy. Numerous European brands are present in the market throughout an extensive network of shopping malls dominated by big conglomerates, such as Ayala Corporation and SM Investment Corporation (SMIC). While a large proportion of the European products reach the consumers' hands via online selling, the European retailers that manage to establish themselves in the Philippine market often partner with local operators due to the restrictive investment environment, missing the positive effects that foreign direct investment (FDI) may bring to the economy in terms of economic growth, competitive prices for consumers, employment generation and tax collection. Additionally, the complicated bureaucracy and lengthy process of customs procedures along with the lack of coordination among the governmental agencies involved in the importation process handicap the importers' competitiveness.

The expansion of the middle class and the proliferation of shopping malls across the country indicate that there is a variety of opportunities for European businesses in the Philippines. However, the lifting of restrictions to foreign participation in the retail sector and the streamlining of customs procedures in order to ease trade to and from the Philippines are key elements for the attraction of potential foreign investors.

Therefore, in order to develop an attractive investment regime, we propose the following:

- Retail Trade Liberalization
- Customs Facilitation

SECTOR SITUATIONER

MARKET DATA

Philippines' consumer goods and retail sector is driven by a buoyant private consumption, which provides nearly 70% of GDP,[324] and an emerging middle-class with increasing purchasing power, being food and non-alcoholic beverages the main contributors to household consumption expenditure in 2016[325] with a share of 43.1% of the total. Fast-moving consumer goods (FMCG) reached a total expenditure of PhP705.81 billion in 2016, registering 5% growth compared to the previous year. Although the retail sector is dominated by four major players (SM Group, Ayala Corporation, Robinsons and Rustans)[326] and hyper/supermarket chains are gaining ground, traditional trade, such as sari-sari stores or public markets, is still the biggest contributor to FMCG sales.[327] In this context of strong growth prospects, international players continue to show interest in the Philippines' retail market. As of 2015, a total of 200 mid-range and luxury foreign retail brands, including clothing retailers and food, were already present in the market, usually partnering with domestic operators due to the high capitalization requirements.

E-commerce is a major sales channel for retail business in the Philippines and is expected to expand even more in the upcoming years due to the high exposure of Filipinos to the digital platform. In the present day, the Philippines is the fastest-growing market for smartphones in South-east Asia and has taken the lead in terms of time spent on social media, platforms used by retailers to attract consumers. In 2017, the revenue in the e-commerce market amounted to USD1.2 billion, being the Electronics and Media sector the largest segment with a market volume of USD544 million. Clothes, furniture, home appliances, food, cosmetics and pharmaceuticals are also relevant segments based on the Filipinos' interests and market volume. Top e-commerce sites such as Lazada, Zalora, ebay, Alibaba, OLX also serve as platforms for the sale of European brands. The revenue in the sector is expected to reach USD2,345 million in 2021 with an annual growth rate of 17% in the next four years,[328] favored by the Philippines' young demographic where 40% of the 26.01 million e-commerce users in the country are between 25 and 34 years old.[329]

ADVOCACY

1. RETAIL TRADE LIBERALIZATION

ISSUE DESCRIPTION

The Retail Trade Liberalization Act of 2000 (RA No. 8762) was enacted with the objective of opening the retail sector to foreign participation. Before a retail corporation may be 100% foreign-owned, the present law requires a paid-up capital of at least USD2.5 million and a minimum investment of USD830,000 per store. In the case of fully owned companies specialized in high end or luxury goods, the minimum paid-up capital is USD250,000 per store.[330] Additionally, the law sets out other conditions to be met by foreign investors regarding divestiture requirements,[331] the minimum net worth and number of branches of the parent corporation, a proven 5 year track record in retailing and the existence of reciprocity agreements with the country where the corporation is from, allowing the entry of Filipino retailers.[332]

While it was forecasted that the enactment of the Retail Trade Liberalization Act would result in an increase of the competitiveness of goods and services, a decrease in consumer prices and the stimulation of economic growth, the restrictive conditions imposed by the law have hampered foreign investments, thus hindering the achievement of these goals. Although the consumer goods and retail sector is booming, there has been little foreign investment since the enactment of this law. From 2000 to 2009, foreign participation in the retail sector was only 1% of the total foreign direct investment (FDI) inflow.[333] Due to the restrictions, most of the foreign brands have accessed the market under franchise agreements with domestic companies.

In the last few years, various unsuccessful attempts have been made to amend the Retail Trade Liberalization Act. During the 17th Congress, HB No. 4595 was filed also with the aim to amend RA No. 8762 in order to facilitate market access for foreign companies into the retail sector. Principally, this bill seeks to eliminate the capital and equity requirement of foreign investors who are willing to engage in the retail business in the Philippines, and which is major cause of the low level of foreign direct investments. However, it is still pending with the Committee on Trade and Industry since December 2016.

324 ADB (2017). Asian Development Bank Outlook 2017: Transcending the Middle-Income Challenge, p.g 168. Retrieved: 24/07/2017. https://www.adb.org/sites/default/files/publication/237761/ado-2017.pdf.

325 PSA. (2016). Gross national income & gross domestic product: household final consumption expenditure (HFCE) slows down. Retrieved: 24/04/2017. http://psa.gov.ph/nap-press-release/sector/Household%20Final%20Consumption.

326 The Oxford Business Group (2017). The Report. The Philippines 2017, p. 125.

327 Kantar Worldpanel (22/03/2017). FMCG Monitor: An update of the Philippine FMCG market (FY2016). Retrieved: 12/04/2017. https://www.kantarworldpanel.com/ph/news/fmcg-monitor-fy-2016.

328 Statista. (2017). e-Commerce. Retrieved: 24/04/2017. https://www.statista.com/outlook/243/123/e-commerce/philippines#.

329 Reyes, T. (09/11/2016). INFOGRAPHIC: a look into the new wave of online shopping. Retrieved: 24/04/2017. http://www.rappler.com/brandrap/finance-and-industries/134852-ecommerce-industry-philippines.

330 RA No. 8762. Sec 5.

331 All retail trade enterprises under Categories B and C in which foreign ownership exceeds 80% of equity shall offer a minimum of 30% of their equity to the public through any stock exchange in the Philippine within 8 years from their start of operations.

332 RA No. 8762. Sec 8.

333 HB No. 4403 (2014). Retrieved: 24/04/2017. http://congress.gov.ph/legisdocs/basic_16/HB04403.pdf.

By restricting foreign direct investments, the Philippines is losing out to other Southeast Asian countries that are able to attract a greater number of foreign investors. Indeed, the Philippines lags behind other ASEAN countries in terms of a legislative framework favorable to foreign investment. While Singapore and Indonesia allow foreign investment in the retail sector without any minimum capital requirement and without limits of foreign equity participation, Vietnam, Malaysia and Thailand provide a legal framework rather lax in comparative terms.

The Philippines, as a country reliant on imported goods and in the context of ASEAN integration, needs to increase investments by foreign entities, which is key to improving its competitiveness. The liberalization of the sector and the resulting elimination of barriers to market access for foreign retailers would have a positive spillover effect on the economy, creating more jobs, increasing competition, providing Filipino consumers with better choices and higher quality goods at lower prices and stimulating economic growth.[334] AT Kearney's 2016 Global Retail Development Index[335] ranked the Philippines the 16th most attractive retail market in the world among developing countries. It is time to harness the potential that direct investment by retailers can bring to the country.

RECOMMENDATIONS

AMEND THE RETAIL TRADE LIBERALIZATION ACT TO FACILITATE MARKET ACCESS FOR FOREIGN RETAIL COMPANIES AND IMPROVE COMPETITION.

We recommend the amendment of the Retail Trade Liberalization Act to eliminate barriers to market access for foreign retailers, namely capital and divestiture requirements. This measure would be in line with the Philippine Development Plan (PDP) 2017-2022 that seeks to align guidelines for foreign investments with the Foreign Investment Act and lower capital requirements for foreign enterprises as well as a harmonization with those observed in ASEAN countries. The liberalization of the retail sector would facilitate access through direct investment rather than franchise agreements. The increase in direct investment will enhance competition, enabling Philippine goods and services to become more competitive globally.

2. CUSTOMS FACILITATION

ISSUE DESCRIPTION

The enactment of the Customs Modernization and Tariff Act (CMTA) (RA No. 10863) in May 2016, together with the recent ratification of the WTO Trade Facilitation Agreement was celebrated by the European business community for its potential to facilitate international trade to and from the Philippines. The CMTA and the FTA also align the Philippines to its international commitments made under the Revised Kyoto Protocol of the World Customs Organization (WCO), which is the main trade facilitation Customs convention.

The cumbersome customs process in the Philippines is considered as a major barrier to importation due to its complicated bureaucracy, lengthy procedure and lack of coordination between the Bureau of Customs (BOC) and other government agencies involved in the importation process.

The Implementing Rules and Regulations (IRR) of the CMTA, which are still being discussed and currently presented for public consultation, present an opportunity to open the way for more transparent customs procedures in line with international standards and to implement an effective and fully operational National Single Window (NSW), with the ultimate goal of facilitating trade, ensure fair market access for compliant players and reduce the price of goods for Filipino consumers.

Until the implementation of the CMTA is completed, a more efficient and faster customs process can only be enjoyed by large scale importers, under the coverage of the EO No. 230, series of 2000, which established a super green lane (SGL) facility at the Bureau of Customs. Under the SGL scheme, importers can benefit from the paperless release of import cargo at the earliest possible time, pre-approval of the list of imported goods, exemption from the Selectivity System,[336] no face-to-face interaction with customs personnel from online filing of import entry to release of cargo and physical inspection only when necessary at the importer's premises. However, only the top 1,000 importers fulfilling certain criteria[337] can participate in this program and only companies registered in the Super Green Lane scheme can apply for the Super Green Lane Plus scheme. Nonetheless, in September 2017, Customs Commissioner Isidro Lapeña suspended the use of green lanes, which have allegedly been used to smuggle contraband into the country.[338]

334 SB No. 2121 (12/02/2014). An Act Amending Republic Act No. 8762, otherwise Known as the Retail Trade Liberalization Act, and for Other Purposes. Retrieved: 24/07/2017. https://www.senate.gov.ph/lisdata/1872115846!.pdf.

335 AT Kearney (2016). The 2016 Global Retail Development Index. Retrieved: 24/07/2017. https://www.atkearney.com/documents/10192/8226719/Global+Retail+Expansion+at+a+Crossroads%2525E2%252580%2525932016+GRDI.pdf/dc845ffc-fe28-4623-bdd4-b36f3a443787.

336 A risk management system for assessing risks of individual imports.

337 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.

338 ABS-CBN News (06/09/2017). Customs chief suspends green lane at ports amid corruption allegations. Retrieved: 09/09/2017. http://news.abs-cbn.com/news/09/06/17/customs-chief-suspends-green-lane-at-ports-amid-corruption-allegations

In August 2017, the government made another significant step towards a more transparent trade environment with the launch of the Philippine National Trade Repository (PNTR). The PNTR, considered as an important component of the government's trade facilitation strategy, is a web-based portal that provides a single source of comprehensive, accurate and updated trade information on all trade related matters, which aims to reduce the amount of time and costs in trade transactions.[340]

RECOMMENDATIONS

LIFT THE SUSPENSION ON THE GREEN LANE AND EXPAND PARTICIPATION IN THE SUPER GREEN LANE AND SUPER GREEN LANE PLUS TO IMPORTERS WITH A STRONG COMPLIANCE RECORD, IRRELEVANT OF THEIR TRADE VOLUME.

Since the Super Green Lane and Super Green Lane plus programs are proven to incentivize compliance by the private sector in exchange for the application of simplified customs procedures, we recommend lifting the suspension and expanding the participation in the super green lane, or super green lane plus if applicable, to importers with a strong compliance record, regardless of their trade volume. Reliable operators, including small and medium-sized enterprises (SMEs), who keep a high level of compliance with Customs procedures and tax payments, need to be given consideration and access to a simplification of procedure, including the prompt release of goods by Customs.

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

We laud the launch in 2010 of the National Single Window (NSW), a computerized internet-based system that provides a single entry point to deal with import, export, and transit-related regulatory requirements. We commend likewise the implementation of the second phase of the NSW in 2017 with the development of TradeNet, a platform that will connect 66 agencies and 10 economic zones that issue licenses for import releases with their ASEAN counterparts, thus harmonizing all trade data.

We look forward to its effective operationalization that allows full alignment between the Bureau of Customs (BOC) and all government agencies involved in the importation process, such as the Food and Drug Administration (FDA), the Fertilizer and Pesticide Authority (FPA), the Bureau of Internal Revenue (BIR), the Department of Trade and Industry (DTI) and the Board of Investments (BOI). The full automation of administrative customs procedures will facilitate trade to and from the Philippines, transit trade within the country,[341] will expedite the cargo clearance process and will prevent additional costs incurred by importers. It will also serve as an effective tool against corruption and support the enforcement of anti-smuggling and anti-parallel importation measures. The NSW along with the development of a more efficient system based on a simplified procedure and standard documentation required by the BOC and other governmental agencies will greatly benefit importers and the Administration itself.

340 PNTR (n.d.). About the Philippine National Trade Repository. Retrieved: 04/08/2017. http://pntr.gov.ph/about.html.

341 The red tape involved in the transportation of goods already imported in the Philippines can also cause serious delays and additional costs for the importer. In some cases, delivery permits are required in addition to the import permits slowing down the delivery of the imported goods.

Sector Papers
HUMAN CAPITAL

INTRODUCTION

One of the main growth drivers of the GDP in the Philippines is Human Capital. The boom in the business process outsourcing (BPO) industry and the continuous remittances of Overseas Filipino Workers (OFWs), which generated USD25 billion and USD26.9 billion in 2016, respectively, have been a consistent wellspring for its growth.

Taking into account that the Philippines has a young and skilled workforce, developing intellectual capabilities is essential to providing its workers a competitive advantage and maintaining the country's reputation as a top outsourcing destination. Local authorities have acknowledged the importance of producing skilled workers, and thus, have made steps to reform the basic education system by launching the K-12 program, in which compulsory education will be extended until the age of 18. Since quality education is a key tool in the development of human capital, private sector participation in training programs is crucial to equipping workers with various or specific skills that are required by the labor market. Provision of fiscal and non-fiscal incentives to companies that provide high-quality training will ensure that there will be a sufficient and continuous pool of highly-skilled workers.

Many European corporations choose to invest in the Philippines, human capital talent being one of the deciding factors. In order to keep the flow of investments for human capital going into the country, the rules and regulations set forth in the legislative framework regarding the employment of foreign nationals should be adjusted, accordingly, to accommodate them more easily.

Furthermore, it is essential to facilitate the establishment of EU companies in the Philippines which will ultimately yield numerous benefits such as the transfer of knowledge and skills, the creation of an innovative culture, and the protection of labor rights.

- Skills development
- The easing of restrictions on the employment of foreign nationals
- Retention and protection of investments in human capital
- Development of a pro-business, pro-employee contractualization framework

SECTOR SITUATIONER

MARKET DATA

The Human Capital Report, a yearly publication of the World Economic Forum (WEF), showed in its 2016 Edition that 71% of the Philippines' human capital talent is being optimized through education, skills development and deployment during people's lifetimes, above the world average. East Asia and the Pacific scored towards the middle range of the Human Capital Index.[342] The 2017 Edition showed the Philippines slipping to 9th place in the Asia Pacific region from 8th place in 2016. The best performing countries in the region are Singapore, Japan and the Republic of Korea, ranking 11, 17, and 27 respectively out of 130 countries, while Lao, Myanmar and Cambodia trail the region ranking 84, 89 and 92 respectively. Among the ASEAN-6 countries, the Philippines ranked 50, down from 49th spot in 2016, behind Malaysia (33) and Thailand (40) but ahead of Vietnam (64) and Indonesia (65).[343]

Concerning public spending on education, the World Bank estimates that it has increased by 60% between 2010 and 2015. In 2017, the Department of Education (DepEd) received PhP543.2 billion, which represents an increase of 25% from 2016's funding. It is worth noting that investment in human capital, including education systems, is part of the 10-point socio economic agenda of the Duterte Administration.

Human capital continues to be one of the main GDP growth drivers in the Philippines, namely through Overseas Filipino Workers' (OFW) remittances and the business process outsourcing (BPO) industry. Particularly, the BPO Industry is expected to generate USD25.5 billion and to employ 1.4 million people by the end of 2017. It's also projected to reach up to USD55 billion by 2020. The Philippines' BPO industry has already overtaken India as the leading call center country and is currently considered a top outsourcing country destination.[344] The predictions indicate that the industry will shift toward higher value BPO services and the provinces will play a key role in the geographical diversification of the sector. While the Information Technology (IT) industry is growing by around 16% a year and the number of investors in the Philippines is on the rise, BPO revenues are expected to overtake OFW remittances by the end of 2017.[345]

Remittances from OFWs are also an important source of income that sustains the country's economy. The amount of OFWs was estimated at 2.2 million from April to September 2016. Overseas Contract Workers (OCWs) or those working with existing work contracts comprised 97.5% of the total number of OFWs during the same period. The remaining 2.5% worked overseas without contract.[346]

The total remittances sent by OFWs during the period April to September 2016 was estimated at PhP203 billion pesos. These remittances included cash sent home (PhP146 billion), cash brought home (PhP45.7 billion) and remittances in kind (PhP11.1 billion). The majority of OFWs sent their remittances through banks (60.3%) while the rest used other means (39.7%), including agencies or local offices, door-to-door delivery, friends or co-workers.[347]

Among occupation groups, laborers and unskilled workers was the biggest group, accounting for 34.5% of the OFWs, followed by service and sales workers (19%), plant and machine operators and assemblers (12.8%), and craft and related trades workers (11.6%). More than half of the female OFWs were in elementary occupations (56.2%). Among males, the largest group were plant and machine operators and assemblers (24.7%).[348]

According to the results from the April 2017 Labor Force Survey conducted by the Philippine Statistics Authority (PSA), the employment rate in April 2017 was estimated at 94.3%. Ilocos (89.6%), National Capital Region (92.8%) and CALABARZON (92.9%) are the regions that registered the lowest employment rates. The labor force participation rate in April 2017 was estimated at 61.4%. Workers in the services sector accounted for 55.4% of a labor force population of 69.6 million, followed by agriculture sector. The industry sector made up the smallest group registering 18.5% percent of the total. [349]

The unemployment rate in April 2017 was estimated at 5.7%, lower than in April 2016 which was 6.1%. Among the regions, Ilocos Region (10.4%), National Capital Region (7.2%) and CALABARZON (7.1%) were the regions with the highest unemployment rates. Among the unemployed, in April 2017, 63.7% were males. Of the total unemployed, the age group 15 to 24 years comprised 49.5%, while the age group 25 to 34, 29.3%. By educational attainment, 20.6% of the unemployed were college graduates, 13.7% were college undergraduates, and 33.5% were high school graduates.[350]

342 WEF (2016). Human Capital Report 2016. Retrieved 17/07/2017. http://reports.weforum.org/human-capital-report-2016/.

343 WEF (13/09/2017). Human Capital Report 2017. Retrieved: 15/09/2017. https://www.weforum.org/reports/the-global-human-capital-report-2017.

344 ASEAN (17/04/2017). Business Process Outsourcing in The Philippines. Retrieved: 17/07/2017. http://www.aseanbriefing.com/news/2017/04/17/business-process-outsourcing-philippines.html.

345 Magellan Solutions (2017). What To Expect From The BPO Industry In 2017. Retrieved: 17/07/2017. http://www.magellan-solutions.com/blog/what-to-expect-from-the-bpo-industry-in-2017/.

346 PSA (24/05/2017). Total Number of OFWs Estimated at 2.2 Million (Results from the 2016 Survey on Overseas Filipinos). Retrieved: 17/07/2017. https://psa.gov.ph/content/total-number-ofws-estimated-22-million-results-2016-survey-overseas-filipinos-0.

347 Ibid.

348 Ibid.

349 PSA (09/06/2017). Employment Rate in April 2017 is Estimated at 94.3 Percent. Retrieved: 17/07/2017. https://psa.gov.ph/content/employment-rate-april-2017-estimated-943-percent.

350 Ibid.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The K to 12 Program, launched during the Aquino Administration, started implementation in June 2016. This major education reform introduces two more years of mandatory basic education, covering Kindergarten, six years of primary education, four years of Junior High School and two years of Senior High School, in line with common international practices and the goal of preparing graduates for tertiary education, employment, and entrepreneurship.
- The Department of Labor and Employment (DOLE) issued a Department Order (DO) in 2015, the DO No. 146-15, series of 2015, establishing a stricter process for foreigners seeking a work permit in the Philippines, including the requirement for the publication in a newspaper of general circulation of extensive information[351] on the foreign national's position in the Philippines prior to granting the Alien Employment Permit (AEP).
- In March 2017, the DOLE released the DO No.174, series of 2017, providing new regulations governing contracting and subcontracting arrangements. It mainly prohibits "labor-only" contracting.

