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## **IAP Peer Review of the Philippines – Study Report 2009**

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Singapore  
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# Individual Action Plan (IAP) Peer Review of The Philippines

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## Study Report

An evaluation of the current status of the APEC IAP of the Republic of the Philippines and an assessment of how far the Philippines has moved towards achieving its Bogor Goals

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May 2009**

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## **The Philippines IAP Review 2009**

### **Executive Summary**

This report reviews the progress that the Philippines has made towards its commitment to achieving the Bogor Goals of free and open trade and investment. The emphasis is on understanding the context of the Philippines' structural transformation and development challenges in the context of the APEC policy-dialogue process. The report discusses the Philippines' recent performance. It is based on a careful review of individual chapters of the of the Philippines' IAPs from 1996 to 2008, a detailed questionnaire, including specific questions from other APEC members, and extensive consultations with officials during a four day in-economy visit.

The Philippines is coping well in the current global severe economic crisis and has made significant economic progress. Since the last IAP Review in 2005, the Philippines has progressively reduced tariff levels and eliminated non-tariff measures. Notable improvements were achieved in standards and conformance, customs rules and regulations, and the mobility of business people. Various structural policy reforms have supported enhanced domestic competition, the growth of the market economy and private sector development. These included the establishment of a National Competitiveness Council (NCC), Citizens Charters of the Anti-Red Tape Law and a Procurement Transparency Group to promote transparency within the Philippine bureaucracy. While the government of the Philippines faces some systemic challenges to achieving the Bogor Goals in services and investment, there is strong evidence of commitment. Challenges include enhancing effective competition within the domestic economy further, improving the efficiency of public administration and developing the economy's infrastructure.

### **Introduction**

This report reviews the current status of the IAP of The Republic of the Philippines and assesses the progress that the Philippines has made towards achieving the Bogor Goals of free and open trade and investment in the Asia-Pacific region by 2020 for developing economies. It has been prepared by a two-person expert team from Canada and Singapore.

In November 2005 APEC Ministers endorsed revised IAP Peer Review Guidelines, with the intention of intention of invigorating the procedure in the context of APEC's mid-term stocktaking of the overall progress towards the Bogor Goals. The APEC IAP Peer Review process is designed to be a mutual learning experience, focused on the sharing of insights and experiences, and thus is fully consistent with the voluntary and non-binding nature of APEC undertakings. This is different from the Trade Policy Review Mechanism of the World Trade Organization (WTO), which examines the impact of a member's trade policies and practices on the multilateral trading system<sup>1</sup>.

The Philippines is one of four APEC member economies that offered to submit their IAPs for peer review during the first such cycle in 2009. With a population of 85 millions growing at 2 per cent per annum, and with Gross National Income of \$107 billion, the Philippines is a

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<sup>1</sup> World Trade Organization, *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts, Annex 3, 1994*

medium- sized economy in the context of the region.<sup>2</sup> Supported by its abundant human and natural resources, and with a dynamic private sector, it has made impressive progress in its development. Exports have grown strongly, particularly electronics products and IT offshore services. Remittance income from overseas Philippine workers is also an important source of foreign exchange.

The Philippines is a founding member of both APEC and ASEAN, and views regional cooperation as providing important support for its economic development. It has a thriving democratic system of governance with well-developed and active civil society institutions and a free press that vigorously debates public policy matters.

The emphasis throughout the report is on understanding the context of the Philippines' structural transformation and development challenges rather than simply providing a technical review of its trade policy practices. In the sections that follow we discuss the Philippine's recent economic performance, and in particular how the economy is coping with the current global crisis. The individual chapters of the IAP are then summarized, with particular issues singled out for closer examination. These include trade in services, investment, the management of intellectual property, customs administration, and competition policy, all areas where the Philippine's faces challenges in achieving greater liberalization and/or facilitation, or where its practices have been the subject of comments and suggestions from other economies.

Our overall conclusion is that the Philippine's has continued to make significant progress towards achieving the Bogor Goals since the last IAP peer review in 2005. The liberalization process is proceeding steadily, particularly for trade in goods. Progress is also evident in trade facilitation and in various structural policy reforms that will support domestic competition, the growth of the market economy and private sector development.