ADVOCACY

1. SKILLS DEVELOPMENT

ISSUE DESCRIPTION

The most compelling advantages of the Philippines when it comes to attracting foreign investment is that it has a significant number of people who are educated and English-proficient, as well as a relatively low labor cost. It would be beneficial for the government to sustain educational programs that teach skills and provide opportunities for Filipinos, and to prepare the workforce for the impact of new technologies, which may cause disruptions in the global value chain and labor markets. In this context, developing an already skilled workforce that can adapt to economic activities of higher value is pivotal to progress, e.g. the booming ICT/BPM/KMP sector.

The K to 12 program has been a ground-breaking reform to the education system of the Philippines. The Enhanced Basic Education Act (EBEA) of 2013, known as the K to 12 Act, extends compulsory schooling to kindergarten, grades 11 and 12, adding two additional years to the 10-year basic education curriculum and making secondary education compulsory. The K to 12 reform was finally introduced in 2016 and supported by the Duterte Administration, which has increased spending on basic education.[352]

As part of the K to 12 curriculum, grades 11 and 12 students are required to undergo an immersion program consisting of 80 hours of hands-on experience of work simulation with the goal of exposing the students to real-life business scenarios and enriching their competences. This program is implemented by the Department of Education in partnership with local government and private companies.[353]

This initiative, which brings together educational institutions and workplaces, meets the current need to develop the skills of a young workforce that faces a complex and rapid changing environment on the threshold of the fourth industrial revolution. Therefore, immersion in the working environment is essential to ensure that this recently graduated workforce is adequately equipped to compete in the job market. Nonetheless, 80 hours of work immersion is not enough for the Senior High School students to gain sound experience and expertise.

An accompanying measure to the skills development of young graduates through on the job training can be found in the enactment of an apprenticeship law. The objective is to facilitate access to employment for the youth while providing them with the skills and knowledge to be successful in the workplace. The apprenticeship program also aims to ensure the availability of qualified human resource in critical, in-demand and hard-to-fill occupations through the participation of employers, workers and government agencies and non-government agencies,[354] thus serving as a mechanism to supply skilled manpower to the private companies. ECCP worked closely with the DOLE and the Senate during the 16th Congress to develop a policy framework that establishes standards for the protection of apprentices while apprentices maximize their learning experience in the private sector. However, this law was not passed in the 16th Congress. The Apprenticeship Training System Act was filed again during the 17th Congress as Senate Bill (SB) No. 1392[355] but still pending on second reading.

351 The information to be published includes the foreigner-applicant's name, position, employer and address, a brief description of the functions to be performed by him or her, the job qualifications, monthly salary range, and other benefits.
352 Oxford Business Group (2017). The Report. The Philippines 2017.
353 DepEd, DO No. 40, s. 2015.
354 SB No. 1392. Sec. 2.
355 SB No. 1392. "An Act providing for a revised national apprenticeship program, clarifying the standards for training and engagement of apprentices and accreditation of apprenticeship programs, repealing for the purpose chapters I and II of Title II, Book II of Presidential Decree No.442, as amended, otherwise known as the labor code of the Philippines, and for other purposes".

RECOMMENDATIONS

ESTABLISH A MORE PRAGMATIC IMMERSION PROGRAM FOR K TO 12 AS A PPP WITH DEPED AND SUPPORT THE ENACTMENT OF THE APPRENTICESHIP BILL.

We laud this landmark education reform that has aligned the country's education system with international standards and which facilitates young students' skills development and their employability. We believe that the involvement of the main players of the education scene and the private sector in the skills development of the manpower along with an adaptation of the labor market policy to the current needs are crucial to attain sustainable growth. For this reason, we suggest establishing a more pragmatic K to 12 program as a Public Private Partnership (PPP) with the DepEd that goes beyond the 80-hour immersion program with the goal of providing quality training for students. We support an immersion program with stringent compliance frameworks and work programs seeking to identify the skills gained during the work immersion and to prevent any abuse by the participating companies.

Additionally, we believe that the enactment of the Apprenticeship Bill, which we fully support, will help young students access the labor market, develop their skills further and meet potential employers.

2. EASING OF RESTRICTIONS ON THE EMPLOYMENT OF FOREIGN NATIONALS

ISSUE DESCRIPTION

The legislative framework governing the employment of foreign nationals in the Philippines is quite restrictive. According to the 1987 Constitution, the practice of all professions in the Philippines is limited to Filipino citizens, save in cases prescribed by law.[356] In general terms, the licensing of foreign professionals are based on reciprocity and in any event, the foreign national must secure an Alien Employment Permit (AEP) issued by the Department of Labor and Employment (DOLE), after determining the non-availability of a Filipino for that particular position.[357] This AEP must be renewed every year or at the end of the contract, whose duration must not exceed five years. In case of transfer to a new employer, the process is particularly cumbersome as the foreign nationals needs to leave the country and re-apply for a new AEP. The employment process of foreign nationals is generally characterized by the lack of transparency and clear guidelines as well as a long application processes.

In 2015, the DOLE issued the DO 146-15, series of 2015, which revised the rules for the issuance of employment permits to foreign nationals, establishing even more stringent requirements.

In the case of BOI and PEZA locators, registered companies may employ foreign nationals although contracts for the supervisor, technical or advisory positions cannot exceed five years in duration. Additionally, the Special Economic Zone Act provides that these kinds of positions cannot exceed 5% of the total workforce, without the express authorization of the Secretary of Labor and Employment.[358]

In order to promote competitiveness and ease doing business in the Philippines, it is essential to review and simplify the AEP issuance process and ease other restriction concerning the employment of foreign professionals in the country.

RECOMMENDATIONS

RELAX LIMITS ON FOREIGN EMPLOYMENT IN PEZA ZONES.

We recommend relaxing limits on foreign employment in PEZA zones, particularly the restriction on employment of foreign nationals to 5% of the total workforce, thus facilitating the transfer of knowledge and skills in priority sectors such as ICT/BPM/KPM or manufacturing. If the legislative framework allows the private sector to invest the necessary means and resources needed to provide high value added services, the country's competitiveness will be enhanced.

CREATE A ONE-STOP SHOP FOR RENEWALS AND FACILITATE THE EMPLOYMENT OF FOREIGN NATIONALS IN PRIORITY SECTORS.

We support the creation of a one-stop shop service for renewals or changes to AEPs and visas for foreign nationals employed in the Philippines. We believe that this service should also serve foreign professionals in the process of transferring to a new employer, preventing them to leave the country to apply for a new AEP. Expanding this one-stop shop service particularly to foreign nationals willing to work in priority sectors or designated sectors where there is an identified skills gap in the domestic country, such as the ICT/BPM

356 1987 Constitution. Article XII, Section 14.
357 Labor Code of the Philippines. Article 40.
358 The Special Economic Zone Act (RA No. 7916 amended by RA No. 8748). Chapter IV. Section 40.

sector, will help promote competitiveness and the ease of doing business in the country, by removing another barrier to foreign investment.

3. RETENTION AND PROTECTION OF INVESTMENTS IN HUMAN CAPITAL

ISSUE DESCRIPTION

According to the Romer model of endogenous growth, investment in human capital, innovation and knowledge are significant contributors to economic growth. Education plays an important role in the development of a highly skilled workforce. While more than half a million college students graduate in the Philippines every year, there is a surplus of workers with limited skills and an oversupply of graduates in certain professions such as teachers, nurses or seafarers. On the other hand, the skills gap is evident in professions such as ICT workers, analysts, and engineers or programmers. Gaps are much bigger at the higher end of the value chain.[359]

Companies in search of certain priority sector professionals have difficulty in finding eligible skilled workers in the domestic market. In addition to the reluctance of professionals to relocate to non-urban areas and the large outflow of skilled workers in technical fields, there is a significant mismatch in the supply of workers with specific required skills, despite the expertise or knowledge they can offer.

The recently instituted K to 12 program, which integrates the 21st century skills approach based on flexibility and new technologies aims to improve the competitiveness and capabilities of the Philippines' manpower. However, education alone cannot train the future workforce on work methods or on the unique skills that a company requires. This is why employers need to step up training investments in order to produce the highly skilled workers they need. In this context, many international investors in the country, including notable examples of EU companies in the automotive and aerospace industry, have developed training programs for their employees.

Despite the positive impact of enterprise training on labor productivity, companies still underinvest in training mainly due to the high costs they incur and the high attrition rate of trained workers who leave the company to work for a competitor or for more lucrative employment abroad.

While technology transfer remains a priority for EU companies in the Philippines and can in turn bring new skills and knowledge to the country, it is essential to address talent retention, one of the main concerns for many sectors, namely the BPO industry, which is compromising the competitiveness of the Philippines as an investment destination.

RECOMMENDATIONS

PROTECT AND INCENTIVIZE EMPLOYERS WHO INVEST IN COMPETITIVE TRAINING PROGRAMS.

In order to abate the skills mismatch in the labor market and enhance the competitiveness of the Philippines, the workforce must be trained properly. While education offers one way to bridge this gap, the participation of the private sector in training programs is essential to train highly skilled workers, and equip them with the proper tools to cope with the labor market needs.

In view of the little incentive for companies to invest in training programs given the high attrition rate of trained workers, we recommend developing an incentive scheme to cover the training costs incurred by employers. A best practice can be found in Germany where companies are incentivized to train more workers than required, increasing the pool of a high skilled workforce. Initiatives such as the deduction of training expenses from tax payable by PEZA locators should be extended to non PEZA-registered companies that are willing to invest in high quality training for their workers.

This incentive scheme should be complemented with an apprenticeship program, by which young graduates can be trained according to the needs of a particular sector. The key of success of such program lies in the cooperation and coordination between industries and education institutions, which must continuously align education and training programs to respond to industry requirements.

4. DEVELOPMENT OF A PRO-BUSINESS, PRO-EMPLOYEE CONTRACTUALIZATION FRAMEWORK

ISSUE DESCRIPTION

Despite a legislative framework of labor relations in favor of workers, an existing legal loophole in the implementing legislation has allowed the proliferation

359 SMU (30/11/2015). Skills gap threatens PH competitiveness in AEC. Retrieved: 19/07/2017. https://www.smu.edu.sg/news/2015/11/30/skills-gap-threatens-ph-competitiveness-aec.

of contracts based on the 5-5-5 scheme also known as End of Contract (ENDO) contractualization. Under this scheme, workers successively renew their contracts every five months, instead of being regularized after a 6 month probationary period. These short-term temporary work arrangements prevent the workers from becoming regular employees, thus depriving them of certain benefits and privileges they would be entitled to after 6 months at work, including the right of security of tenure.

In early 2017, the DOLE issued the Department Order (DO) No. 174, implementing Articles 106-109 of the Labor Code with the aim of banning labor-only contracting. DO No. 174, which supersedes DO 18-A series of 2011 containing the guidelines on contracting and subcontracting, explicitly prohibits the repeated hiring by the contractor or subcontractor of employees under an employment contract of short duration.[360] While the DOLE also issued DO No. 01, series of 2017, establishing the non-applicability of DO No. 174 to the ICT/BPM/KPM sector and clarifying its applicability to the construction industry and private security agencies, there remain concerns about contracting short-term employees in other sectors.

EU businesses welcome legislative measures aimed to enhance labor rights and to curb precarious work as well as recognize the importance of employees' job security and security of tenure, circumvented by the abuse of contractualization. However, concerns are raised about the possible effects of the new DOLE regulation with regard to contracting seasonal, project-based employees or seafarers. Particularly, in the case of seafarers, the nature of the work requires short term contracts with duration of less than one year. Therefore, a complete prohibition of contracting would be damaging to the competitiveness of the country and job generation prospects, taking into consideration that the Philippines is one of the major suppliers of maritime labor worldwide, accounting for more than 25% of the total maritime workforce globally. If Filipino seafarers cannot be employed under contractual arrangements, they will be replaced by workers of other nationalities or will have to leave the country, with detrimental effects on the economy, as 22% of the remittances of OFWs are from seafarers, reaching USD5.6 billion in 2014.

On a separate note, another concern on the part of foreign investors is the lack of flexibility in the termination of employment by employers, as termination of employment can only be based on the just and authorized causes of termination provided for in the Labor Code.

RECOMMENDATIONS

STRENGTHEN ENFORCEMENT OF THE LAWS AGAINST THE ABUSE OF CONTRACTUALIZATION, AT THE SAME TIME ALLOW A MORE FLEXIBLE WORK ENVIRONMENT.

While EPBN welcomes the strict enforcement of the law against the abuse of contractualization, namely in the cases of industry players that wrongfully benefit from this practice not done in good faith, depriving workers of their rights, we also recommend a flexible interpretation of the DO No. 174 that allows trilateral contracting under certain circumstances, particularly in the case of seasonal workers, project-based employees, additional staff hired during a temporary surge in business and most especially in the case of seafarers.

360 DO No. 174, Series of 2017. Section 6. h).

Sector Papers
MANUFACTURING

INTRODUCTION

The Philippine manufacturing sector, one of the fastest growing in the region, offers great potential for economic growth. A young English-speaking workforce and the expanding domestic consumption make the Philippines an attractive destination for foreign investment. The government, aware of this potential, has been implementing a Comprehensive National Industry Strategy (CNIS) during the last few years in order to revitalize the sector with the aim of generating more employment, improving the competitiveness of the industries and positioning the country in the global value chain.

Robust economic growth, sound fiscal management and structural reforms have created the right environment for manufacturers willing to invest in the country. However, the government must address key challenges that hamper the full development of the Philippines' manufacturing industry and facilitate new investments to maximize the potential of the country to become a new regional manufacturing hub, thus generating employment and continued inclusive growth.

In order to capitalize the interest of EU manufacturers in search of investment opportunities in the region, we make the following recommendations:

- Development of Domestic Economic Zones
- Reduction of the cost of electricity for manufacturers
- Expansion of the manufacturing resurgence program

SECTOR SITUATIONER

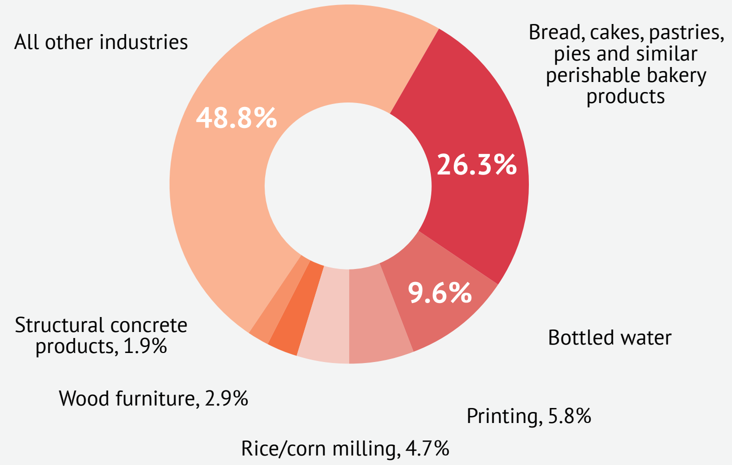
MARKET DATA

The Philippine manufacturing sector is one of the fastest growing in the region. While other ASEAN countries experience decline in manufacturing, the Philippines shows a steady rate of growth. In 2016, it registered a 7.5% y-o-y increase.[361] Manufacturing contributes 23% to the Philippines' GDP and accounts for more than half of the country's industrial sector[362].

Among the industries under manufacturing, food manufactures was the biggest contributor to the growth of the industry during 2016, followed by basic metal industries, petroleum and other fuel products, transport equipment and electrical machinery and apparatus. However, textile manufacturers, publishing and printing, tobacco manufacturers, paper products and machinery and equipment pulled down the growth of the sector during the same period.[363]

The total number of manufacturing establishments reached 25,149 in 2013, with the top ten industries comprising more than half of the total.[364] The "bread, cakes, pastries, pies and similar bakery products" industry accounted for 26.3% of the total.

Figure 1: Percent Distribution of All Manufacturing Establishments by Industry Sub-Class: Philippines, 2013



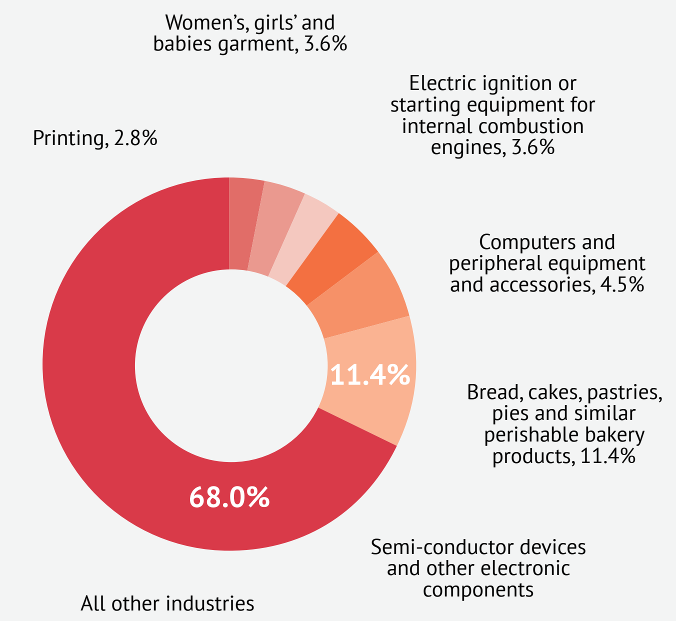
Total Establishments
25,1449

The contribution of the sector to total employment has been declining during the last two decades, standing at 8% for the period 2011-2014, below the 18% recommended by ADB to facilitate greater industrialization in the country. In 2013, all manufacturing establishments generated a total employment of 1,219,330. Semiconductor devices and other electronic components industry lead employment generation during that period.

Some major foreign investors in the sector include Nestle, Unilever, C.S. Garment, Christ, Schneider Electric, and Continental.

With regards to exports of goods, electronic components, agri-food products, ignition wiring sets, garments, and metal components were at the top of the list in 2015. Electronics, transport equipment, mineral fuels, and machinery headed the list of imported goods during the same period.

Figure 2: Percent Distribution of Employment of All Manufacturing Establishments by Industry Sub-Class: Philippines, 2013



Total Employment
1,219,330

Philippines Statistics Authority[365]

361 PSA (2017). Gross National Income & Gross Domestic Product. Gross Value Added in Manufacturing. Retrieved: 19/06/2017. http://psa.gov.ph/nap-press-release/sector/Manufacturing.

362 DTI (n.d.). Vision of the Industry. Globally Competitive Manufacturing Retrieved: 19/06/2017. http://industry.gov.ph/category/manufacturing/.

363 PSA (2017). Gross National Income & Gross Domestic Product. Gross Value Added in Manufacturing. Retrieved: 19/06/2017. http://psa.gov.ph/nap-press-release/sector/Manufacturing.

364 PSA (23/09/2016). 2013 Annual Survey of Philippine Business and Industry (ASPBI) - Manufacturing Sector: Final Results. Retrieved: 19/06/2017. https://psa.gov.ph/content/2013-annual-survey-philippine-business-and-industry-aspbi-manufacturing-sector-final-results.

365 Ibid.

EXPORTS OF GOODS (current prices, in PhP million)	2015
Electronic components	1,145,337
Others**	769,678
Principal Agricultural Products	105,418
Ignition Wiring Sets	89,034
Articles of Apparel and Clothing Accessories	64,891
Metal Components	60,306
Principal Fishery Products	14,722
Cathodes & Sections of Cathodes, of Refined Copper	14,303
Petroleum Products	13,270
Basketworks	2,745
Other Products Manufactured from Materials on Consignment Basis*	0
TOTAL	2,279,704

* Department of Trade and Industry[366]

IMPORTS OF GOODS (current, in PhP million)	2015
Others**	1,258,003
Electronics	484,513
Transport equipment	369,915
Mineral Fuels	363,232
Machinery and mechanical appliances	242,167
Base metals	133,898
Cereals	96,998
Artificial resins	86,802
Electrical machinery	81,300
Medical and Pharmaceutical products	66,858
Chemical products	61,115
Feedstuff	49,114
Paper products	42,923
Textile yarns	41,715
Dairy products	37,190
Metalliferous ores and metal scrap	7,030
Imports on Consignment*	0
TOTAL	3,422,771

* Department of Trade and Industry[367]

The 2017 Investments Priorities Plan (IPP) is oriented to generate more jobs and to attract more investments to strengthen the manufacturing industry in the Philippines. The new IPP put emphasis on innovation-driven and job-generating businesses, information technology (IT), inclusive business for agribusiness and tourism or state-of-the-art engineering.[368]

ADVOCACY

1. DEVELOPMENT OF DOMESTIC/EXPORT ECONOMIC ZONES (D/EEZs)

ISSUE DESCRIPTION

The Special Economic Zone Act of 1995 (RA No. 7916) created the Philippine Economic Zone Authority (PEZA) and provided the legal framework for the development of Special Economic Zones throughout the Philippines. As of 31 October 2016, there are 73 Manufacturing Economic Zone, 243 Information Technology Parks/ Centers, 21 Agro-Industrial Economic Zone, 19 Tourism Economic Zones and 2 Medical Tourism Parks/Centers in the country.[369]

PEZA registered firms operating in Special Economic Zones enjoy (1) fiscal incentives such as tax and duty-free importation of raw materials, capital equipment, machineries and parts or 100% exemption from corporate income tax (Income Holiday Tax) and (2) non-fiscal incentives such as simplified import-export procedures or special status for non-resident foreign nationals employed by PEZA registered enterprises[370]. They can avail of these advantages provided they allocate 70% of their input to the export market. They are allowed to sell up to 30% of their goods to the domestic market, paying only the duties and taxes on the imported raw materials. However, beyond that threshold, these firms would have to pay taxes at regular rates. This scheme has helped to attract foreign direct investments (FDI) into the Philippines, generating employment and economic growth.