That said the government of the Philippines faces some systemic challenges to achieving the Bogor Goals in services and investment, which have been noted in the previous IAP Peer Review Study report. In particular the Philippines' Constitution limits the degree of foreign participation in key sectors of the domestic economy. Moreover, the nature of the policy-making and legislative processes in the Philippines means that reforms take considerable time to achieve. Nevertheless, there is strong evidence of both progress and commitment to the spirit of the Bogor Goals, and a number of examples of innovative practice, for example the establishment of such multi-stakeholder mechanisms as the National Competitiveness Council and the Procurement Transparency Group.

Despite this, however, the Philippines has lagged some of its peers in the dynamic East Asia sub-region, both in terms of its degree of liberalization and its economic development. The core issues seem to relate to the degree of effective competition within the domestic economy, the need to improve the efficiency of public administration, and the need to improve the economy's infrastructure.

In addition to conducting a careful review of the Philippines' IAPs from 1996 to 2008, the team examined recent reports on its economic performance. The authors prepared a detailed questionnaire reviewing the Philippines' progress in implementing its IAP commitments, and

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<sup>2</sup> World Bank, *World Development Indicators*, 2005 figures.

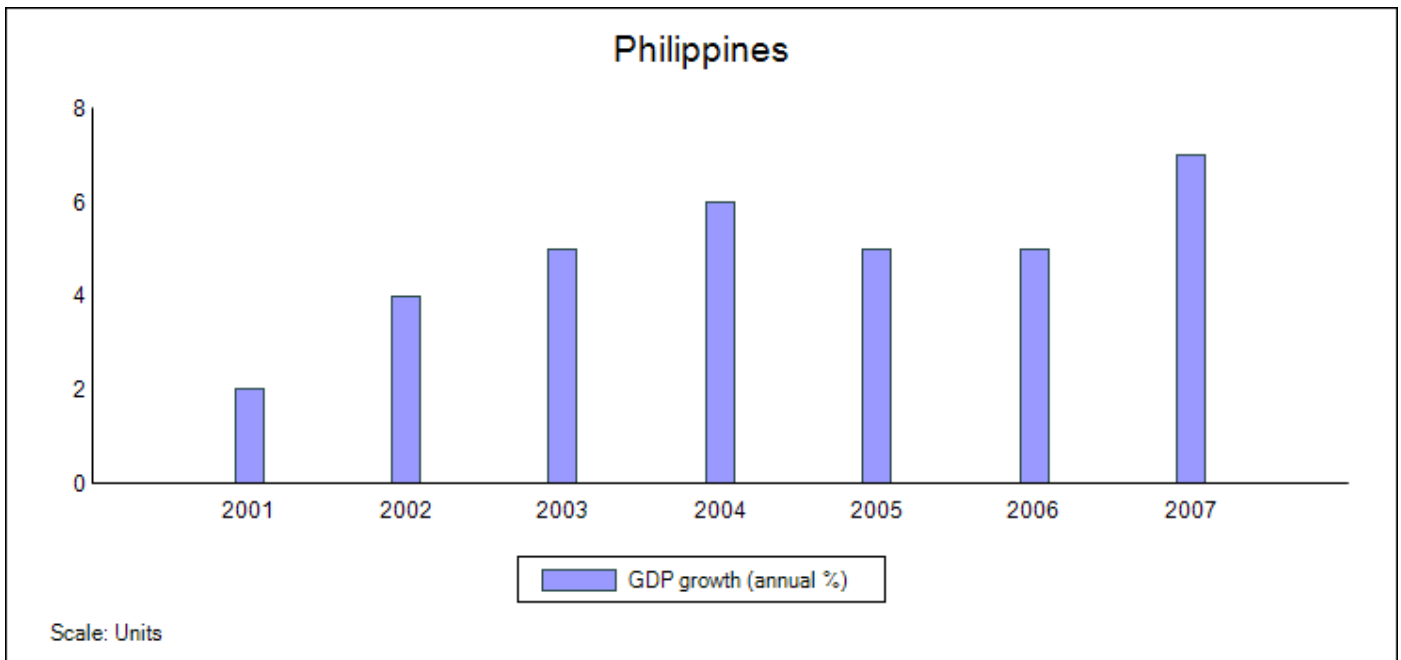
which reflected specific questions from other APEC members. The Philippine authorities provided comprehensive answers to all of the questions, and were pleased to provide supplementary answers where further clarification was sought. A four-day in economy visit from March 23-26, 2009 provided an invaluable opportunity to explore particular issues and challenges with officials from many parts of the government of the Philippines. The authors are especially grateful to the officials of the Department of Trade and Industry for arranging this program and for their gracious hospitality during our visit. We were very impressed by their cooperation and helpfulness in responding to our questions and inquiries. Of course the writers are solely responsible for any errors or omissions that may have crept into this report.

## General Overview

### *Macroeconomic Environment*

Overall the Philippines has made considerable economic progress since the previous IAP peer review study in 2005 and is coping quite well in the current difficult global economic environment. There was robust economic growth, particularly from 2004 through 2007 as shown in Chart 1, which resulted in significant increase in real per capita incomes. Indeed in 2007 growth exceeded 7 percent in real terms, the best performance in over three decades. Growth was supported by a strong export performance until recently, but was also driven by robust remittance incomes from overseas Philippine workers, which in turn buoyed domestic consumer demand. Agricultural production has increased, as has services, with manufacturing growth lagging. At the same time inflation has largely been kept at bay, remaining at single digit rates throughout the period. Food and energy price pressures increased in 2008 but have since eased.

**Chart 1 Economic Growth**



Source: World Bank *World Development Indicators Database*

A slowdown began in 2008, when real growth of 4.6 per cent was achieved, and a further deceleration is occurring in 2009. The most notable impacts of the global economic crisis have been felt in export industries like electronics and automotive components, also remittance income, though the later held up well throughout 2008. However, the Philippine authorities are confident that the economy can weather the storm, and that a recession in the domestic economy will be avoided. It has been sheltered to some degree from external shocks, due to its less open nature than some of its East-Asian peers, and its sound banking system. Final domestic demand has remained relatively strong.

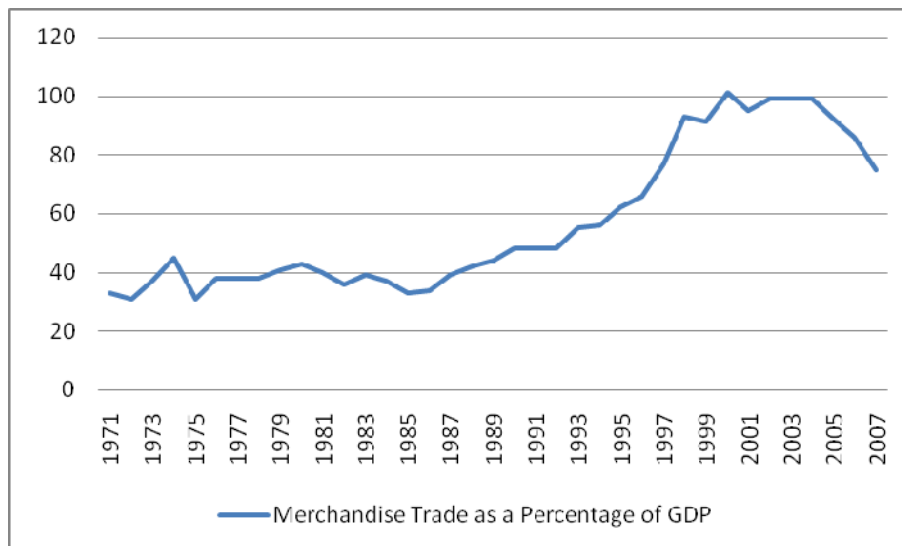
Nevertheless the World Bank has expressed some concern regarding the sustainability of the Philippine's high-growth performance of recent years, citing some underlying structural weaknesses. These include low rates of tax collection and administrative inefficiencies, both of which constrain the capacity to provide public services, and contribute to poor and relatively high-cost infrastructure. There is also continuing underemployment of human resources, and a relatively high and growing incidence of poverty.

The Philippine authorities stress that there has been considerable effort made to sustain recent improvements in tax collection. An economic resiliency plan has been developed and implemented. Its provisions include both stimulus to domestic demand, as well as investments in infrastructure and enhanced social protection. At the same time there has been on-going emphasis on structural economic reform, including tax reform and revenue enhancement, strengthening compliance and enforcement.

*Trade and Investment Environment*

As was noted in the previous IAP Peer review study report, the Philippines shifted away from its policy of import substitution beginning in the 1980s and chose to adopt a more outward-oriented development strategy. As a result the importance of trade to the Philippines economy (as measured by total trade as a percentage of Gross Domestic Product) rose noticeably in the 1990s, as is indicated in Chart 2 below, but it has since fallen off.