The establishment of Domestic Economic and Export Zones (D/EEZs) with similar incentives to the export-oriented ecozones will spur production oriented towards the domestic market and will promote inclusive growth. As a matter of fact, this would provide solutions to the constraints suffered by the manufacturing industry in the Philippines, which often needs to cope with complex bureaucracy in the regulatory process and shoulder high economic costs in terms of import duties and taxes. For instance, according to the World Bank Doing Business Report, the total tax rate of profit in the Philippines is 42.9%,[371] the highest among ASEAN countries where the average tax rate is around 30%.

The Philippines' manufacturing sector needs to enhance its competitiveness in the context of ASEAN integration, as the high import duties imposed to companies outside Special Economic Zones put the industry at a disadvantaged position compared to other ASEAN countries which often offer a duty-free import scheme to investors. The resulting cheaper products from ASEAN countries or China access the Filipino market at zero tariff rate creating a competitive disadvantage for domestic products. Micro, Small and Medium Enterprises (MSME) could also benefit from this plan and would allocate more funds to the acquisition of new technologies instead of paying high import duties and taxes.

The Duterte Administration announced at the end of 2016 its intent to establish economic zones for companies targeting the local market. However, no progress has been made in this area.[372]

RECOMMENDATIONS

ESTABLISH D/EEZS IN AREAS WITH THE HIGHEST INSTANCES OF UN- AND UNDEREMPLOYMENT.

We support the establishment of D/EEZs with a competitive incentive scheme in areas affected by unemployment. Grating fiscal and non-fiscal measures to domestic economic zones will support the development of an economy of scale and will raise the competitiveness of the domestic industry, currently threatened by more competitive products coming from other ASEAN countries or China. The establishment of these D/EEZs in underprivileged areas will help to create jobs and will support the goal of inclusive economic growth.

The incentives offered to firms registered under this scheme should be similar to those granted to firms operating in export-oriented ecozones, including the reduction of red tape, a streamlined process for licensing, permits and certification and the reduction of the fiscal burden, contributing to attract investment in the Philippines and bring prosperity to underdeveloped areas in the country.

2. REDUCTION OF THE COST OF ELECTRICITY FOR MANUFACTURERS

ISSUE DESCRIPTION

The Department of Energy is mandated by the Department of Energy Act of 1992 (RA No. 7638) to prepare and coordinate all energy-related projects with the aim of ensuring sustainable, sufficient, accessible and reasonably-priced energy that will create wealth and propel industries[373]. However, the electricity cost in the Philippines is the fourth highest in Asia-Pacific and 16th worldwide, handicapping the Philippines' competitiveness of the manufacturing sector and diverting foreign investments to other Asian destinations where electricity rates are much lower.[374] In addition, high electricity prices contribute to the decline of the manufacturing sector and influence the reallocation of resources towards the services sector.[375]

Unlike Indonesia, where electricity-intensive industries[376] are the major drivers of growth and foreign investment, energy-intensive industries do not dominate the manufacturing sector in the Philippines. It is not surprising either that the Philippine manufacturing industry has come to a halt given the increase in electricity prices in the past decade across all regions in the Philippines, particularly in Mindanao and Visayas. Indeed, expensive power makes industrialization less viable.

In 2015, in close cooperation with ECCP's Energy SMART program, PEZA issued its Board Resolution 15-239, allowing tax and duty-free importation of energy efficient equipment and products by ecozone locators and the exportation of solar panel and LED light systems manufactured in ecozones in order to expand the market base for these products and encourage increased usage among PEZA registered-firms. This PEZA Resolution leaves the door open to an extension of the list of energy efficient equipment and products manufactured in ecozones following further consultations with the DOE, ECCP and the House Committee on Energy.[377] This is a commendable measure that may help to reduce the cost of electricity to a certain extent.

Several bills have been filed during the 17th Congress[378] with the aim of institutionalizing energy efficiency and conservation, enhancing the efficient use of energy and granting incentives to energy efficiency and conservation projects. However, little progress has been made and the three House Bills are still pending with the Committee on Energy since 2016 and the Energy Efficiency and Conservation Bill filed as SB No. 30 has not progress into law either. These initiatives would provide an energy efficiency and conservation legal framework, which is non-existent at present, would help reduce greenhouse gas emissions, would improve energy security and would lessen the impact of escalating prices.

366 DTI (n.d.). Exports of Goods. Retrieved: 21/06/2017. http://industry.gov.ph/exports-by-major-sector-goods/.

367 DTI (n.d.). Imports by major sector goods. Retrieved: 21/06/2017. http://industry.gov.ph/imports-by-major-sector-goods/.

368 DTI (n.d.). Retrieved: 21/06/2017. http://www.dti.gov.ph/99-main-content/london-news/10368-investment-priorities-plan-2017-boi-finalises-policies-and-guidelines-for-prefferred-investment-activities.

369 Invest Philippines (n.d.). Philippine Economic Zone Authority. Retrieved 20/06/2017. http://investphilippines.gov.ph/incentives/philippine-economic-zone-authority/.

370 Ibid.

371 WB (n.d.). Doing Business 2017. Retrieved 20/06/2017. http://www.doingbusiness.org/data/exploretopics/paying-taxes.

372 DTI (n.d.). News. Retrieved 20/06/2017. http://industry.gov.ph/news/page/16/.

373 DOE (n.d.). Retrieved: 20/06/2017. https://www.doe.gov.ph/transparency/mandate-mission-and-vision.

374 Thailand's rates cost half of the price in the Philippines while Indonesia's cost a fifth.

375 Ravago M, Punongbayan J, Brucal A and Roumasset J (12/01/2016). The Role of Power Prices in Structural Transformation: Evidence from the Philippines. EPDP Conference. New World Hotel, Makati, Philippines.

376 Machinery, chemicals, wood, textile.

377 PEZA Board Resolution No. 15-239.

378 HB No. 182, HB No. 1220, HB No. 2388, SB No. 30.

RECOMMENDATIONS

EXEMPT MANUFACTURERS IN PRIORITY SUB-SECTORS AND AREAS FROM VAT ON ELECTRICITY.

As electricity is the biggest expense and one of the main concerns of industrial firms, we recommend exempting manufacturers of high-priority sectors from 12% VAT on electricity. Lowering the cost of production will attract foreign investment into key sectors identified by government agencies, particularly power-intensive industries which have proven to be drivers of growth in other countries in the region. Foreign investment will subsequently create more jobs and bring prosperity to a sector that is currently at a halt.

EXPAND INCENTIVES FOR INVESTMENT IN ENERGY EFFICIENCY TECHNOLOGIES BY END USERS.

We applaud PEZA's resolution on tax-free importation of energy efficiency technologies for companies operating in ecozones as it promotes energy efficiency and may help reduce the cost of electricity. We encourage the Administration to continue in this direction, expanding the list of technologies exempted from import duties for PEZA locators, according to PEZA Board Resolution No. 15-239. In this context, we also look forward to the enactment of legislation that seeks to institutionalize energy efficiency and conservation and to incentivize the use of energy efficiency technologies, such as HB No. 182, HB No. 1220 and HB No. 2388, thus reducing not only electricity costs but also greenhouse gas emissions.

3. EXPANSION OF THE MANUFACTURING RESURGENCE PROGRAM

ISSUE DESCRIPTION

Since 2012, the Department of Trade and Industry (DTI) has been implementing the Comprehensive National Industrial Strategy (CNIS) oriented to strengthen the Philippines's manufacturing sector and its integration in regional and global value chains. This strategy is based on a three step process. The first stage, from 2014 to 2017, seeks to strengthen emerging and existing industries. The second stage, from 2018 to 2021, intents to integrate agriculture, manufacturing and services sectors as wells as to shift to high value added activities. The final phase, from 2022 to 2025, will aim to upgrade technology and maintain a competitive and innovative manufacturing industry.

This new industrial policy includes several initiatives such as the Manufacturing Resurgence Program (MRP), the roadmapping project and the Comprehensive Automotive Resurgence Strategy (CARS) program.[379] Concerning the roadmapping project, the DTI has already developed several industrial roadmaps in close collaboration with industry associations and the private sector, focusing on 19 priority sectors, with the target of attracting investments into the Philippines and increasing the capabilities of the industry.

The **CARS Program**, created by EO No. 182 in 2015, intended to revitalize the domestic automotive industry through fiscal incentives. However, given the high production volume threshold required to participate in the program, only existing manufacturers with a large market share have been benefitting from it, failing to attain the goal of attracting new investments.

The **Manufacturing Resurgence Program** (MRP)[380] seeks to strengthen the capacity of the different manufacturing industries in the Philippines and to enhance their competitiveness, prioritizing the build-up of agriculture-based manufacturing industries.[281] To this end, several issues must be addressed, from high cost of transport, logistics and energy to supply chain gaps.

While the private sector is the major driver of growth, the government needs to create a suitable framework to attract new investments that will create more quality jobs and will help attain sustainable and inclusive growth. Therefore, more sectoral incentives programs need to be adopted in order to help the government reach its goal of increasing manufacturing contribution to 30% of total value added and of accounting for 15% of total employment.

379 DTI (n.d.). Comprehensive National Industrial Strategy. Retrieved: 21/06/2017. http://industry.gov.ph/comprehensive-national-industrial-strategy/.

380 The DTI implements the MRP in coordination with other government agencies: Board of Investments, Department of Labor and Employment, Department of Science and Technology, Department of Energy, Department of Agriculture, Commission on Higher Education, Technical Education and Skills Development Authority, National Electrification Administration, National Power Corporation and the Philippine Coconut Authority.

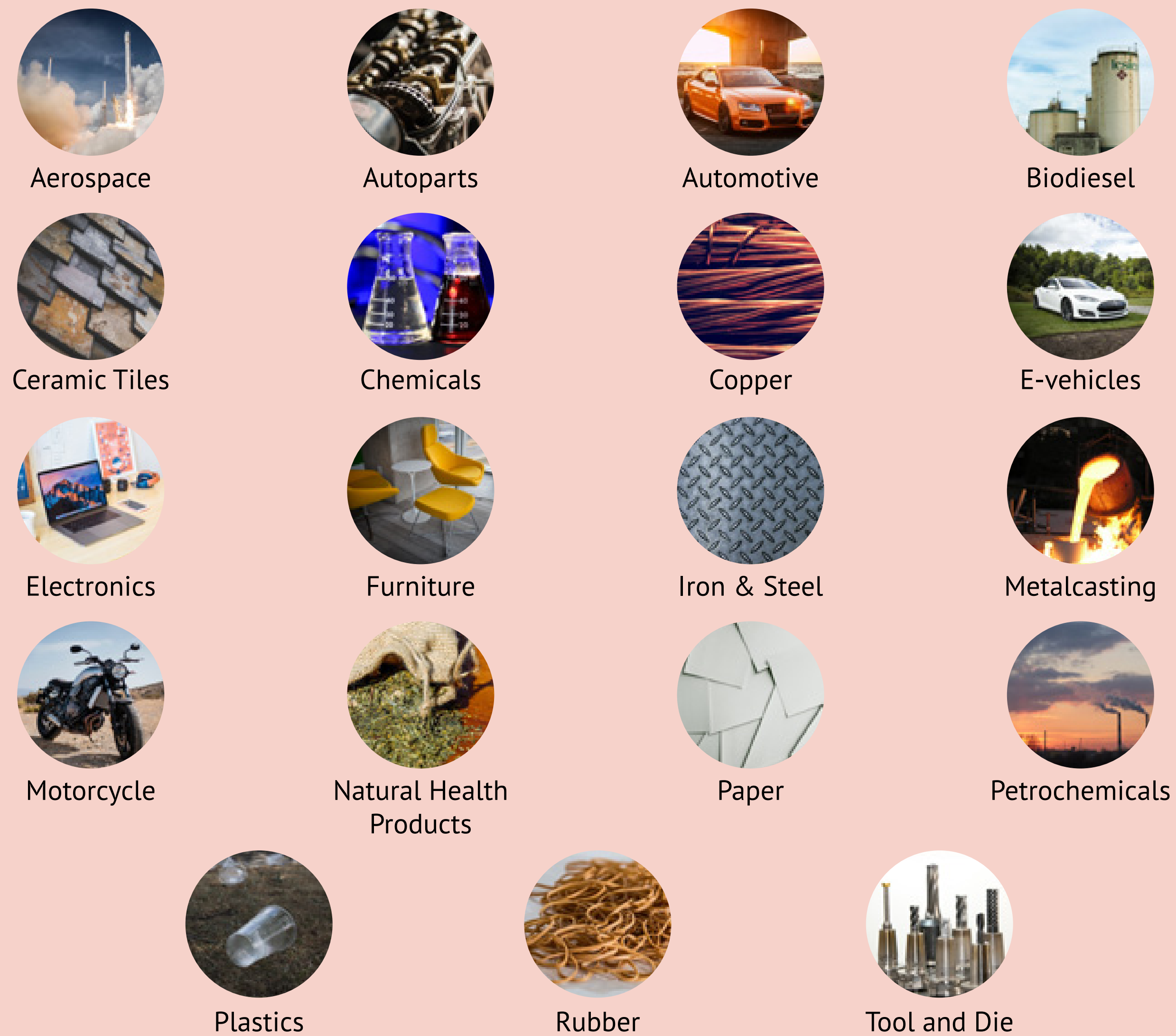
381 DTI (n.d.). Manufacturing Resurgence Program. Retrieved: 21/06/2017. http://industry.gov.ph/manufacturing-resurgence-program/.

RECOMMENDATIONS

ADOPT MANUFACTURING RESURGENCE PROGRAMS, WITH A FOCUS ON INCENTIVIZING NEW INVESTMENT THAT GENERATES EMPLOYMENT.

With manufacturing being the driving force of economic growth and with the government's goal of reducing unemployment in mind, we recommend the adoption of manufacturing resurgence programs that incentivize new investments that generate employment. We stress the importance of attracting new local and foreign investment through sector investment incentive programs such as CARS which will help to create a globally competitive manufacturing industry and to turn the Philippines into a regional and international hub in the production and supply chain of key sectors such as garments, food, electronics or automotive parts where sustainable and inclusive development will be ensured. We believe that a growing middle class, a market in expansion along with a young English speaking workforce are factors that contribute to position the Philippines in the regional and global markets if the government adopts adequate incentive programs.

Priority Industry sectors[382]



382 DTI (n.d.). Manufacturing. Retrieved: 21/06/2017. http://industry.gov.ph/category/manufacturing/.

Sector Papers
MARITIME

INTRODUCTION

The Philippines is one of the world's largest archipelago with 7,641 islands and a 36,289 km coastline.[383] With its strategic geographical location, archipelagic nature, and internationally integrated value chain, not to mention that Filipino seafarers are valued for their high level of skills, work ethic, and ability to communicate in English, there is undoubtedly a great potential for the Philippines to become a leading maritime nation.

90% of world trade is carried by the international shipping industry. Without shipping the import and export of goods on the scale necessary for the modern world would not be possible.[384] The overriding role of the maritime industry in trade, globalization, development and employment in a country cannot be truer in any country than the Philippines.

The Philippines has great potential in becoming a leading maritime nation, however it is crucial to address concerns regarding port infrastructure and the enactment of legislation conducive to developing the sector. The following recommendations are geared toward enhancing the competitiveness of the country's maritime Industry and maximizing its potential in the sector:

- Enact legislation for Filipino seafarers to maintain, if not regain their status of top choice by shipowners
- Implement international maritime conventions to demonstrate the Philippines' firm commitment to comply with international obligations and its capacity to become a leading maritime nation
- Improvement of port infrastructure and the BOC processes
- Development of the Philippines as an attractive ship registry

SECTOR SITUATIONER

MARKET DATA

The Maritime Industry Authority (MARINA) is the leading government agency in maritime matters. Presently, it is an attached agency of the Department of Transportation (DOTr). Its mandate is to develop the Philippine Domestic Shipping, Shipbuilding, Ship repair and Ship breaking through investment incentives, deregulation of rates/operation, and enhancement of safety standards, compulsory insurance coverage for passenger and cargoes, reasonable fines and penalties and constructive measure for a strong and competitive merchant marine fleet.

Under Executive Order (EO) No. 1011 of 1985, it assumed the quasi-judicial functions of the Board of Transportation (BOT) over the domestic transport. This includes, among others applications or petitions for issuance of Certificate of Public Convenience (CPC), Provisional Authority (PA), or Special Permit (SP), granting authority or permitting the operation of inter-island vessels as public service in the domestic trade, for carriage of cargo, or cargo/passenger, or both, either as liner or tramp service, for petitions for rates increase/adjustments and to complaint cases filed by aggrieved person(s) on the basis of official reports.[385]

The EO No. 125, Series of 1987, amended by EO No. 125-A, reorganized the DOTr increasing the responsibility of the MARINA. Its functions include, among others,[386] (1) the formulation of policies geared towards the development of the Maritime Industry, (2) the regulation of routes and areas of operation of public water services, (3) the issuance of certificate of public convenience for the operation of water carriers, (4) the registration of vessels, (5) safety regulatory functions and (6) the enforcement of rules and regulations governing water transportation.[387]

Additionally, the Republic Act (RA) No. 10635[388] of 2014 established MARINA as the single maritime administration responsible for the implementation and enforcement of the 1978 international convention standards of Training, Certification and Watchkeeping (STCW) Convention for Seafarers, as amended.[389]

MARINA has reported growth in the maritime sector from 2015 to 2016,[390] and revealed that for these two comparative years, the targets were exceeded under the following Key Performance Indicators:

	2015		2016	
	Target	Actual	Target	Actual
Number of ships registered	7,296	9,981	4,140	14,757
Number of Certificates, Permits, Licences Issued to Vessels	34,119	43,868	41,025	59,351
Number of Company and Ship Audited	771	535	850	743
Number of Quasi-Judicial Issuances	730	1,249	706	1,468
Number of SIRB Issued	188,715	190,737	260,234	267,596

In terms of employment, MARINA reported that there are almost 700,000 seafarers who are remitting USD5.57 billion in foreign exchange.[391] In 2016, the overall remittances reached a new record high of USD26 billion, however the cash sent home by sea-based OFWs slid by 3.8% or estimated to be USD5.6 billion. This might be due to a stiffer competition in East Asia and Europe.[392]

383 MARINA (01/05/2017). Regulatory Issues and Challenges. Retrieved: 26/07/2017. http://www.marina.gov.ph/Reports/MIDP/10-YEAR%20MIDP%20FRAMEWORK%20PRESENTATION%20(Administrator%20Amaro)%2031May2017.pdf.

384 International Chamber of Shipping (n.d.). Shipping and World Trade. Retrieved: 31/07/2017. www.ics-shipping.org/shipping-facts/shipping-and-world-trade.

385 MARINA (14/01/1993). Memorandum Circular No. 74. Retrieved: 21/08/2017. http://www.marina.gov.ph/policies/MCs/mc074.pdf.

386 (7) Issuance of licenses to qualified seamen, (8) determination of rates for the operation of public water transport utilities, (9) accreditation of marine surveyors and maritime enterprises engaged in shipbuilding, ship repair, ship breaking, domestic and overseas shipping and ship management, (10) supervision of the Philippine Merchant Marine Academy, (11) issuances and registration of the Continuous Discharge Book of Filipino Seamen.

387 MARINA (n.d.). Mandates by virtue of Executive Order No. 125/125A. Retrieved: 22/08/2017. http://marina.gov.ph/profile/mandates125.htm.

388 The Marina STCW Administration Act of 2014.

389 MARINA (n.d.). Highlights of MARINA accomplishments – January to December 2016. Retrieved: 23/06/2017. http://www.marina.gov.ph/reports/AR2016.pdf.

390 Ibid.

391 MARINA (01/05/2017). Regulatory Issues and Challenges. Retrieved: 26/07/2017. http://www.marina.gov.ph/Reports/MIDP/10-YEAR%20MIDP%20FRAMEWORK%20PRESENTATION%20(Administrator%20Amaro)%2031May2017.pdf.