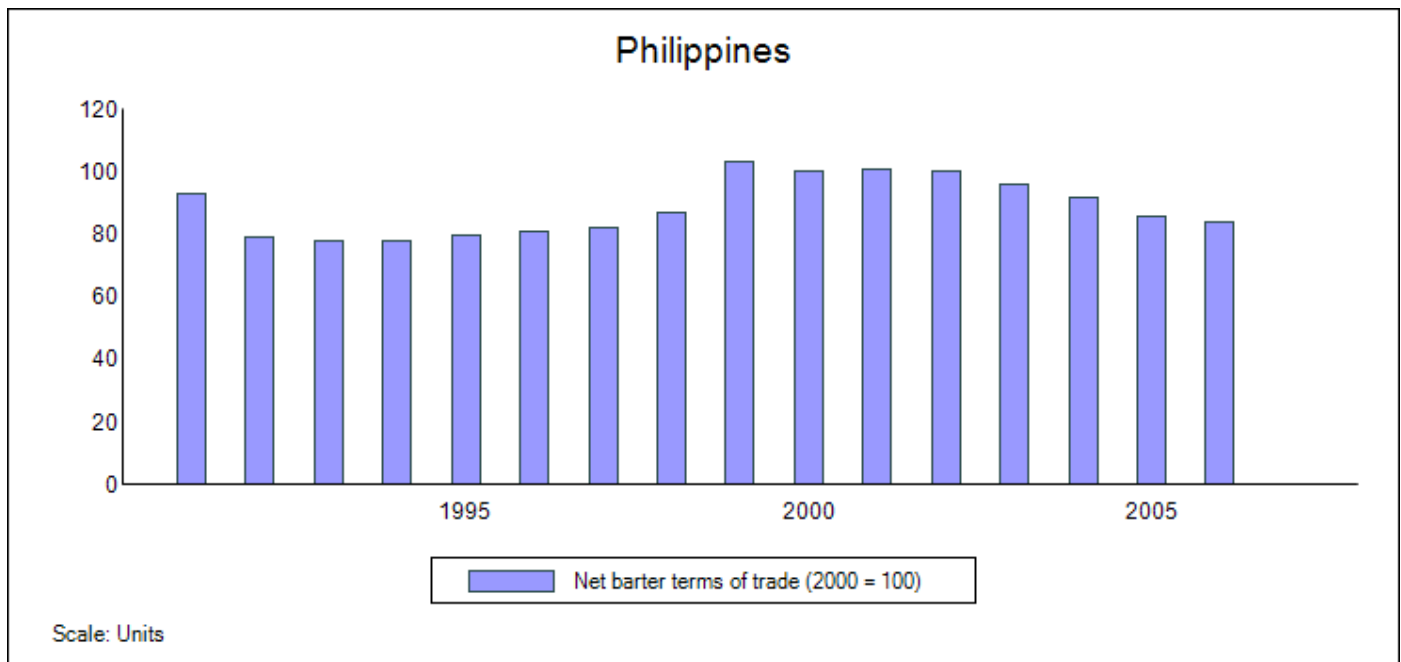
**Chart 2 A More Open Economy**



Source: World Bank *World Development Indicators Database*

As trade was progressively liberalized the Philippines became integrated into global markets. But it is noteworthy that its international trade growth has remained below that of ASEAN as a whole. For example, UNCTAD data indicated that the volume of Philippines' merchandise export increased by about a quarter between 2000 and 2006, with the value of exports increasing less due to a terms-of-trade deterioration (see Chart 3). With respect to the current situation, according to the WTO the value of the Philippines' merchandise exports was \$50 billion in 2008, accounting for 0.4 per cent of the global total. The Philippines imported \$58 billion in merchandise trade, a similar share.

**Chart 3 Terms of Trade**



Source: World Bank World Development Indicators Database

Major markets include the United States, the European Union, ASEAN, Japan and China. Goods exports are dominated by manufactures, with established niches in electronic equipment and automotive components. The Philippines also exports selected agricultural products, notably tropical fruits, and has a presence in the export of services, mainly IT outsourcing and call centres. Finally, mineral exports have grown in recent years in response to government policy designed to revitalize the mining sector. Agricultural commodities, raw materials, and intermediate goods used for the production of manufactures and capital equipment dominate the Philippines import trade in goods. The Philippines is a net importer of both food and energy.