392 De Vera, B.O. (16/02/2017). OFW remittances hit record high in 2016. Retrieved: 23/07/2017. http://www.manilatimes.net/filipino-seafarers-top-choice/259323/.

In 2014, the Philippines ranked number one among non-European countries with "most officers recognized by European countries" deploying over 28,874 officers to European-registered ships.[393] This figure is significant since accordingly it "represents a full third of all masters and other officers (total of 86,633) from non-EU countries recognized by the EU and allowed to work on board EU-flagged vessels."[394] Cash remittances by sea-based Overseas Filipino Workers (OFWs) from the European Union amounted to USD3.35 billion in 2014 making the EU the second largest source of remittances to the Philippines during that period.[395]

In current data, the Philippines is still the 4th largest shipbuilding nation in the world, with China leading the spot, followed by Korea, then Japan. The three major companies present in the country are Japan's Tsuneishi with a yard in Cebu, South Korea's Hanjin Heavy Industries and Construction in Subic, and Singapore's Keppel in Subic and Batangas.[396] These are predominantly for large tonnage capacities like bulk carriers, container ships and passenger ferries.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

On June 1, 2017, MARINA launched the Maritime Industry Development Plan (MIDP) focused on making the Philippines a major maritime nation, and the maritime industry a major contributor to inclusive growth and socio-economic development.[397]

MARINA also presented its accomplishments for 2016 as follows:

1. "ISO Certification of the Quality Management Systems on the issuance of the Seafarer's Identification and Record Book (SIRB), as well as the Standards of Training Certification and Watchkeeping Office (STCWO) under 9001:2008 standards;
2. Extension of validity of SIRB from five (5) years to ten (10) years;
3. Further enhancement of the policies, plans and programs for the modernization of the Philippine Merchant Fleet through research, conduct of studies, trainings, seminars as spearheaded by the Shipbuilding Shiprepair Office in coordination with Domestic Shipping Service, Maritime Safety Service, the Maritime Regional Offices and all other MARINA concerned Offices;
4. Hosting the 32nd ASEAN Maritime Transport Working Group Meeting (MTWG) Bohol, Philippines with implementation of maritime transport-related measures under ASEAN Economic Community (AEC) Blueprint and Kuala Lumpur Transport Strategic Plan as key agenda;
5. Issuance of twenty-four (24) new/revised policies/ rules and regulations; and
6. Assistance in the conduct of the Interferry Conference which was participated by Shipowners worldwide in October 2016."[398]

On April 19, 2016, the Department of Labor and Employment, through Department Order (DO) No. 153 issued the Implementing Rules and Regulations of RA No. 10706 otherwise known as the Seafarers Protection Act or more popularly known as the "Anti-Ambulance Chasing Act."[399] This is a welcomed development given that last year, EPBN was advocating for the implementation of the law.

393 European Maritime Safety Agency, EMSA Outlook 2017 (23/03/2017). Retrieved: 21/08/2017. http://www.emsa.europa.eu/news-a-press-centre/external-news/item/2987-emsa-outlook-2017.html.

394 Marine Café Blog (10/04/2017). Filipino officers on EU ships: a question of arithmetic. Retrieved: 23/06/2017. http://marine-cafe.com/filipino-officers-on-eu-ships-a-question-of-arithmetic/.

395 EU (15/06/2017). EU – Philippines Trade at record high of €12.5 billion. Retrieved: 22/08/2017. http://eeas.europa.eu/archives/delegations/philippines/documents/press_corner/20151506a.pdf.

396 Richter, L. (10/2016) The Impact of the Maritime Industry on the Philippine Economy. Retrieved: 02/08/2017. http://philippinen.ahk.de/fileadmin/ahk_philippinen/Committees/Maritime_Industry_in_the_Philippines__GPCCI_2016_.pdf.

397 MARINA (01/05/2017). Regulatory Issues and Challenges. Retrieved: 26/07/2017. http://www.marina.gov.ph/Reports/MIDP/10-YEAR%20MIDP%20FRAMEWORK%20PRESENTATION%20(Administrator%20Amaro)%2031May2017.pdf.

398 MARINA (2016). Highlights of MARINA accomplishments – January to December 2016. Retrieved: 23/06/2017 http://www.marina.gov.ph/reports/AR2016.pdf

399 DOLE (28/04/2016). Implementing Rules and Regulations of Republic Act No. 10706. Retrieved: 28/07/2017. http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103638/125995/F1799629241/PHL103638.pdf.

The Philippine Overseas Employment Administration (POEA) adopted the 2016 Revised POEA Rules and *Regulations Governing the Recruitment and Employment of Seafarers*.[400] Notable change was the increase in the paid-up capital requirement of manning agencies from 2 million pesos "to Five Million Pesos (PhP5,000,000.00) at the rate of Seven Hundred Fifty Thousand Pesos (PhP750,000.00) every year." Manning agencies were given until September 4, 2017 to comply.[401]

Also, as part of the efforts to secure a universal identification for Filipino sailors, POEA issued Governing Board Resolution No. 13, Series of 2016. Then POEA Administrator, Hans Leo Cacdac encouraged seafarers to register for free online as this will pave the way for "Filipino seafarers' identification that is acceptable to all government agencies and Port States in compliance with International Labour Organization (ILO) Convention No. 185 or the Seafarer's Identity Document Convention."[402]

In last year's paper, EPBN advocated for POEA to adopt "more streamlined and faster processes that respond to the specific needs and nature of the maritime industry" in the hiring of seafarers. A welcomed development in this topic is the POEA's issuance of Memorandum Circular No. 07 Series of 2016[403] which replaced the Seafarers' Registration Certificate (SRC) with an online system of registration of seafarers. The SRC serves as a seaman's primary ID for passport and visa application. This is also a requirement for getting a seaman book and going aboard a vessel for employment or assignment. The SRC contains the seafarer's ID number that allows access to his personal data and reference for processing of his employment documents. There are about 50,000 SRC applicants per year and effective September 26, 2016, seafarers no longer have to queue in long lines as online registration is now possible.[404]

Further, under POEA guidelines, shipowners and principals may appoint their representatives to conduct interview for hiring and recruitment in the premises of their partner local manning agency by securing a *Letter of Acknowledgment (LOA)* from POEA.

ADVOCACY

1. ENACT HOLISTIC LEGISLATION FOR FILIPINO SEAFARERS TO MAINTAIN, IF NOT REGAIN, THEIR STATUS AS TOP CHOICE BY SHIPOWNERS

ISSUE DESCRIPTION

In 2010, Efthimios E. Mitropoulos, the Secretary-General of the International Maritime Organization (IMO) described Filipino seamen as sailors who were "unsung heroes" of an "unsung industry", namely the shipping industry that carries "most of the world trade in goods". Mr. Mitropoulos further stated that the "international community should pay tribute to the Filipino seafarers" and to the Philippines for their contributions to the shipping and international seaborne trade.[405]

In 2015, the Department of Labor and Employment reported that the Philippines remains to be the world's top source of seafarers, with around 229,000 Filipinos on board merchant shipping vessels around the world at any given time. Filipino seafarers comprise more than 25 percent of the 1.5 million mariners worldwide, making them the "single biggest nationality bloc" in the global shipping industry.[406]

However, on June 1, 2017 during the launching of the 10-Year Maritime Industry Development Program (MIDP), it was reported that the International P&I Clubs issued a statement that, *"The Philippine seafarers significant role in manning the world's ocean going shipping fleet is substantially overshadowed by the daily frustrations of shipowners encountered with the Philippine Judicial System due to unreasonable and unfounded claims against employers, many of which find favor with the NLRC and NCMB."*[407]

The recent cases of the National Labor Relations Commission (NLRC) and the National Conciliation and Mediation Board (NCMB) favored most number of cases filed by the seafarers. It was reported that the problem lies in the competence of arbitrators to understand and appreciate the seafarer's right under the SEC or the CBA.[408]

400 POEA (2016). 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers. Retrieved: 29/07/2017. http://poea.gov.ph/laws&rules/files/2016%20Rules%20Seabased.pdf.

401 POEA (05/05/2017). POEA Governing Board extends deadline for recruiters to increase capitalization. Retrieved: 31/07/2017. http://poea.gov.ph/news/2017/PR_May%202017_capitalization%20extended.pdf.

402 GMA News Online (25/09/2016). POEA issues guidelines on online registration of Pinoy seafarers. Retrieved: 08/08/2017. http://www.gmanetwork.com/news/news/pinoyabroad/582665/poea-issues-guidelines-on-online-registration-of-pinoy-seafarers/story/.

403 POEA Memorandum Circular No. 07 (19/09/2016). New Procedure for Online Registration of Seafarer. Retrieved: 02/08/2017. http://www.poea.gov.ph/memorandumcirculars/2016/MC-07-2016.pdf.

404 Zuniga, Z.(01/08/2017). Long Lines No More! Seafarers Registration Certificate (SRC) Goes Online. Retrieved: 02/08/2017. https://ofwlife.ph/pinoy-news/long-lines-no-seafarers-registration-certificate-src-goes-online/.

405 Wikipedia (n.d.). Filipino Seamen. Retrieved: 31/07/2017. https://en.wikipedia.org/wiki/Filipino_seamen.

406 Depasupil, W. (30/04/2016). Filipino Seafarers Top Choice. Retrieved: 01/08/2017. http://www.manilatimes.net/filipino-seafarers-top-choice/259323/.

407 Presentation made by Ericson M. Marquez, Vice-Chairman for External Affairs Joint Manning Group (JMG), during the formulation of the 10-year Maritime Industry Development Plan (MIDP), 2018-2028 Launch, at SMX Convention Center, Pasay City (01/06/2017). Retrieved: 31/07/2017. http://www.marina.gov.ph/Reports/MIDP/TOPIC%205%20%20-%20JMG-FAME%20PROTECTING%20THE%20WELFARE%20OF%20FILIPINO%20SEAFARERS.pdf.

408 Ibid.

While Filipino seafarers make an immense contribution to the world's ocean-going merchant shipping fleet and their home country, this is somewhat overshadowed by continuing frustrations within the Philippine legal system.[409] The increasing cost of employing Filipino Seafarers, and increasing cases of labor and disability claims[410] make the hiring Filipinos somewhat unfavorable.

What makes it worse is that the pro-labor decisions of the NLRC and NCMB are immediately "final and executory" upon the lapse of 10 days in case of NLRC, and 15 days in case of NCMB. This results to the payment of the monetary award to the seafarers pending review by the Court of Appeals. Unfortunately, the seafarers do not have the capacity to return the sums of money erroneously awarded to them when a decision is wholly or partially overturned.

Between March and December 2016, there were about 290 cases overturned or modified amounting to an estimation of USD20.40 million to be recovered. The amount projected to be recovered from November 2017-2019 will be doubled or equivalent to USD41.5 million.[411]

IMPACT ON THE BUSINESS ENVIRONMENT

The trend in labor disputes and disability claims by the Filipino seafarers causes foreign shipowners to back out in employing Filipino crew. "There is a withdrawal by foreign shipowners in employing Filipino seafarers because of the huge financial losses due to unreasonable and unfair decisions on crew claims."[412]

Although the Philippines is still the largest source of ratings, China is thought to have overtaken the spot as the largest single source of seafarers qualified for international trade. However, data from international shipping companies suggests that the extent to which Chinese seafarers are available for international service may be more limited, with the Philippines and Russia seen as equally important sources of officers, followed closely by Ukraine and India.[413]

The Philippines has already made a mark in providing sought-after and highly competent seafarers. However, there is a need to adopt reforms for Filipino seafarers to maintain, if not regain their status as top choice by shipowners especially since the country continues to benefit from shipping and manning industries. According to the United Nations, "taking into account population sizes, remittances from seafarers working abroad are significantly more important for the Philippines than for the other major suppliers. For example, as a share of the population, almost 2 of every 1,000 nationals of the Philippines work on board a ship, compared with fewer than 1 of every 10,000 nationals of India."[414]

One area that the Philippines could focus on is the career development of seafarers from ratings to officers. Since the demand for officers is increasing. The current supply-demand situation highlights a shortage of approximately 16,500 officers and a surplus of around 119,000 ratings. Current figures reveal that there is a shortfall of about 16,500 officers (2.1%), but a need for an additional 147,500 officers by 2025 to service the world merchant fleet.[415]

With the world's continuous and increasing demand, the Philippines being a renowned provider of world-class seafarers, the need for the country to address unemployment, and the significant role of the seafaring industry in the country's economic development, a synergy of all the stakeholders' interest must be achieved through institution of reforms for the protection of all.

RECOMMENDATIONS

ESTABLISH AN OBJECTIVE AND TRUSTWORTHY CLAIMS SYSTEM FOR THE PROTECTION OF ALL PARTIES.

We strongly recommend for the review and reform of the seafarers' claims process to ensure objectiveness in rulings, and to ensure the restitution of monetary awards in wholly or partially overturned decisions.

NLRC and NCMB rulings process must be studied by an independent third party. The report outlining the main shortcomings of the process in terms of establishing a fair, objective ruling process on seafarer claims should be submitted to the relevant government authorities for their guidance and consideration. The report must also include the qualifications of the voluntary Arbiters in NCMB for both competency and integrity, and the possibility of adopting serious penalties for wrong and unjust decisions issued.

409 UK P&I Club (16/08/2016). Seafarers' Protection Act' protects Filipino seafarers from 'ambulance-chasing' lawyers. Retrieved: 31/07/2017. http://www.hellenicshippingnews.com/uk-pi-club-seafarers-protection-act-protects-filipino-seafarers-from-ambulance-chasing-lawyers/.

410 Presentation made by Ericson M. Marquez, Vice-Chairman for External Affairs Joint Manning Group (JMG), during the formulation of the 10-year Maritime Industry Development Plan (MIDP), 2018-2028 Launch, at SMX Convention Center, Pasay City (01/06/2017). Retrieved: 31/07/2017. http://www.marina.gov.ph/Reports/MIDP/TOPIC%205%20%20-%20JMG-FAME%20PROTECTING%20THE%20WELFARE%20OF%20FILIPINO%20SEAFARERS.pdf.

411 Ibid.

412 Ibid.

413 Petersen, L. (17/05/2016). BIMCO/ICS Manpower Report predicts potential shortage of almost 150,000 officers by 2025. Retrieved: 01/08/2017. https://www.bimco.org/news/press-releases/20160517_bimco_manpower_report.

414 UNCTAD (2016). Review of the Maritime Transport 2016. Retrieved: 26/07/2017. http://unctad.org/en/PublicationsLibrary/rmt2016_en.pdf.

415 Ibid.

Most importantly, procedural safeguards must also be placed in the claims system to make sure that restitution of erroneous monetary awards is achieved. We strongly suggest that a percentage of the monetary awards be placed in an escrow account until an entry of judgment is issued. This is the middle ground, recognizing the need of the seafarer to have immediate access to the money awarded to him, at the same time safeguarding the money which seafarers are not able to return when a decision is overturned.

ENCOURAGE AND EMPOWER SEAFARERS TO ADVANCE IN THEIR CAREERS TO MEET THE DEMAND FOR OFFICERS.

We strongly advocate to strengthen the efforts to promote careers at sea and improve levels of recruitment and retention.

We also advocate for mechanisms to assist seafarers to pursue further studies and training so that they could further advance in their career as officers to meet the demand. In this context, we would also encourage MARINA to continue ensuring quality management level courses and practical training offered to Philippine officers towards achievement of all standards of competence to facilitate such career advancement.

2. IMPLEMENT INTERNATIONAL MARITIME CONVENTIONS TO DEMONSTRATE THE PHILIPPINES' FIRM COMMITMENT TO COMPLY WITH INTERNATIONAL OBLIGATIONS AND ITS CAPACITY TO BECOME A LEADING MARITIME NATION

ISSUE DESCRIPTION

In 1964, the Philippines became a member of the International Marine Organization (IMO), a specialized agency of the United Nations. IMO is the global standard-setting authority for the safety, security and environmental performance of international shipping. Its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and universally implemented.[416]

Currently, MARINA listed twenty-one (21) IMO Conventions and eight (8) maritime related International Labor Organization (ILO) Conventions ratified and/or acceded to by the Philippines.[417]

On March 2, 2017, MARINA issued a list of IMO Amendments to enter into force this year and until 2020 to prepare maritime entities for the implementation of the instruments.[418]

In preparation for the ratification by the Philippines of the Ballast Water Management (BWM) Convention which will enter into force on September 8, 2017, MARINA issued a notice for compliance by requiring affected parties to secure from their respective recognized organizations a Document of Compliance or Statement of Compliance to the BWM Convention.[419]

The Philippines' membership in the IMO proved beneficial. In one article, it was explained that, "As signatory to the International Convention on the Safety of Life at Sea (SOLAS) and the International Convention on the Prevention of Pollution from Ships (MARPOL) the Philippine merchant fleet is able to freely engage in the carriage of international trade. As Party to the International Standards on the Training, Certification and Watchkeeping for Seafarers (STCW), Filipino seafarers are able to penetrate the global market for shipboard labor. These entitlements did not come easy; government has to prove it makes good its commitment as Party to the conventions it has ratified by carrying out the obligations demanded from it."[420]

While MARINA is demonstrating its capability to enforce its maritime mandate, Atty. Brenda V. Pimentel, in an article published by the Manila Times, expressed that, "Past records showed how the Philippines had been remiss in meeting deadlines when it comes to compliance with international standards, in one instance, almost losing the international shipping community's recognition of our ability to provide competent Filipino seafarers. She added that the problem lies in how the Philippines implemented the convention, which the government officials considered as more of a labor marketing tool rather than a global measure for ensuring maritime safety."[421]

On the other hand, ongoing discussions between the European Maritime Safety Agency (EMSA) and MARINA are taking place with the latest mission in March 2017 and showing continuing commitments from MARINA.

Clearly, it is not enough that the Philippines show international cooperation by ratifying and/or acceding to international conventions. What is more important is for the country to demonstrate sustainable implementation of these Conventions as well as pursue any reforms initiated to ensure Philippines compliance of the said Conventions.

416 IMO (n.d.). Introduction to IMO. Retrieved: 02/08/2017. http://www.imo.org/en/About/Pages/Default.aspx.

417 MARINA (n.d.). List of IMO Conventions ratified by the Philippines. Retrieved: 02/08/2017. http://www.marina.gov.ph/sectoral/listIMOconventions.html.

418 MARINA Advisory No. 2017-08, Series of 2017 (02/03/2017). List of International Maritime Organization (IMO) Amendments to enter into force this year and the next. Retrieved: 31/07/2017. http://www.marina.gov.ph/policies/FSAA/MA%202017-08.pdf.

419 MARINA Advisory No. 2017-14, Series of 2017 (15/06/2017). Compliance to the Ballast Water Management (BWM) Convention, 2004. Retrieved: 01/08/2017. http://www.marina.gov.ph/policies/FSAA/MA%202017-14.pdf.

420 Pimentel, B. (22/10/2016). Becoming a party to international maritime conventions a must for maritime Philippines. Retrieved: 30/07/2017. http://www.manilatimes.net/becoming-party-international-maritime-conventions-must-maritime-philippines/292478/.

421 Ibid.

IMPACT ON THE BUSINESS ENVIRONMENT

By providing for a legislative framework that enables MARINA to continue the positive improvements that it has successfully pursued in the past years, the agency can drive substantial progress in the Philippine maritime sector. The implementation and enforcement of international maritime conventions will not only benefit the domestic shipping environment, but will also facilitate better and more competitive integration of the Philippines into the global maritime value chain. The Philippines already has a flourishing shipbuilding sector and Filipino seafarers represent approximately 30% of worldwide seafarers; by strengthening MARINA's mandate and the maritime sector in general, the opportunities for the Philippines to develop other parts of the maritime sector, such as back office operations and the national shipping registry, to internationally competitive levels will greatly contribute to a positive spillover effect on the wider economy.

RECOMMENDATIONS

ENFORCE INTERNATIONAL COMMITMENTS.

To become internationally competitive, the Philippines must have the ability to enforce international conventions. There is therefore a need for the enactment of legislation that will create a clear mandate for MARINA to fully implement and enforce international maritime conventions in support of developing the Philippines as an internationally reputable and competitive maritime nation.

3. IMPROVEMENT OF THE PORT INFRASTRUCTURE

ISSUE DESCRIPTION

Port congestion in late 2014 and early 2015 called the need for the creation of adequate hard infrastructure and efficient processes crucial to ensuring continued economic growth in the coming years. In 2016, port operations improved owing largely to the implementation of the Terminal Appointment Booking System (TABS) and other decongestion measures.

This year, the performance of the Philippine Ports Authority (PPA) is looking up given the figures it published in its website, thus:

"Latest cargo data showed that total cargo volume as of end May this year grew by 9.36% or 103.556 million metric tons (mmt) compared to 94.692 mmt handled in the same period last year.

Domestic cargoes went up by 9.27% or 3.583 mmt, with 42.251 mmt registered this period against last year's 38.669 mmt. The growth is indicated by the rise in quantity of trade transactions that flowed in and out of the ports and driven by the high dependence on water-borne transport for the shipment of commodities within the country. Foreign cargo throughput likewise posted a 9.43% increase from 56.023 MMTs in 2016 to 61.304 MMTs this year.

Container traffic notably progressed to 2.911 million TEUs this year which is 13.71% higher than the 2.560 million TEUs handled in the same period in 2016. Foreign container volume contributed most in the recorded improvement of 12.73% (195,056 TEUs) while domestic containers recorded 15.17% (156,056 TEUs).

As for productivity, Manila ports' performance indicates no sign of congestion problems, with combined yard utilization of 57%, berth occupancy rate of 57% and quay crane productivity of 26 moves an hour per crane." [436]

While figures show improvement of port operations early this year and in 2016 due to the implementation of improved processes, this should be complemented by infrastructures especially in connecting land and maritime transport.

IMPACT ON THE BUSINESS ENVIRONMENT

The lack of access roads to the ports in Manila, traffic congestion and implementation of truck bans on the roads of Manila render access to the port difficult for carriers and customs forwarders.

It is crucial to develop the necessary infrastructure to complement streamlined processes to ensure that the market is not disrupted again, or does not face the risk of disruption, due to port congestion or heightened costs for operation to and from the Philippines and its ports. The additional costs and delays in the import/ export process have a direct effect on the price of products reaching the consumer; therefore, the streamlining of operations has the potential to increase the purchasing power of the Filipino consumer, and ensure that there is no disruption to the production of export oriented products.

422 PPA (14/07/2017). PPA to revisit cargo volume growth targets for 2017. Retrieved: 31/07/2017. http://www.ppa.com.ph/?q=content/ppa-revisit-cargo-volume-growth-targets-2017.

RECOMMENDATIONS

DEVELOP PORT AND ANCILLARY INFRASTRUCTURE TO MEET CURRENT AND FUTURE DEMAND IN MANILA AND THE PROVINCES.

We recommend that key infrastructure projects be undertaken to create competitive port infrastructure across the country, which meets the growing needs of the economy. In Manila, that includes the "connect the connectors" project, to connect NLEX and SLEX, with a direct link to the port; the further expansion and improvement of the 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, we believe that 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.

IMPLEMENT A UNIFIED AND AUTOMATED ADMINISTRATIVE AND CUSTOMS PROCESS.

While the adoption of efficient processes such as TABS lead to an improvement of port operations, there is still a need to implement a unified and automated administrative port and customs processes. After the establishment of a National Single Window (NSW) in 2010, the Bureau of Customs has developed TradeNet this year. TradeNet is the second phase of the NSW which would connect 66 agencies and 10 economic zones that issue licenses for import releases, a process that currently may take several months to finish. The goal is to release shipments within three days, until it would only take just one hour.[423]

TradeNet will be connected to the ASEAN Single Window (ASW) by December this year. This will connect the Philippines' single window of trade-related agencies with its ASEAN counterpart as it rationalizes and harmonizes all trade data.

We fully support the implementation of a unified and automated administrative and customs processes that would release shipments in an hour. We eagerly wait for its effective implementation as this will not only help decongest ports and facilitate trade, but it could catapult Philippines in becoming a leading maritime nation.

4. DEVELOPMENT OF THE PHILIPPINES AS AN ATTRACTIVE SHIP REGISTRY

ISSUE DESCRIPTION

A modernized and attractive ship registry should be in place for the Philippines to become a truly competitive maritime nation.

In 2015, it was reported that MARINA aimed at developing "Philippine ship registry an attractive, quality and strong sovereign choice for shipowners, and ensure that by 2016 the domestic fleet is modern and regionally competitive with higher safety standards."[424]

The ship registry in the Philippines is currently governed by the Tariff and Customs Code of the Philippines (RA No. 1937). In 2004, RA No. 9301 was enacted granting incentives scheme to the sector but this expired in 2014. Therefore at present, 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, always in line with international maritime agreements, such as MLC 2006.

423 De Vera, B.O. (19/06/2017). Gov't to test online trade system next month. Retrieved: 31/07/2017. http://business.inquirer.net/231605/govt-test-online-trade-system-next-month.

424 Almonte, L. (19/01/2015). MARINA releases updated PH registry. Retrieved: 31/07/2017. http://www.portcalls.com/marina-releases-updated-ph-ship-registry.

Below shows the *Registered Domestic Fleet Inventory*[425] as of December 30, 2016:

Type of Service	No. of Vessels	Total GRT	Average GRT	Average Age
Merchant Fleet	14,336	2,907,104.43	202.78	12.04
Passenger	9,056	498,961	55.10	8.91
Cargo	3,926	1,954,870.84	497.93	15.63
Tanker	290	308,151.29	1,062.59	20.24
Tug	775	95,589.66	123.34	27.40
Dredger	37	18,6,026.68	504.13	19.89
Speed Boat	39	1134.39	3.45	4.82
Special Purpose Ship	31	6,026.68	194.41	14.97
Miscellaneous Ship	147	21,449.31	145.91	10.05
Others	5	2,703.40	540.68	24
No Information	30	564.96	18.83	14
Fishing	16,518	473,834.94	28.69	11.53
Total	30,854	3,380,943.37	109.58	11.57

Also shown below are the details on Philippine Registered Overseas Fleet by Type of Service as of May 2017[426]:

Type of Service	Number	GRT	NRT	DWT	Ave. Age
General Cargo	29	296,315	134,470	404,199.30	9
Bulk Carrier	54	1,524,955	874,788	2,601,930.60	
Tanker	19	380,065	190,589	646,483	3
Livestock Carrier	7	36,451	12,429	25,343	21
Dry Cargo	1	4,028	2,491	6,503	34
Container Carrier	2	69,899	38,516	89,367	8
Multi-Purpose Dry Cargo	2	12,544	6,668	16,894.63	20
Total	114	2,322.257	1,259,951	3,790,720.53	7

IMPACT ON THE BUSINESS ENVIRONMENT

The establishment of a competitive Philippine registry will be mutually beneficial for the Philippines and its seafarers, and the EU shipping industry.

EU ship owners, and especially those with largely prevalent Filipino crews, will benefit from the ease in process and costs of employing Filipino crews, as POEA and pre medical arrangements will not have to be endorsed by the flag state; participation in the ASEAN integrated maritime sector; competitive tonnage tax and the possibility of limited trading in the Philippines without need for special permits.

In terms of the economic impact for the Philippine economy, revenue generation through increased payment of tonnage tax by registered ships, and employment generation for seafarers and positions higher up the value chain as a result of the expansion of back office management and operations, will guarantee tangible, long-term economic benefits.

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 leading maritime nation.

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425 MARINA (n.d.). Highlights of MARINA Accomplishments January to December 2016. Retrieved: 31/07/2017. http://www.marina.gov.ph/reports/AR2016.pdf.

426 MARINA (2017). Number of Philippine-registered overseas fleet, GRT and DWT by type of service. Retrieved: 31/07/2017. http://www.marina.gov.ph/sectoral/philreg_overseasfleet_2017.pdf.

Sector Papers

TAX AND FINANCIAL SERVICES

INTRODUCTION

The Philippine banking system has been performing relatively well in the past years. Having reported strong economic growth and with highly improved Central Bank operations, institutions in the sector have likewise progressed. A huge opportunity to expand the financial sector is to tap the large portion of the population that remains unbanked.

While the sector has shown major improvement in the recent years, several areas of concern remain to be addressed to continue with the improvement of the fiscal and monetary systems in the Philippines:

- Amendment of the Bank Secrecy Law
- Senate Concurrence of the Foreign Account Tax Compliance Act
- Value Added Tax (VAT) Refund
- Improvements to the eDST System
- Amendments to the TRAIN Bill

SECTOR SITUATIONER

MARKET DATA

The services sector remains to comprise of more than half of the economic indicators of Philippines' total GDP with a share of 57% in 2016, and one of the fastest growing sectors in the economy with a growth of 7.4% in 2016 and 6.8% in the first quarter of 2017. Financial intermediation is found to be at 6% growth in the last quarter of 2016.[427]

Banking remains at the core of the Philippine financial system, and is regarded as a major driver in supporting long-term economic growth and financial conditions.[428] The sector continued to strengthen in 2016, where total assets grew by 12.4% to PhP13.58 trillion. Assets of universal and commercial banks (U/KBs) increased by 12.8% to PhP12.3 trillion, while thrift banks expanded by around 8.3% to PhP1.08 trillion.[429]

The Consumer Expectations Survey (CES) of the Bangko Sentral ng Pilipinas (BSP) has recorded an increase in percentage of Filipino households with savings, at 32.6% in 2016 to 45.9% in the first half of 2017,[430] wherein 64.9% of these households have bank deposit accounts.

According to BSP data in 2017, BDO Unibank Inc. continues to be the Philippines' top bank with PhP2.26 trillion in total assets. The remaining the top five banks are: Metropolitan Bank & TCO (PhP1.59 trillion), Bank of the Philippine Islands (PhP1.45 trillion), Land Bank of the Philippines (PhP1.36 trillion), and Philippine National Bank (PhP740.4 million).[431] In terms of global rating as reported in the Top 1000 Global Banks Ranking 2016 by British Publisher, The Banker, these banks ranked 243rd, 258th, 344th, 657th, and 511st, respectively.

The liberalization of the banking system in 2014 has paved way to further developments in the sector. In 2016, streamlining of the banking landscape took place, in which it expanded reach to cater to the increasing and diversifying needs of the Filipino clientele.

The BSP's promotion of merger and consolidation in the industry led to the overall streamlining, resulting in 5 recorded cases of mergers, acquisitions, and consolidations. In addition, the number of operating banks went down from 632 in 2015 to 602 in 2016.[432]

Further changes in the banking network in 2016 include the operation of 3 new banks: United Overseas Bank Limited Manila Branch, ASENSO Rural Bank of Bautista, Inc., and First Commercial Bank Ltd. Manila Branch. There were also 2 conversions and 25 closures.[433] As of June 2016, the total number of banks in the Philippines is at 619.[434]

The insurance sector in the Philippines, which still presently has substantial protection gaps, has been exhibiting strong growth and reflecting an overall uptrend even if the sector experienced a slowdown in 2014 and 2016. Insurers are forecasted to collect a combined PhP500 billion in premiums by 2019, 100% more than the collected premiums in 2015. Much of this growth is being driven by micro-insurance.[435]

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The current Administration's 10-point socio-economic agenda included the continuation of the current macroeconomic policies and the institution of a progressive tax reform among its priorities. With this, reforms in the sector are expected in the coming years.
- Republic Act (RA) No. 10881 was amended in July 2016, which now allows for the full ownership of financial companies with a paid-up capital of no less than PhP10 million for offices in Manila and in first class cities, PhP5 million from other classes of cities, and PhP2.5 million for those within municipalities.[436]
- On December 1, 2016, the 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 the Foreign Account Tax Compliance Act (FATCA) was ratified, and is, as of July 17, 2017, pending in the Senate Foreign Relations Committee for concurrence.[437]
- On January 18, 2017, the Revenue Regulations (RR) No. 1-2017 of the Bureau of Internal Revenue (BIR) was issued, which prescribed the regulations governing applications in Value Added Tax (VAT) credits or refund filed under Section 112 of the Tax Code, as amended, prior to the effectivity of the Revenue Memorandum Circular (RMC) No. 54-2014.[438]

427 PSA (18/05/2017). Philippine Economy Posts 6.4 Percent GDP Growth in the First Quarter of 2017. Retrieved: 17/07/2017. http://psa.gov.ph/content/philippine-economy-posts-64-percent-gdp-growth-first-quarter-2017.

428 BSP (2016). Report on Economic and Financial Developments: Fourth Quarter 2016. Retrieved: 26/07/2017. http://www.bsp.gov.ph/downloads/Publications/2016/LTP_4qtr2016.pdf.

429 Oxford Business Group. (2017). The Report: The Philippines 2017. Retrieved: 28/07/2017.

430 BSP (09/07/2017). Consumer Expectations Survey: Second Quarter 2017. Retrieved: 17/07/2017. http://www.bsp.gov.ph/downloads/Publications/2017/CES_2qtr2017.pdf.

431 BSP (2017). Ranking as to Total Assets: Universal and Commercial Bank Group—as of March 31, 2017. Retrieved: 22/07/2017.http://www.bsp.gov.ph/banking/psoc/by_ranks/assets.htm.

432 BSP (2016). A Status Report on the Philippine Financial System. Retrieved: 24/07/2017. http://www.bsp.gov.ph/downloads/Publications/2016/StatRep_2Sem2016b.pdf.

433 BSP (2016). Volume I. FACTBOOK : The Philippine Banking System. Retrieved: 24/07/2017. http://www.bsp.gov.ph/downloads/Publications/2016/FACTBOOK_2016V1.pdf.

434 Oxford Business Group (2017). The Report: The Philippines 2017. Retrieved: 28/07/2017.

435 Ibid.

436 RA No. 10881.

437 BIR (2017). FATCA Advisory 4. Retrieved: 27/07/2017. https://www.bir.gov.ph/index.php/international-tax-matters/fatca.html.

438 BIR (2017). Revenue Regulation 1-2017 on Value Added Tax Refund.

- Expanding the coverage of the Anti-Money Laundering Act (AMLA) 2001 and making a positive move towards better enforcement of anti-money laundering measures in the Philippines, RA No. 10927[439] was signed in July 2017, placing casino operations under the coverage of the country's AMLA. AMLA states that any single cash transaction in excess of PhP5 million or its equivalent in any other currency is also now considered a covered transaction that must be reported to the Anti-Money Laundering Council (AMLC).[440]
- The Tax Reform for Acceleration and Inclusion (TRAIN) Bill or House Bill (HB) No. 5636, part of the Department of Finance's (DOF) Comprehensive Tax Reform Program, and as substitute to the HB No. 4774, was approved on third and final reading by the House of Representatives in May 2017. The TRAIN Bill was transmitted to the Senate in July 2017 where it is being deliberated as Senate Bill (SB) No. 1408. The bill provides for lower personal income taxes and for increased infrastructure spending, which is proposed to be achieved through several offsetting measures.[441]

ADVOCACY

1. AMENDMENT OF THE BANK SECRECY LAW

ISSUE DESCRIPTION

The Bank Secrecy Law (RA No. 1405 as amended by RA No. 7653) and the Foreign Currency Deposit Act of the Philippines (RA No. 6426) lay down the provisions in the disclosure of bank account information in the Philippines. These laws state that all deposits with banks or banking institutions are confidential, and may not be disclosed to any person, government official, bureau, or office, but can be granted given the following scenarios: with written permission of the depositor, in cases of impeachment, 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.[442] The rule on foreign currency deposits is also stipulated, which declares that these are absolutely confidential and may only be disclosed upon written permission of the depositor.[443] There is a limited list of exceptions and the conditions for obtaining such is not easy to comply with.

The Philippines' banking system is considered as one of the most restrictive in the world given its strict policy on bank secrecy, which has become a barrier to the improved Philippine financial sector.

At an international level, it is vital that the country shows its commitment to a strict policy against fraud and tax evasion. On the other hand, at a domestic level, the creation of a favorable investment environment for foreign banks must be taken into utmost consideration.

While the Securities and Exchange Commission (SEC), BSP, and AMLC stated their support to scrap the RA No. 1405 entirely, the Congress is still to come up with motions to amend the said law.[444]

RECOMMENDATIONS

AMENDMENT OF THE BANK SECRECY LAW TO INCLUDE EXEMPTIONS IN THE CASE OF INVESTIGATION OF TAX FRAUD AND EVASION.

We strongly recommend the inclusion of amendments to the Bank Secrecy Law as one of the priorities in the Congress. Among the amendments we endorse are additional confidentiality exceptions and easing of requirements for the current exceptions to better address cases on combating fraud and tax evasion, while building confidence in the banking system and capital markets, and improving investor protection.

2. SENATE CONCURRENCE OF THE FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

ISSUE DESCRIPTION

The Foreign Account Tax Compliance Act (FATCA), as enacted in March 2010 aims to improve compliance with US tax laws. FATCA requires all non-US financial institutions (Foreign Financial Institutions or FFIs) such as banks, investment entities, custodians, and insurance companies, to report relevant information on financial accounts held by US persons to the US Internal Revenue Service (IRS).[445]

On July 13, 2015, the Philippines signed an Inter-Governmental Agreement (IGA) Model 1A with the US, providing that instead of submitting relevant information on accounts of US people, Philippine financial institutions (PFIs) will be reporting to the BIR. This was promoted by several PFI industry associations for FATCA compliance burden management and recommended by the BIR for domestic tax compliance enhancement, and Philippine income tax laws implementatiown facilitation.[446]

439 An Act Designating Casinos as Covered Persons under Republic Act No. 9160, Otherwise Known as the "Anti-Money Laundering Act of 2001", as Amended.

440 RA No. 10927.

441 DOF (2017). DOF thanks House for Final OK of TRAIN Bill. Retrieved: 19/07/2017. http://www.dof.gov.ph/taxreform/index.php/2017/06/02/dof-thanks-house-for-final-ok-of-train-bill/.

442 RA No. 1405 (as amended by RA No. 7653), sec. 2.

443 RA No. 6426 (as amended by Presidential Decree (PD) No. 1035, and PD No. 1246), sec. 8.

444 Mariano, K.R.D. (09/03/2017). Financial regulators press anew for further easing of bank secrecy. BusinessWorld Online. Retrieved 18/07/2017. http://www.bworldonline.com/content.php?section=TopStory&title=financial-regulators-press-anew-for-further-easing-of-bank-secrecy&id=141898.

445 BIR (2016). BIR Advisory on FATCA. Retrieved 26/07/2017. https://www.bir.gov.ph/images/bir_files/international_tax_affairs/faq%20_0628.pdf.

446 Ibid.

Signing of the Model 1 IGA will be an effective means for Philippine FIs to improve their plans for FATCA implementation, resolve issues on several domestic privacy laws, reduce the scope of reporting requirements, prevent tax evasion, and increase revenue collection of the Philippine Government. FATCA implementation will likewise demonstrate commitment to the adoption of the OECD's Common Reporting Standard.

RECOMMENDATIONS

FAST-TRACK FATCA IMPLEMENTATION.

We emphatically suggest prompt Senate concurrence of the FATCA, the implementation of FATCA Model 1 IGA by the BIR, and in moving forward, the carrying out of the adoption of the Common Reporting Standard by the Philippine Government.

3. EXPEDITING VALUE ADDED TAX (VAT) REFUND

ISSUE DESCRIPTION

Revenue Regulation No. 1-2017 provides that VAT claims retroactively affected by Revenue Memorandum Circular 54-2014 shall be processed and approved in accordance with the following rules, under Section 112 (A) of the Tax Code, as amended:[447]

- The claimant-taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a Tax Credit Certificate or refund of creditable input tax, due or paid, attributable to such sales.
- In all cases, all the supporting documents that a taxpayer intends to file must be completed and submitted within the two-year period. The Commissioner or his duly authorized representative will decide on the claim for tax credit or refund within 120 days (a) from the date of submission of complete documents, or (b) from the date of the application if the claimant-taxpayer did not submit additional documents.

Pending administrative claims before the effectivity of RMC 54-2014 will be resolved based on the documents submitted by the claimant-taxpayer within the statutory two-year period.

The following claims filed and pending before the effectivity of RMC No. 54-2014 are not covered by these regulations:

A. Those claims filed beyond the two-year statutory prescriptive period;

B. Those denied in writing by the approving authority;

C. Those approved or granted fully or partially by the approving authority; and

D. Those already appealed to and pending with the Court of Tax Appeal (CTA) unless there is proof of withdrawal of the case filed with the CTA.

The retroactive application of the "120+30" rule to all pending applications under RMC 54-2014 is seen as confiscatory as it will result in a large scale automatic denial of pending applications, and in general, would make it more difficult for investors to get their incentives in the form of VAT refunds.

While the Revenue Regulation 1-2017 in principle addresses the issues on RMC 54-2014 raised by several business and investor groups, the effectivity in implementation of this new procedure is yet to be seen.

RECOMMENDATIONS

ENSURE THE EFFICIENCY AND CREDIBILITY OF THE NEW VAT REFUND PROCEDURE TO FURTHER PROMOTE INVESTMENT AND FOREIGN PARTICIPATION IN THE PHILIPPINES.

We welcome the move by the Government to address concerns on VAT refund. Moving forward, we would like to recommend that measures be put in place to ensure the efficiency and credibility of the RR 1-2017, and to effectively streamline procedures so that government incentives can be enjoyed.

4. IMPROVEMENTS TO THE ELECTRONIC DOCUMENTARY STAMP TAX (eDST) SYSTEM

ISSUE DESCRIPTION

BIR Revenue Documentary Stamp Tax Electronic Imprinting Regulation (RR) No. 7-2009, issued in October 2009, provided for the implementation of the Electronic Documentary Stamp Tax (eDST) System as replacement of the Documentary Stamp Tax Electronic Imprinting Machine (DSEIM).

Several issues took place after carrying out of the RR No. 7-2009, mostly including system malfunctions and operation intermittency, making banking institutions and insurance companies use the constructive DST stamping procedures.

Whereas the sector supports the efforts of the government to automate the DST payment system and recognizes that these actions are towards simplification and faster delivery of procedures, operational malfunctions affect the ability of banks and companies to conform. This causes operational errors and inefficiencies.

Banks and insurance agencies then experience expanded expenses and operational challenges due to duplicated distribution of funds for DST payments (manual credits to BIR by means of constructive DST Stamping method on top of prepaid DST in the eDST framework) and checking of the eDST framework. Late occasions have demonstrated that mere issuance of postponed advisories, which give insufficient lead times to compliance, do not relieve issues experienced with the eDST system, nor ease the operational difficulties.

RECOMMENDATIONS

IMPROVE THE eDST TECHNICAL SYSTEM AND PUT IN PLACE MEASURES TO SUPPORT SMOOTH OPERATIONS IN CASES OF SYSTEM GLITCHES.

We push for the improvement of the eDST system, so as to better address issues with the system to facilitate payment of DST by banks and insurance companies. In addition to long-haul operational enhancements to the system, it will help clients if due notice of system downtimes is given. We also recommend that the utilization of valuable DST stamping systems is made feasible for approved clients. Lastly, it is recommended that the BIR shuns penalizing end users when payment delays are caused by eDST system interruptions or technical issues.

5. AMENDMENTS TO THE TRAIN BILL

ISSUE DESCRIPTION

On January 17, 2017, the government proposed a tax reform package, HB No. 4774 or Tax Reform for Acceleration and Inclusion (TRAIN) to the Congress,[447] which was eventually substituted by HB No. 5636 in May 2017 that was approved in the House of Representatives end-month. Its version in the Senate is SB No. 1408.[448]

The TRAIN Bill seeks to create simpler and a more efficient tax system which further promotes investment, higher employment, and poverty reduction. This consists of several packages each consisting of balancing trade-off.

Key features of the bill include: lowering personal income taxes, broadening the value added tax (VAT) base, adjusting the excise taxes on petroleum and automobiles, reducing the rates of estate and donor's tax, removal of preferential income tax rates (PTR) of individuals employed by Regional Operating Headquarters (ROHQ), offshore banking units and petroleum service contractors and subcontractors, and imposing excise tax on sugar-sweetened beverages (SSB).

It also comprises of the following tax administration measures: (a) mandatory use of fuel marking; (b) mandatory issuance of e-receipts; (c) mandatory interconnection of large and medium firms' point of sales machines and accounting systems with the Bureau of Internal Revenue (BIR); (d) mandatory use of GPS locks when transporting cargo from ports to economic zones and freeports; and (e) relaxation of bank secrecy for fraud cases.[449]

While the objectives of the TRAIN bill, namely: to improve tax collection, promote investment, and increase employment, are recognized, several provisions and measures in the bill may have adverse effects on the agriculture, ICT-BPO, and automotive sectors of the Philippines.

On The Imposition Of Excise Tax On Sugar-Sweetened Beverages:

This would raise the prices of some goods and the target to eradicate obesity and increase government revenue collection may not be achieved. The increase of prices will also eventually affect the poorest segments in the country.

On The Removal Of The ROHQ Preferred Tax:

The removal of the privilege of ROHQ preferred tax rate (PTR) will impact the sector's operations and employment, which may result in a big loss of income tax. Additionally, removing the PTR may weaken the Philippines' position relative to other ASEAN member states, which provide such benefits for ROHQs operating in their countries.

On The Removal Of Zero Vat Rating For PEZA Companies:

This proposed measure is in total disregard of the "cross-border doctrine",[450] would considerably increase the cost base of companies, and is projected to decrease Local Government Units' (LGUs) income. Additionally, the interpretation of the legislative intent of SB No. 1408, which proposes amendments to special laws, is ambiguous, specifically on the exemption under Section 109 (k).[451] According to Section 109 (K) of the Tax Code, services rendered in the Philippines by a non-resident in favor of a PEZA registered company are exempt from VAT.

446 BIR (2017). Revenue Regulation 1-2017 on Value Added Tax Refund.

447 HB No. 4774.

448 PWC (2017). House Bill on Tax Reform for Acceleration and Inclusion. Retrieved: 22/07/2017. https://www.pwc.com/ph/en/tax-alerts/assets/pwcph_taxalert-08.pdf.

449 HB No. 5636.

450 Anything consumed within the zone is considered consumed outside the Philippines, and anything sold to enterprises located within the zone is considered export sale.

451 Services rendered in the Philippines by a non-resident in favor of a PEZA registered entity are exempt from VAT under Section 109(K) of the Tax Code.

On The Imposition Of Excise Tax On Automotive Products:

Taking into consideration the proposed bracket scheme, and the Free Trade Agreements that the Philippines has with other countries – mostly Asian, the imposition of excise tax on automotive products will significantly affect market competition.

RECOMMENDATIONS

We recognize the intent of the TRAIN Bill to serve as a driver towards fiscal stability, economic growth, poverty reduction, and infrastructure development, however also highly take into consideration the impacts the proposed measures will have on some industries in the country, which may have counterproductive outcomes and have spillover effects to other sectors of the supply chain. With this, we suggest the following movements:

On The Imposition Of Excise Tax On Sugar-Sweetened Beverages:

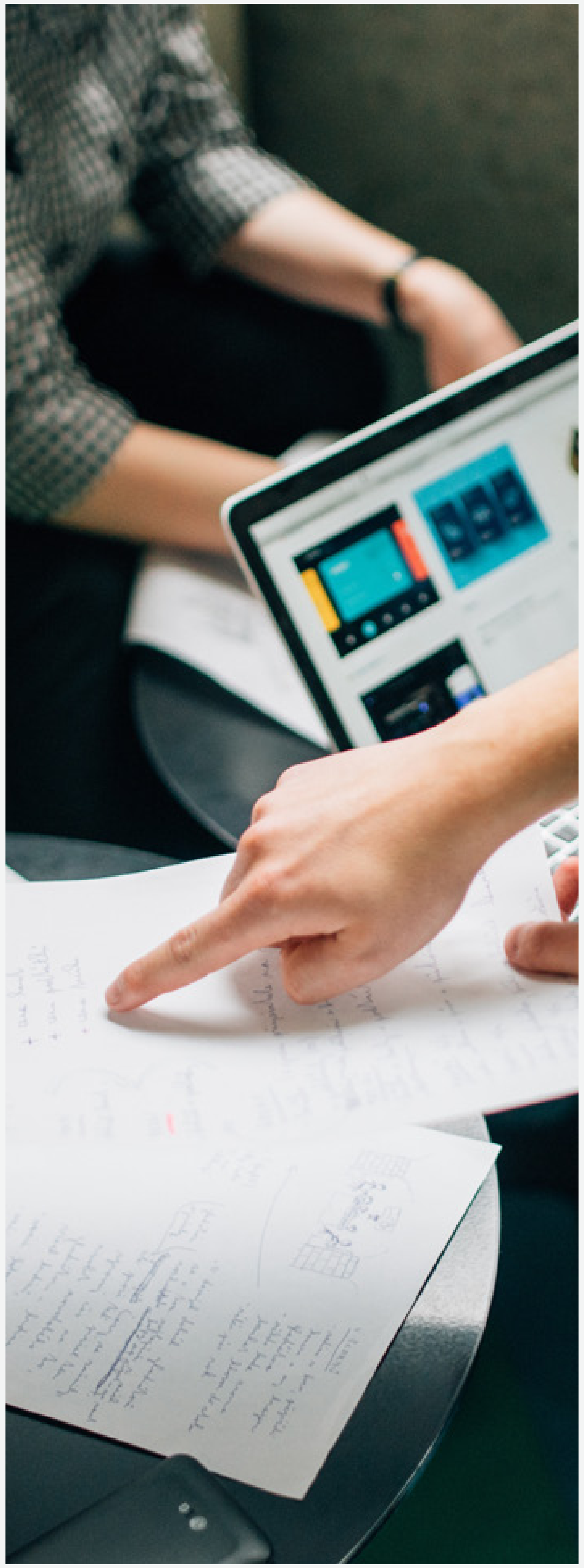
Aware of the objective of this proposal and as we recognize obesity as a complex issue caused by many other factors, we recommend that this issue be addressed with a whole of society approach. Given this, we highly support the creation of a Philippine Platform for Consumer Health, Physical Diet and Exercise to promote long-term health benefits to Filipino consumers.

On The Removal Of Zero Vat Rating For PEZA Companies:

We believe that it is important to maintain the current set of incentives for PEZA registered companies in order to keep existing investors and attract more foreign investment. The current preferential tax and VAT treatment has benefited not only export-oriented companies but also has spurred the exponential growth of the Business process management (BPM) industry in the Philippines, one of the main drivers of the country's economy. We advocate the continuation of tax incentives to encourage the growth of IT/BMP companies and favor local suppliers.

On The Imposition Of Excise Tax On Automotive Products:

We highly support the fast-tracking of the ratification of the EU-Philippines Free Trade Agreement, with the inclusion of an immediate tariff reduction schedule for vehicles, to help ease the burden of European car brands brought about by the proposed excise tax rates.



Sector Papers
TOURISM

INTRODUCTION

The tourism industry is a significant contributor to the generation of employment and economic growth of the Philippines and has high potential to create inclusive and sustainable growth, particularly in rural areas affected by un- and underemployment. Different administrations have recognized the importance of this sector and have developed different initiatives aimed to maximize this potential. Currently, the National Tourism Development Plan (NTDP) 2016-2022 seeks to develop the country's tourism sector at the national level, and other sectoral strategies try to enhance the competitiveness of the Philippines in areas such as medical tourism, the retirement industry or cruise tourism.

Many European companies, coming from the most competitive tourism industries in the world, are willing to participate in the development of this sector's infrastructure in line with the highest international standards. However, the government needs to create an adequate business environment. Poor domestic and international connectivity, security concerns or lack of essential data to evaluate investment projects are notable constraints to the development of a more competitive tourism industry in the Philippines.

Therefore, we suggest the following actions with the intent to improve the country's hard and soft infrastructure:

- Improvement of internationally and domestic connectivity
- Development of internationally competitive tourism destinations
- Facilitation of investment through adequate data collection on supply in the hospitality sector

SECTOR SITUATIONER

MARKET DATA

International Arrivals

The tourism industry is an important contributor to the country's economy as shown through data gathered over the past two years. It provided 2.2 million jobs in 2016, equivalent to 5.5% of total employment in the country, and it generated PhP230.13 billion, accounting for 8.2% of total GDP in the same period. The 2016 data represented a 1.11% growth compared to 2015.[452] With regard to international arrivals, the Philippines reached 5.97 million foreign tourists in 2016, registering a 12.64% increase compared to 2015,[453] almost reaching its 6 million-target.

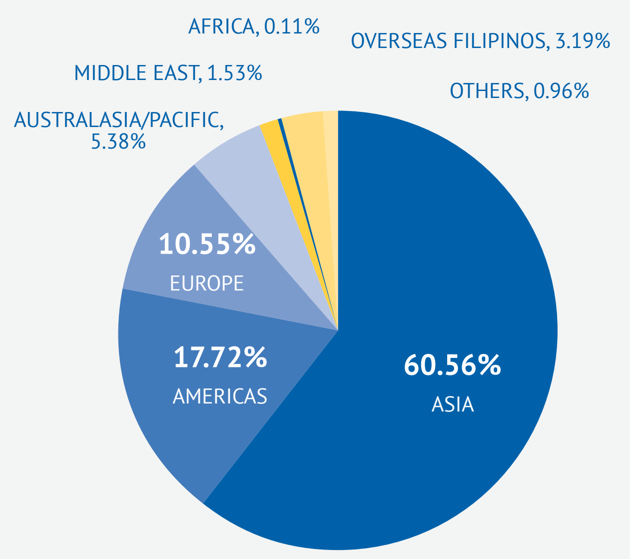
However, the Philippines only ranked 79 out of 136 countries in the Travel and Tourism Competitiveness Index 2017, published by the World Economic Forum. The index measures diverse factors that lead to sustainable development of the tourism sector. The Philippines placed 5 positions lower in 2017 than in 2016, probably due to a more restrictive visa policy, a reduction in the budget dedicated to the development of the tourism sector, security concerns, and stricter rules on foreign investments.[454]

The East Asian region provides the biggest influx of tourists accounting for more than 50% of the total visitor volume. South Korea consolidated its position as the number one source of arrivals with 1.48 million tourists in 2016, accounting for 24.72% of total arrivals. South Korea is also considered the top spending market, generating PhP5.60 billion in 2016. China is also significant, with 675,663 arrivals in 2016, while Japan, Taiwan, Singapore, and Malaysia are also important sources of arrivals.[455]

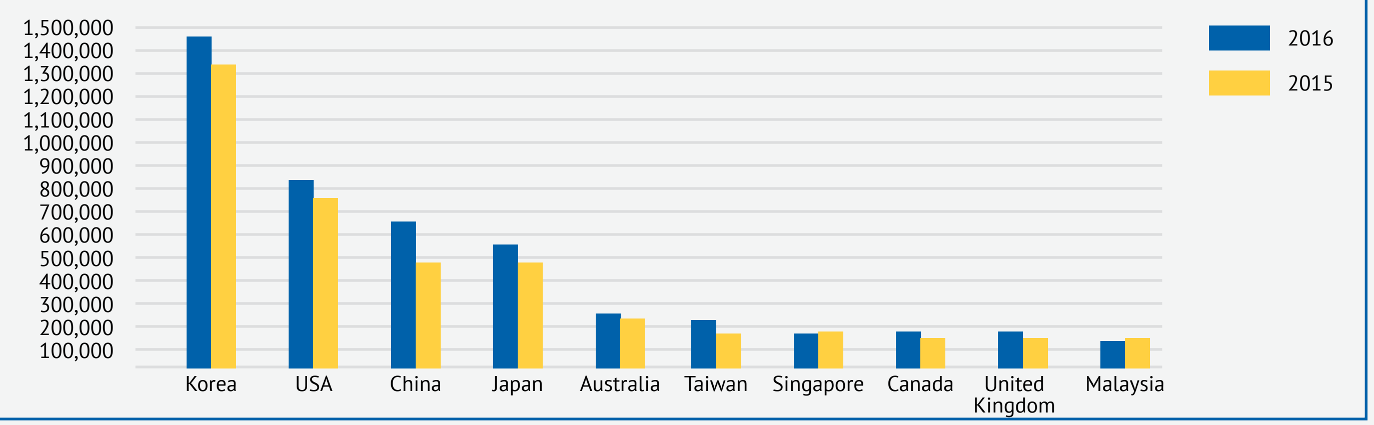
The North American region is the second largest market with 869,463 visitors from the United States accounting for 14.57% of total arrivals, representing an 11.6% increase compared to 2015.

European countries, accounting for 10.55% of total arrivals in the Philippines, show substantial growth in visitor volume. The United Kingdom is among the top ten visitor markets with 173,299 arrivals in 2016. Other relevant European countries in terms of international arrivals are Germany with 86,363 visitors (+14.62%), France with 55,384 (+21.71%), Spain with 32,097 (+32.94%), Sweden with 26,062 (+12.31%), Italy with 25,945 (+20%), and Denmark with 18,049 (+18.21%).[456]

Visitor Arrivals to the Philippines
January - December 2016



Top 10 Visitor Markets January - December 2015/2016



452 Oxford Business Group (2017). The Report. The Philippines 2017. P. 131.

453 FFCCCI (12/2016). Tourist arrivals in 2016. Retrieved: 06/07/2017. http://www.ffcccii.org/tourist-arrivals-sets-new-record-reaches-nearly-6m-in-2016/.

454 WEF (2017). Travel & Tourism Competitiveness Index 2017 edition. Retrieved: 07/07/2017. http://reports.weforum.org/travel-and-tourism-competitiveness-report-2017/country-profiles/#economy=PHL.

455 Ibid.

456 Ibid.

Supply & Accommodations

On the supply side, latest available data shows that the Philippines had a total of 88,841 existing accommodation establishments 213,051 rooms in 2014.[457] The hotel occupancy rate increased to 71% from 67.2% in 2014.

Industry Sub-Sections & Growth Potential

Medical Tourism. The Philippines has been growing as a medical tourist destination during the last decade due to its competitive price of health and wellness services, modern technology and state-of-the-art medical facilities, as well as well-educated English-speaking healthcare professionals. Other factors such as the hospitality of Filipinos as well as the tropical weather have also come into play. Currently five medical institutions are certified as institutions for excellent medical care by the Joint Commission International (JCI), the only patient safety and quality healthcare accreditation and certification body, namely: Asian Hospital and Medical Center, Makati Medical Center, St. Luke's Medical Center (Global City and Quezon City) and The Medical City. The Philippine medical tourism sector generated around USD145 million in 2014 and caters to approximately 80,000 to 250,000 patients annually. In 2015, the Philippines was ranked eighth among the top medical tourism destinations in the world.[458]

Retirement Industry. The Philippines is in the process of becoming an attractive retirement haven, with one of the most liberal retirement regimes in Asia. The country appeared in Forbes' 20 Best Foreign Retirement Havens 2015. It was also ranked 19th out of 23 on the Ranking and the Global Retirement Index 2017 published by the International Living Magazine. This annual index bases its rating on a number of 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 (SRRV) holders. Introduced by the 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, or USD1,500 for former diplomatic corps workers. Total visa deposits of SRRV holders as of December 31, 2014 amounted to USD452 million.[459] Given the importance of the Philippines as a top retirement destination, the Department of Trade and Industry (DTI) is preparing a Retirement Industry Roadmap to improve its competitiveness in this sector.

Cruise Tourism. Cruise tourism in the Philippines has expanded by 52.5% since 2011. However, port calls are still below top Asian ports such as Singapore or Hong Kong, with 374 and 200 port calls respectively.[460] The Department of Tourism (DOT), launched the National Cruise Tourism Development Strategy in 2016 and aims to improve existing port facilities by building new cruise terminals. The DOT is also looking to enhance tourist attractions and expects that the Philippines will become a more prominent cruise destination. The DOT estimates that a cruise ship with 2,000 passengers calling at Manila can generate USD250,000 in tourist revenues. A total of 117 cruise calls are scheduled to operate in 2017, with the potential of bringing 120,000 foreign passengers to the Philippines.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- The National Tourism Development Plan (NTDP) 2016-2022 has set medium-term goals to enhance the competitiveness of the Philippine tourist sector by improving international and domestic connectivity and infrastructure, developing sustainable and inclusive destinations, and emphasizing tourism human resources development. The NTDP focuses on small and medium-sized enterprises (SMEs), sustainable tourism, and inclusive development.
- In early 2016, President Aquino signed the ASEAN Multilateral Agreement in Air Services, allowing Philippine air carriers to fly an unlimited number of times to the capitals of other ASEAN countries, which was expected to improve regional connectivity and lead to more competitive services.
- At the end of 2016, the DOT, in line with the NDTP, presented the National Cruise Tourism Development Strategy which aims to set a course for the Philippines to become a more prominent cruise destination in the future.

457 DOT (2014). Number of accommodation establishments and rooms per region, province and city/municipality. Retrieved: 06/07/2017. 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.

458 Manila Times (14/05/2016). PH ranks 8th in world as 'Medical Tourism Destination. Retrieved: 06/07/2017. http://www.manilatimes.net/ph-ranks-8th-in-world-as-medical-tourism-destination/262013/.

459 Invest Philippines (n.d). Retrieved: 07/07/2017. http://investphilippines.gov.ph/boi-positions-ph-as-retirement-haven-works-closely-with-industry-to-finalize-roadmap/.

460 Oxford Business Group (2017). The Report. The Philippines 2017. P. 137, 138.

ADVOCACY

1. IMPROVEMENT OF INTERNATIONAL AND DOMESTIC CONNECTIVITY

ISSUE DESCRIPTION

The NTDP 2016-2022 identifies the improvement of international and domestic access, connectivity and destination infrastructure as one of its priorities. While progress has been made in some areas, there are still evident infrastructure gaps that handicap the flow of tourists to top tourist destinations.

Shortcomings in international and domestic connectivity can be categorized as follows:

Airport infrastructure and governance. Air arrivals comprise 90% of the total inbound visitors in the Philippines. Ninoy Aquino International Airport (NAIA) is the primary gateway to the country, handling approximately 80% of international and 75% of domestic traffic, followed by the Mactan-Cebu International and Kalibo International Airports. NAIA, which handled 39.5 million passengers in 2016, has doubled passenger traffic since 2006 and is among the world's 50 busiest airports by passenger traffic.[461] At present, it is close to full capacity, affecting the quality of the service, and resulting in frequent delays and power outages, which in turn lead to complicated terminal transfers.

Despite the plans of the current Administration to upgrade all terminals and construct a third runway at NAIA so as to develop five regional airports in two packages[462] across the Philippines, as well as to convert the Danilo Atienza Air Base into Sangley International Airport, these projects are either on hold or have been removed from the PPP pipeline.[463] While in 2016, Caticlan Airport (Boracay) completed work to expand its runway and Mactan-Cebu International Airport (MCIA) started the construction of a second terminal,[464] little progress has been made with regard to 2017's air infrastructure improvement plans.

International air connectivity.

The restoration of the Philippines to Category 1 status and the lifting of the ban by the EU on Philippine carriers in 2014 have not encouraged the development of direct routes between Europe and the Philippines due to the persistence of aviation taxes[465] and other issues concerning the governance framework of the aviation sector. As of today, KLM is the only European carrier operating from Manila to a European capital[466] via Taipei. The only non-stop flight between the Philippines and Europe is the Philippines Airlines flight from Manila to London.

Domestic connectivity. The Philippines, as an archipelago, relies primarily on air transport and on an integrated transportation system that is able to move tourists from one destination to another safely and efficiently. However, the country's poor connectivity hampers the development of a flourishing tourist industry.[467] Despite improvements in airports, roads and ports, weak infrastructure is the main reason why the tourism sector in the Philippines lags behind other Asian countries such as Malaysia, Thailand, and Indonesia. Traffic congestion in Metro Manila, frequent delays in domestic flights, unreliable and unsafe inter-island boat services and inadequate road systems are all contributing factors. Therefore, improving domestic connectivity is pivotal to develop the country as an international tourism destination. Thailand and Malaysia feature as good examples of best practices in terms of how integrated transportation systems and high quality infrastructure can expand the economic benefits from tourism across the country.

461 NAIA (n.d.). Retrieved: 10/07/2017. http://www.manila-airport.net/.

462 Bundle 1: Iloilo Airport and Bacolod-Silay Airport.

Bundle 2: New Bohol Airport, Davao International Airport and Laguindingan Airport.

463 PPP Center (24/05/2017). Retrieved: 10/07/2017. https://ppp.gov.ph/?in_the_news=govt-terminates-ppp-process-for-5-regional-airports.

464 Oxford Business Group (2017). The Report. The Philippines 2017. P. 163, 164.

465 Common Carriers Tax: International air carriers and international shipping carriers doing business in the Philippines shall pay a Common Carrier's Tax equivalent to three percent (3%) of their quarterly gross receipts.

Gross Philippine Billings Tax: International carriers having flights originating from any point in the Philippines are subject to the Gross Philippine Billings Tax of two and one-half percent (2½ %).

466 Amsterdam.

467 The Asia Foundation (24/08/2011). Better Air Connectivity Needed to Boost Tourism, Economy in the Philippines . Retrieved: 10/07/2017. http://asiafoundation.org/2011/08/24/better-air-connectivity-needed-to-boost-tourism-economy-in-the-philippines/.

RECOMMENDATIONS

IMPLEMENT MEASURES TO IMPROVE INTERNATIONAL AIR CONNECTIVITY.

We recommend the implementation of measures aimed to improve international air connectivity. International flights arriving in the Philippines can be increased, subsequently raising the number of international tourists, by creating a fair fiscal regime for international air carriers that includes removing the requirement for offline carriers to pay income tax and by revising airport fees,[468] thus charging the same to international and domestic airlines.

We commend the efforts of the Civil Aviation Authority of the Philippines (CAAP) and its constant work with international aviation bodies to improve and upgrade the status of the Philippine aviation.[469] This is why we believe that amendments to the Civil Aviation Authority Act of 2008 (RA No. 9497) are necessary to further improve air connectivity. In this sense we recommend ensuring an independent regulatory body by separating the regulator from the operator, functions that are currently executed by CAAP. Other amendments such as modernizing and improving human and technological resources of air traffic control, increasing the term of the Director General or exempting CAAP from the salary standardization law may help to attain a more competitive aviation industry.

Reforming air transportation is essential to the Philippines in order to facilitate the development of the country as a tourist destination and to provide safe and efficient travel services. But it is equally important to promote quality tourism, focusing on origin markets such as the EU that have great potential for tourism expenditures in the Philippines.

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

We endorse the development of a two-airport system with the utilization of both NAIA and Clark.[470] Air carriers should be incentivized to use Clark as an alternative port of entry to the Philippines with lower fees than those charged at NAIA. Clark will need to be upgraded in order to become a primary gateway of the country in the long term, while private aviation and domestic routes are consolidated at NAIA. To this end, it is vital to develop a high-speed rail line or a dedicated expressway that connects both airports, passing through Metro Manila. We applaud the plans of the current Administration to build a fast train between Clark and Tutuban under the "Build Build Build" Program but we suggest that this line be extended to NAIA to improve connectivity and convenience of the travelers. This measure would reduce the pressure over the already congested NAIA, which is close to full capacity, and would help increase international arrivals in the country.

We would also suggest the overall improvement of international airport infrastructure in other tourism-heavy destinations throughout the country. This would ensure easier travel via alternate routes to popular destinations such as Boracay or Cebu, without the need to fly to Manila first.

Examples of best practices can be found in other big Asian cities such as Tokyo, Shanghai, Kuala Lumpur, Jakarta, Hong Kong or Hanoi, which have relocated international airports outside the city, restricting air traffic in inner city airports.

We support the implementation of projects aiming to upgrade existing airports such as Mactan-Cebu International Airport and the Clark airport, and we hope that the current Administration will resume the bidding process for the 5 regional airports of Iloilo, Bacolod-Silay, New Bohol, Davao, and Laguindingan, which have been on hold for the time being.

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

An integrated and well-developed transportation system, including land, sea and air networks, is vital to connect priority tourism destinations. The funding of seaports in support of the National Cruise Tourism Development Plan, the upgrading of regional airports to enhance high landing capacities or to expand their passenger handling capacity, and the rehabilitation and upgrading of provincial roads leading to tourist destinations will definitely have a positive impact on tourism development. To this end, it is a must that the different government agencies consolidate their investments toward infrastructure.

468 Take-off and landing fees.

469 SB No. 1442. An Act strengthening the civil aviation authority of the Philippines, amending for the purpose Republic Act No. 9497, otherwise known as Civil Aviation Authority Act of 2008. Retrieved 10/07/2017. https://www.senate.gov.ph/lisdata/2591822274!.pdf.

470 Diosdado Macapagal International Airport.

471 WEF (2017). The Travel & Tourism Competitiveness Report. Retrieved: 08/07/2017 https://www.weforum.org/reports/the-travel-tourism-competitiveness-report-2017.

2. DEVELOPMENT OF INTERNATIONALLY COMPETITIVE TOURISM DESTINATIONS

ISSUE DESCRIPTION

With the 2017 Travel and Tourism Competitiveness Report ranking Spain, France and Germany as the top competitive tourist destinations in the world, a correlation can be established between tourism competitiveness and the ability of a country to develop hard and soft infrastructure that supports the tourism industry. That is to say, a country must develop not only physical infrastructure aimed to improve domestic and international connectivity, but also provide all kinds of services required to maintain health, and cater to the cultural and social standards of the visitors.

To upgrade tourism products and services in the country, the Philippines must target specific destinations and develop them providing good quality accommodation and activities, improving the skills of the tourism operators whilst protecting natural and cultural heritage in line with the PNTDP 2016-2022 and the Tourism Act of 2009.

The Tourism Act of 2009 (RA No. 9593) declares "tourism as an indispensable element of the national economy and an industry of national interest which must be harnessed as an engine of socio-economic growth, with an end in view of generating investment foreign exchange and employment for the country".[472]

While the DOT is the main body in charge of the development and promotion of the country's tourism industry, the Tourism Infrastructure and Enterprise Zone Authority (TIEZA), created by virtue of the Tourism Act, is mandated with the regulation, development, supervision and management of tourist projects in the Philippines, and particularly, of the Tourism Enterprise Zones (TEZs). TEZs, in turn, are sites with viable tourism potential in view of their historical or cultural importance, beauty of the natural environment or strategic location that can be developed into sustainable tourism destinations. Therefore, the objective is to develop destination clusters that meet international visitors' expectations, including good quality accommodation, activities, food and beverage and secondary services, while promoting the socio-economic growth of the local communities.

In order to attract tourism related investments in these tourism clusters, TEZ registered enterprises are granted fiscal and non-fiscal incentives. This fiscal incentive scheme, established in the Revenue Regulations (RR) No. 7-2016 and released by the Bureau of Internal Revenue (BIR) in November 2016, includes Income tax holiday (ITH) for a period of 6 years, preferential gross income tax rate of 5%, exemption from all taxes and customs duties on importations of capital investment and equipment, goods and services incentives, net loss carry over (NOLCO) and social responsibility incentive. It is worth noting that the TIEZA Board may also grant certain fiscal incentives to TIEZA-registered tourism enterprises outside of TEZ.[473]

TIEZA started to operate the TEZ program in 2017 after the release of the RR No. 7-2016. In partnership with the DOT, it has already identified five tourist sites in the country under the Flagship TEZ program: (1) San Vicente, Palawan; (2) Rizal Park Complex, Manila; (3) Mt. Samat Shrine of Valor, Bataan; (4) Bucas Grande, Surigao Del Norte; and (5) Panglao Bay Premiere, Bohol.[474]

On the other hand, security continues to be a top concern for tourists. While the Philippines is generally a safe place to visit, a series of kidnappings targeting foreigners in the south of the country, specifically Mindanao and the Sulu archipelago, and the armed conflict of Marawi that broke out in May 2017 with the subsequent declaration of Martial Law in Mindanao convey an image of a high-risk tourist destination. Therefore, it is necessary to mitigate these security concerns by developing tourism clusters designed to provide a high level of security to visitors.

Additionally, soft infrastructure is also essential when it comes to develop attractive tourism destinations. European tourists put equal importance to the development of physical infrastructure and the services they can enjoy in a tourism destination. Despite, the competitive advantages that the Filipino workforce offers in the Tourism sector, hospitality and customer service can still be improved and aligned with the standards of other internationally competitive tourism destinations.

471 WEF (2017). The Travel & Tourism Competitiveness Report. Retrieved: 08/07/2017 https://www.weforum.org/reports/the-travel-tourism-competitiveness-report-2017.

472 DOT (2009). Tourism Act of 2009: Come to the Philippines. Retrieved: 11/07/2017. http://www.tourism.gov.ph/Pages/20091015TourismActof2009.aspx.

473 Delos Santos, G.D. (10/01/2017). Tourism as a major player in international commerce. Retrieved: 11/07/2017. http://www.philstar.com/business/2017/01/10/1661123/tourism-major-player-intl-commerce.

474 Manila Bulletin (24/02/2017). TIEZA with TEZ program, attracts more investors. Retrieved: 11/07/2017. http://lifestyle.mb.com.ph/2017/02/24/tieza-with-tez-program-attracts-more-investors/.

RECOMMENDATIONS

SUPPORT THE DEVELOPMENT OF SOFT INFRASTRUCTURE THROUGH THE IMPLEMENTATION OF TARGETED TRAINING PROGRAMS IN TOURISM ENTERPRISE ZONES (TEZs).

We support the development of soft infrastructure through the implementation of targeted training programs for the hospitality sector in TEZs to improve the skill levels of the workforce. These training programs can be developed in cooperation with the TEZ locators and the Technical Education and Skills Development Authority (TESDA). It is essential to develop a competent, motivated and productive tourism workforce up to the standards of international visitors, so that tourism destinations can also been developed in areas with a high unemployment rate.

IMPROVE SECURITY AT MAJOR TOURISM DESTINATIONS.

The improvement of security at major tourism destinations is a must in order to address the perceived risk of travelling to the Philippines and ensure a successful development of the tourism industry in the country. It is essential to mitigate security concerns by creating tourism investment economic zone areas that are able to provide a high level of security and by increasing the number of tourism-oriented police. It is crucial to work with the national and local governments of priority tourism destinations to ensure the safety of visitors.

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

ISSUE DESCRIPTION

The Tourism Act of 2009 (RA No. 9593) establishes that the collection, analysis and dissemination of data which accurately measure the economic and social impact of tourism in the country is a shared responsibility of the DOT and its regional offices.[475]

Indeed, tourism statistics facilitate planning in the public and private sectors and allow them to optimize the tourism potential. For investors, hotel performance predictability based on the evaluation of tourism supply and demand statistics is a determining factor considered by the tourist industry willing to invest in new markets. Also, knowing other major factors such as time of arrival, duration of stay, profile of visitors and their interests, will help craft suitable tour packages up to the standards of the international tourists. For policy makers, it is essential to know the product they are managing, the efficiency and effectiveness of their decisions and the predictability of the sector when it comes to design national tourism strategies and evaluate them.[476]

Pursuant to the Tourism Act, the DOT conducts annual surveys on the status of tourism in the Philippines. They provide general statistics of the sector as well as supply and demand data in hospitality establishments. It is worthwhile mentioning 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.

475 Tourism Act of 2009 (RA No. 9593), Chapter I, Section 2 (g), Section 6 (p) and Section 17 (c).

476 DOT (n.d.). Importance of Tourism Statistics. Retrieved: 12/07/2017. http://www.visitmyphilippines.com/images/ads/b32f5495711e066fe14da848fd7b4a53.pdf.

The Philippine Statistics Authority (PSA) also compiles general information such as the Tourism Direct Gross Value Added (TDGVA) and provides information on tourism expenditure and employment through the Philippine Tourism Satellite Accounts (PTSA).

However, these surveys and statistics only provide a general outline of the tourism sector in the Philippines. Furthermore, this information and statistics are not frequently updated. These are remarkable constraints for potential investors who need updated and more detailed data, including top market segments, destinations, market saturation and gaps or growth prospects, in order to evaluate hotel performance predictability and facilitate decision-making.

RECOMMENDATIONS

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

We commend the progress made in data collection by the DOT in the past years by publishing tourism statistics regularly and conducting surveys on the status of supply and demand in hospitality establishments. However, in order to provide potential investors with the decisive elements that will determine investments in the hospitality sector in the Philippines, it is crucial to provide more detailed information.

Therefore, while we encourage the authorities to continue the work carried out so far, we recommend improving the data collection system for the supply side, focusing on the number of establishments per category, number of rooms and particularly performance data per category, to be collected from establishments in operation, newly added, and hospitality projects in the pipeline. This will offer a clear overview of the hospitality industry in any given strategic area in the Philippines, thus helping operators, developers, investors and the Administration in their planning decisions.

Along with more stringent data collection, we also recommend making the collected information more accessible, perhaps through a consolidated online listing or database. This will speed up decision-making both on the investment and supply ends, and will allow faster, more efficient development of tourism projects overall.

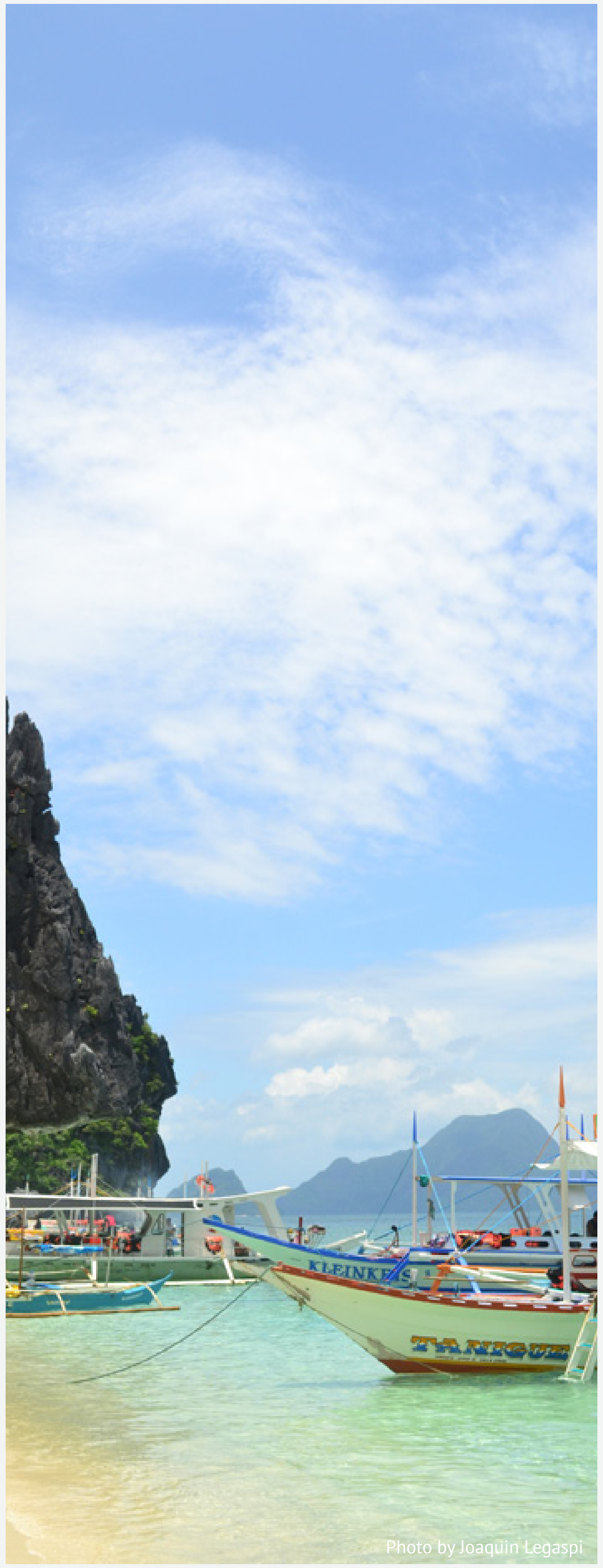


Photo by Joaquin Legaspi

Sector Papers
WATER AND ENVIRONMENT

INTRODUCTION

While the Philippines is abundant in water resources, growing water demand and the propensity of the country to endure stress from natural calamities merits the need for an effective water management policy nationwide. As infrastructure development is a priority for the Duterte Administration, there is an excellent opportunity to improve water services in the Philippines, which is pivotal to promote economic growth and improve quality of life.

European companies, leaders in water-related technology, are willing to cooperate with the Philippines in the development of this sector. Business opportunities can be found especially in climate change mitigation and resilience projects through Public Private Partnerships. The government is also seeking to increase private sector participation as sources of funds for the projects remain one of the main challenges for the development of this sector.

Nonetheless, to achieve water security in the country and to ensure effective participation of the private sector, it is necessary to provide a solid regulatory framework and to create a single government agency that is able to spearhead and coordinate the tangled institutional complexity of the water sector in the Philippines.

We therefore set out the following recommendations:

- Improvement of governance and formulation of a long-term vision for the water sector
- Establishment of water quality standards that are achievable and can be properly implemented by all concerned


Photo Chelsea Murphy

SECTOR SITUATIONER

MARKET DATA

According to the latest available data from the Food and Agriculture Organization (FAO), agriculture accounts for 82% of the 82 billion cubic meters of water withdrawn yearly in the Philippines, followed by industrial demand (10.4%), and finally domestic consumption (7.6%). This demand may increase at an alarmingly rapid rate. Estimates show that the demand for water in Southeast Asia, including the Philippines, may increase between 30 and 55% by 2030.[477] Data collected by the National Water Resources Board (NWRB) show that the total freshwater resources in the Philippines, including lakes, river basins, and groundwater, is about 150 billion cubic meters per year, which means that the water supply is at less than 1,500 cubic meters per capita. According to a report by the United Nations (UN), water stress is experienced by an area when the annual water supply drops below 1,700 cubic meters per person.[478]

With only 5% of the population connected to a sewerage system, only 10% of total wastewater is treated and more than 50% of groundwater is polluted. Given these figures, the Philippines should earmark USD838 million to water supply or water supply infrastructure and USD619 million to sanitation in order to reach the target of universal access to water supply by 2025 and sanitation by 2028.[479] However, water supply investments have been significantly low compared to total infrastructure expenditure. In 2017, the Department of Public Works and Highways (DPWH) has been assigned a PhP454.7 billion budget, from which PhP69.8 billion is earmarked to flood management services, PhP19.7 billion to water-related infrastructure projects, and PhP2.12 billion to water supply, managed by the Local Water Utilities Administration. It is worth mentioning that the vast majority of projects are developed in Metro Manila and other urban areas to the detriment of rural areas.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- Following the government's priority on flood control, DPWH submitted the Flood Management Master Plan in 2012 as a measure to alleviate the effects of heavy rain, typhoons and El Niño and La Niña phenomena. With a total cost of PhP351.71 billion, this plan should develop 11 independent projects in Metro Manila and surrounding areas by year 2035 involving construction and maintenance of flood mitigation structures and drainage systems, as well as other mitigation structures along major river basins and principal rivers. The Phase 2 of Pasig-Marikina Channel Improvement Project has already been completed, as well as the Mandaluyong Main Drainage Project which was completed in September 2016,[480] after the project was left unfinished for three years by the private contractor. The local government now expects flooding to be reduced from days to thirty minutes during rainy season.[481] Other ongoing projects include the Phase 3 of the Pasig-Marikina Channel Improvement Project which is expected to be finalized this year, the Blumentritt Intercept Catchment Area and high-impact flood control projects.[482]
- The **Bulacan Bulk Water Supply (BBWSS) Public-Private Partnership** (PPP) Project is the first water program under the PPP system in the Philippines implemented by the Metropolitan Waterworks and Sewerage System (MWSS). The private partner Luzon Clean Water Development Corporation (LCWDC) will finance, design, construct and maintain the facilities under a Build-Operate-and-Transfer (BOT) model. With an indicative cost of PhP25 billion, it is expected to service 541,000 households in 21 municipalities and three cities in Bulacan where water demand is increasing. As of 7 April 2017, 10% of the on-going construction of the Water Treatment Plant (WTP) has already been completed.

477 ADB (2016). Asian Water Development Outlook 2016. Strengthening water security in Asia and the Pacific. Retrieved: 25/04/2017. https://www.adb.org/sites/default/files/publication/189411/awdo-2016.pdf.

478 Kritz, B. (10/10/2016). Philippines: A hotspot for water crisis. The Manila Times. Retrieved: 25/04/2017. http://www.manilatimes.net/philippines-hotspot-water-crisis/290528/.

479 ADB (02/2015). Water Supply and Sanitation in the Philippines. Turning Finance into Services for the Future. Retrieved: 25/04/2017. http://documents.worldbank.org/curated/en/469111467986375600/pdf/100894-WSP-P131116-AUTHOR-Susanna-Smets-Box393244B-PUBLIC-WSP-SERIES-WSP-Philippines-WSS-Turning-Finance-into-Service-for-the-Future.pdf.

480 Bencito, J. P. (9/7/2016). Mandaluyong drainage project completed in September – DPWH. Manila Standard. Retrieved: 25/04/2017. http://manilastandard.net/news/metro/210318/mandaluyong-drainage-project-completed-in-september-dpwh.html.

481 DPWH (n.d.). Department of Public Works and Highways. Villar: Maysilo Drainage Project Completed on September 30 Deadline. Retrieved: 25/04/2017. http://www.dpwh.gov.ph/dpwh/news/761.

482 Singson, R. L. (27/04/2015). Flood Management Master Plan for Metro Manila and Surrounding Areas. DPWH. Presentation.

ADVOCACY

1. IMPROVEMENT OF GOVERNANCE AND FORMULATION OF A LONG TERM VISION FOR THE WATER SECTOR

ISSUE DESCRIPTION

The Water Code of the Philippines of 1976 (P.D. No. 1067) establishes the basic principles and legal framework for the regulation of the water sector. While it states that all waters belong to the State, it also allows the use or development of waters by administrative concession. According to the code, the Natural Water Resources Board would control and regulate the utilization, exploitation, development, conservation and protection of waters.

The main agencies in water governance are the (1) Department of Environment and Natural Resources (DENR) as the lead agency in terms of rules and regulations for the control of water, air, and land pollution, (2) the National Economic and Development Authority (NEDA) as the key agency for policy formulation, monitoring, and implementation in the water supply sector, (3) the National Water Resources Board (NWRB) as the main implementer and (4) the Water Districts as the local providers of water and sanitation services.[483] However, in the absence of water districts, local government units (LGUs) may establish municipal enterprises, providing water and/or sanitation services.

As for water supply, water services in Metro Manila and adjacent regions (Bulacan, Cavite and Rizal) are provided by the Metropolitan Waterworks and Sewerage System[484] through its two concessionaires: Manila Water Company, Inc (which serves Metro Manila's East Zone) and Maynilad Water Services, Inc (which serves the West Zone). The Local Water Utilities Administration (LWUA) provides technical support to Water Districts in urban regions outside Metro Manila, receiving at the same time technical assistance from the Department of Public Works and Highways (DPWH). In the provinces, the Local Government Units (LGUs), which are both regulator and service provider, are primarily responsible for providing water supply.

While there are more than 30 different agencies[485] involved in the water sector, either in the delivery of services or in the policy making process, there is not a single institution in charge of the overall sector. This institutional fragmentation often results in weak planning and inefficient implementation, coordination, and leadership.

Despite the efforts to coordinate the water sector during the Aquino Administration through acts such as Executive Order (EO) No. 262 in 2011 which placed the Department of Public Works and Highways (DPWH) at the head of program coordination on water-related issues and Department Order (DO) No. 71 Series of 2014 creating the Integrated Water Resources Management Coordination Team (IWRMCT) under the DPWH with the mandate of drawing up a master plan for the development of the water in the Philippines, the overlapping of functions in the sector remains a concern.

Several bills[486] have been filed recently in Congress calling for amendments in this sector. In Particular, Senate Bill (SB) No. 245 known as the Water Sector Reform Act promotes more integrated water resource management. This bill advocates the creation of a Water and Sanitation Regulatory Authority with the mandate of restructuring the water industry, specifically including its sourcing, storage, treatment, distribution, and sewerage treatment. Under this regulation, the NWRB would be the lead agency in water management and the water service providers would operate in the Provincial Water Resource Zones (also demarcated by the bill). This bill also seeks to encourage more investors to participate in water-related services through an incentive scheme and particularly through Public Private Partnerships (PPPs). This Bill was first proposed in 2013 but has remained pending in the Public Services Committee of Senate.

RECOMMENDATIONS

CREATION OF A WATER DEPARTMENT.

We support the enactment of House Bill (HB) No. 2457[487] that aims to create a Department of Water, Sewerage and Sanitation, putting an end to the institutional fragmentation. This government agency will be the focal point of all other agencies involved in the water sector, putting an end to the overlapping of functions of different agencies. The Department of Water will (1) set the policy for water supply, sewage and septage management, (2) manage the water resources to ensure their optimal use, build and maintain water-related infrastructure, and (3) contribute to international dialogue and push for domestic adoption of policies to achieve universal access to water and sanitation.

483 Presidential Decree (PD) No. 198.

484 MWSS was privatized in 1995 under "the Water Crisis Act" (RA No. 8041).

485 Department of Environment and Natural Resources (DENR), Department of Public Works and Highways (DPWH), Department of Health (DOH), Department of Interior and local government (DILG), National Economic and Development Authority (NEDA), National Water Resources Board (NWRB), National Irrigation Authority (NIA), Local Water Utilities Administration (LWUA), Local Government Units (LGUs), Philippine National Oil Company (PNOC), National Power Corporation (NPC), Metropolitan Waterworks and Sewerage System (MWSS).

486 HB No. 221, HB No. 517, HB No. 818, HB No. 2075, HB No. 2392, HB No. 2457, HB No. 3432, HR No. 240, HR No. 294, SB No. 245, SB No. 933 or SB No. 1217.

487 This bill is pending with the Committee on Government Reorganization since October 8, 2016.

Therefore, it will not only facilitate the Philippines' goal of water security but it will also help the private sector access the market, which until now has been pushed aside in many cases due to weak sector planning, poor monitoring , and inefficient coordination.

Along with the mission of unifying existing regulations, rationalizing the various players involved in the water sector, and properly coordinating with DENR and other agencies handling infrastructure development, the Department of Water should also be in charge of data collection for the water sector, consolidating the information received from service providers. This is an important task as access to reliable sector data is essential in the decision making process and in the development of policies needed to achieve universal access in water and sanitation.

Given the importance of this resource and the complexity of this sector, we recommend that the head of the proposed Department of Water be an expert appointed on the basis of his or her technical capabilities.

DEVELOP A LONG TERM NATIONAL DEVELOPMENT ROADMAP FOR A CENTRALIZED APPROACH TO WATER RESOURCE MANAGEMENT.

The development of a comprehensive water sector roadmap with a centralized approach to water management including both long-term and short to medium-term objectives is a must to ensure long-term water availability and the sustainable management of wastewater. The second Edition of the Philippine Water Supply Sector Roadmap (PWSSR) set the framework, goals and strategies of the country's water sector by 2015, along with long-term targets of water security by 2025 and sanitation by 2028.[488] Since the 2010 and 2015 deadlines were already missed, we encourage the revamp of the master plan so as to help the country meet the sector challenges and achieve set targets.

2. ESTABLISH WATER QUALITY STANDARDS THAT ARE ACHIEVABLE AND CAN BE PROPERLY IMPLEMENTED BY ALL CONCERNED

ISSUE DESCRIPTION

The Philippine Clean Water Act (PCW) of 2004 (RA No. 9275) was enacted to protect the Philippines' water from pollution. The DENR is the primary government agency responsible for the implementation and enforcement of this Act. RA No. 9275 also resulted in the creation of the National Sewerage & Septage Management Program with the objective of improving water quality and protecting public health in urban areas of the Philippines by 2020.

More recently, the DENR Administrative Order (AO) 2016-08, issued on May 24, 2016, 12 years after the Clean Water Act was passed into law, establishes new water quality guidelines (WQG) and general effluent standards (GES), superseding the former guidelines contained in DENR DAO-34 and 35 Series of 1990. The new regulation establishes very stringent standards and introduces for the first time standards for nutrients which are even more rigid than in the other countries in the region such as Vietnam, Malaysia or Singapore.

Key changes in Water Quality Standards (DAO 2016-08):

- Introduction of standards for nutrients
- GES apply to all points of source of pollution regardless the volume of wastewater generated
- New parameters: Ammonia, Boron, Selenium, Fluoride
- More stringent standards for Arsenic, Cadmium, Chromium, Lead, Mercury
- Standards are defined based on the sector of the industry. For most of the sectors, introduction of standards for Nitrates, Ammonia, Phosphates, Surfactants
- More stringent standards for the industries with strong wastewater

Although this regulation grants a 5-year grace period to existing facilities for compliance, five years is not enough for both the Administration and private sector to adjust to all the treatment solutions required by the DAO 2016-08. While some industrial locators have already submitted their compliance plans to the Environmental Management Bureau of the Department of Environment and Natural Resources (EMB-DENR), the vast majority of locators will be unable to upgrade their facilities according to the new standards within five years due to the high cost involved in the process.

On the one hand, compliance with these standards by the private sector will require significant upgrading of existing waste treatment facilities, acquisition of advanced operating systems and development of more sophisticated sludge treatment processes, with considerable investment and high operation costs. It will also require highly experienced workers in the planning, design, construction, operation and

488 NEDA (2010). Philippine Water Supply Sector Roadmap. Retrieved: 26/04/2017. http://www.lwua.gov.ph/downloads_14/Philippine%20Water%20Supply%20Sector%20Roadmap%202nd%20Edition.pdf.

maintenance of wastewater systems. In some cases, upgrading will even require redesigning the entire system in place. Furthermore, other government institutions such as hospitals, water districts or public markets will also need to comply with the new effluent standards, facing the same challenges as the private sector.

On the other hand, the Administration might face difficulties in terms of enforcement, especially with the limited number of DENR-accredited laboratories that can perform the required analysis following the new standard. Most of them are concentrated in Luzon, namely in the National Capital Region (NCR), Region III[489] and Region IV-A[490], while on other islands, the closest analytical laboratories to the sampling sites are a few hours away by plane. Other challenges that the government faces in this sector are: a lag in technology, a shortage in the headcount of inspectors across the country, a lack of experts on wastewater treatment, insufficient financial capability, poor performance monitoring of treatment plants and receiving waters, and inadequacy of requirements in bidding documents.

Because of the foreseen difficulties in meeting these standards, potential engineering firms or technology providers can be reluctant to enter the market.

RECOMMENDATIONS

REVISION OF THE DENR ADMINISTRATIVE ORDER (DAO) 2016-08 ESTABLISHING A PHASED IMPLEMENTATION OF THE NEW STANDARDS.

We applaud the progress in legislation towards higher standards for water quality. However, we believe that both objectives and deadlines set in the DAO 2016-08, while ideal, may be impracticable and onerous.

A five-year grace period might not be enough time for both the Administration and the private sector to undertake the reforms requested by the new regulation. Therefore, we recommend a phased implementation of the Administrative Order, starting with critical areas and catchments, and progressively extending to other water bodies. Thus, the Administration could also gradually upgrade its existing laboratories in accordance with the new requirements instead of proceeding with a total refurbishment of its facilities all at once, which would probably be financially unfeasible.

During the revision of the DAO 2016-08, the following points should be taken into consideration. Firstly, we suggest widening the dialogue with the private sector. While industry players and water service providers have been part of previous public consultations, other relevant stakeholders of the sector have not been part of the process. EPBN looks forward to working closely with DENR to approach positions between the water authorities and the private sector with the aim to attain water quality standards in a reasonable and achievable way for all parties involved. The EPBN Water Committee is willing to establish a technical working group with DENR where there can be a mutual sharing of their expertise and advice on how to implement the new legislation, focusing on capacity building and the use of technology and monitoring in order to develop an effective engagement program for the attainment of the new standards.

Secondly, the Administration should consider consolidating similar regulations in one Administrative Order. Currently, whilst the DAO 2016-08 addresses the issue of wastewater from buildings, another DAO tackles the re-use of treated effluent for irrigation or other agricultural uses. A single measure regulating all waters and sources of impact would be able to tackle both urban and rural wastewater issues.

Thirdly, the capacity building of the water entities and bidding authorities is essential to understand the implications of these new standards in terms of technology, expertise, and financial requirements so that the tender processes are in line with these demanding standards.

Lastly, we recommend that DENR undertake a Strategic Environmental Assessment (SEA) with specific regards to the social, economic and climate impacts of its policies and regulations, including an assessment of the carbon impact, to ensure that the desired outcomes are achieved.

> EPBN opens the door to greater collaboration with the Administration with the goal of approaching positions with the private sector, always in favor of the common good.

489 Central Luzon: Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac and Zambales.

490 CALABARZON: Cavite, Laguna, Batangas, Rizal, and Quezon.

INDEX OF ABBREVIATIONS

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
AEP	Alien Employment Permit
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
APC	Aboitiz Power Corporation
APEC	Asia-Pacific Economic Cooperation
APO	Asian Productivity Organization
ASEAN	Association of South East Asian Nations
ATA	Admission Temporaire/Temporary Admission
BAFS	Bureau of Agriculture and Fisheries Standards
B I M P - EAGA	Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area
BIR	Bureau of Internal Revenue
BOC	Bureau of Customs
BOI	Bureau of Investment
BOT	Build–Operate–Transfer
BPI	Bureau of Plant Industry
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
CARS	Comprehensive Automotive Resurgence Strategy
CFRR	Center for Food Regulation and Research
CMTA	Customs Modernization and Tariff Act
CNIS	Comprehensive National Industrial Strategy
CPR	Certificate of Product Registration
D/EEZs	Domestic / Export Economic Zones
DA	Department of Agriculture
DENR	Department of Environment and Natural Resources
DEPED	Department of Education
DICT	Department of ICT
DOE	Department of Energy
DOF	Department of Finance
DOH	Department of Health
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DOST	Department of Science and Technology
DOT	Department of Tourism
DOTr	Department of Transportation
DOTC	Department of Transport and Communication
DPRB	Drug Price Regulatory Board
DPWH	Department of Public Works and Highways
DTI	Department of Trade and Industry
DTI-BPS	Department of Trade and Industry – Bureau of Product Standards
ECCP	European Chamber of Commerce of the Philippines
e-DPMS	Electronic Essential Drug Price Monitoring System
eDST	Electronic Documentary Tax System
EEC	Energy, Efficiency and Conservation
EFTA	European Free Trade Association
EGA	Environmental Goods Agreement
EMSA	European Maritime Safety Agency
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
FATCA	Foreign Account Tax Compliance Act
FDA	Food and Drugs Administration
FDI	Foreign Direct Investment
FINL	Foreign Investment Negative List
FIT	Feed-in-Tariff
FMCG	Fast Moving Consumer Goods
FPA	Fertilizer and Pesticide Authority
FTA	Free Trade Agreement
FOI	Freedom of Information
FY	Fiscal Year
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GI	Geographical Indication
GMAP	Government-Mediated Access Pricing
GNI	Gross National Income
GOCCs	Government Owned and Controlled Corporations
GPA	Agreement on Government Procurement
GSP	Generalized System of Preferences
GWh	Gigawatt hours
HB	House Bill
IBPAP	IT and Business Process Association Philippines
ICC	Import Commodity Clearance
ICC	Investment Coordination Committee
ICT	Information and Communications Technology
IGA	Inter-Governmental Agreement
IMF	International Monetary Fund
INDC	Intended Nationally Determined Contributions
IPA	Investment Promotion Agency
IPC	Intellectual Property Code
IPO	Intellectual Property Office
IPOPhl	Intellectual Property Office of the Philippines
IPP	Investment Priorities Plan

IPPC	International Plant Protection Convention
IPR	Intellectual Property Rights
IRR	Implementing Rules and Regulations
IT	Information Technology
JPEPA	Japan-Philippines Economic Partnership
KPM	Knowledge Process Management
LEDAC	Legislative Executive Development Advisory Council
LGU	Local Government Unit
LNG	Liquefied Natural Gas
LRT	Light Rail Transit
LRTA	Light Rail Transit Authority
LTO	Land Transportation Office
LTO	License to Operate
MARINA	Maritime Industry Authority
MCPs	Mexico City Principles
MDG	Millennium Development Goals
MDRP	Maximum Drug Retail Price
Mio	Millions
MLC 2006	Maritime Labor Convention of 2006
mmt	Million Metric Tons
MNEs	Multinational Enterprises
MRTC	Metro Rapid Transit Corporation
MSME	Micro Small Medium Enterprise
MVIS	Motor Vehicle Inspection System
MW	Megawatt
MWSS	Metropolitan Works and Sewerage System
NAIA	Ninoy Aquino International Airport
NCCAG	National Color-Coded Agriculture Guide
NCMB	National Conciliation and Mediation Board
NCP	National Competition Policy
NEDA	National Economic and Development Authority
NEECP	National Energy Efficiency and Conservation Program
NGCP	National Grid Corporation of the Philippines
NIA	National Irrigation Administration
NLEX	North Luzon Expressway
NLRC	National Labor Relations Commission
NMIS	National Meat Inspection Service
NPC	National Power Corporation
NSW	National Single Window
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
PBI	Bureau of Plant Industry
PC	Phytosanitary certification
PCA	Philippine Competition Act
PCAB	Philippine Contractors Accreditation Board
PCC	Philippine Competition Commission
PCCI	Philippine Chamber of Commerce and Industry
PD	Presidential Decree
PDP	Philippine Development Plan
PDRCI	Philippine Dispute Resolution Center
PETCs	Private Emission Testing Centers
PEZA	Philippine Economic Zone Authority
PhilGEPS	Philippine Government Electronic Procurement System
PhilHealth	Philippine Health Insurance Corporation
PhilRASFF	Philippine Rapid Alert System for Food and Feed
PhP	Philippine Peso
PIATCO	Philippine International Air Terminals Co.
PIT	Personal Income Tax
PNF / PNDF	Philippine National Formulary / Philippine National Drug Formulary
PNP	Philippine National Police
PNS	Philippine National Standards
PNTR	Philippine National Trade Repository
POEA	Philippine Overseas Employment Agency
PPA	Philippine Ports Authority
PPP	Public-Private Partnerships
PRA	Philippine Retirement Authority
PSA	Philippine Statistics Authority
PSA	Public Service Act
PSALM	Power Sector Assets and Liabilities Management Corporation
RA	Republic Act
RCEP	Regional Comprehensive Economic Partnership
RE	Renewable Energy
ROHQ	Regional Operating Headquarters
ROO	Rule of Origin
RPS	Renewable Portfolio Standards
RR	Revenue Regulation
SEC	Securities and Exchange Commission
SB	Senate Bill
SDGs	Sustainable Development Goals
SLEX	South Luzon Expressway
SME	Small-Medium Enterprise
SMEC	San Miguel Energy Corporation
SSB	Sugar-Sweetened Beverages
STEM	Science Technology Engineering Mathematics
TA	Technical Assistance
TABS	Terminal Appointment Booking System
TESDA	Technical Education and Skills Development Authority
TEZ	Tourism Economic Zone
TFA	Trade Facilitation Agreement
TI	Transparency International
TIEZA	Tourism Infrastructure and Enterprise Zone Authority
TIMTA	Tax Incentives Management and transparency Act
TiSA	Trade in Services Agreement
TOR	Terms of Reference
TPP	Trans-Pacific Partnership
TRAIN	Tax Reform and Acceleration and Inclusion
TransCo	The National Transmission Corporation
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRTA	Trade Related Technical Assistance
UHC	Universal Healthcare
UK	United Kingdom
UNECE	United Nations Economic Commission for Europe
US	United States
USD	United States Dollar
VAT	Value Added Tax
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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