As noted, remittances from Philippines overseas workers, which totalled \$14.4 billion in 2007 according to the World Bank, are both large and have grown strongly until recently. As a result, the Philippines has had a current account surplus, despite its deficit on trade in goods. Capital inflows have also been strong in recent years, resulting in a strong reserve position and a decline in external debt.



While capital inflows have been strong recently, foreign direct investment plays a less significant role in the Philippines than in other large ASEAN economies as was also noted in the previous IAP study report. This situation has not changed since 2005, and it strongly suggests that global enterprises could make a stronger contribution to the development of the Philippines than has been the case to date. According to UNCTAD the 2006 stock of inward foreign direct investment in the Philippines was approximately \$17 billion, which is lower than any other ASEAN members with the exception of Brunei Darussalam, Cambodia, Lao PDR and Myanmar.

Almost four-fifths of the Philippines total trade is with other APEC economies, which also account for over three-quarters of its inward foreign direct investment. The Philippines views APEC as an important forum for promoting trade and investment, sharing knowledge, encouraging domestic reforms, and promoting transparency. The foundation of the Philippine's trade policy is gradual liberalization through multilateral negotiations. But in recent years the Philippines has adopted a pragmatic approach, entering into regional and bilateral arrangements that bring benefits, primarily through its membership in ASEAN. Nevertheless the Philippines has been a somewhat cautious participant in the recent surge of bilateral and regional negotiations. Finally and significantly, the Philippine authorities believe that developing economies must have flexibility with respect to the implementation of their commitments to liberalize trade and investment, consistent with domestic conditions and sensitivities. The Bogor Goals are interpreted in this light.

## **Review of IAP by Chapter**

### ***1. Tariffs***

Since the last IAP Review in 2005, the Philippines has progressively reduced tariff levels down to an average of 6.23 per cent. However, motor vehicles, textiles and clothing still have relatively high tariff rates, in addition to agricultural and food products. Most quantitative restrictions have been abolished, with the notable exception of rice that remains state-traded by the National Food Authority in the 1990s as a result of commitments undertaken in the WTO. Other quantitative restrictions, including import prohibitions and import licensing, are maintained for health, security and similar objectives. The Philippines in 1997 phased out import restrictions previously maintained for balance of payments reasons. The tariff reduction achievement and other liberalization measures have been achieved through a combination of progressive and gradual liberalization commitments in multilateral, regional and bilateral frameworks. In particular, its commitment to the WTO multilateral trading system and ASEAN Free Trade Area (AFTA) has significantly contributed to the Philippines' existing trade policy and related domestic reforms. The Philippines' priorities in the WTO are in the following three areas:

- (a) Market Access: the full implementation of commitments in areas such as industrial tariffs, agriculture, textiles and clothing and services;
- (b) Rules and Disciplines: the proper and effective use of WTO rules and disciplines including measures against unfair trade such as anti-dumping and countervailing duties, safeguard measures under fair trade conditions, custom valuation, subsidies, intellectual property rights;

- (c) Institutional Topics: timely and effective enforcement of the decisions and recommendations under the dispute settlement mechanism and improving and strengthening multilateral trading system through the Trade Policy Review mechanism.

The Philippines has undertaken a Tariff Reform Program over the years. Tariff levels on textiles and clothing have been progressively reduced since 1983 while tariffs on transport equipment were reduced after 2006. At this stage, there is no specific plan to further reduce the tariff rates in these sectors. In 1996, majority of tariff lines on textile and clothing and transport equipment clustered at tariff bands 20 per cent and above. After 2 years of progressive reduction, majority of tariff lines on textile and clothing and transport equipment are grouped at tariff bands of 6 –10 per cent and 1-5 per cent, respectively.

On bound tariffs, no changes have been made since 2002. The changes in bound tariff were brought about by the transposition of nomenclature from the AHTN2004 to the current AHTN2007. Further reduction of bound rates will be in line with Philippine commitments upon the conclusion of the ongoing Doha Development Agenda of negotiations in Agriculture and Non-agricultural Market Access under the WTO. In 2008, the simple average of bound rates was 25.44 per cent, while the simple average applied rate was 6.23 per cent. Thus, there is a tariff overhang of 19.21 per cent that can be considered as APEC “best practice” in the area of tariff liberalization. Its import-weighted average applied tariff rate stands at 3.76 per cent, significantly brought down from their 1996 level of 13.99 per cent and 10.27 per cent, respectively.

Considering that the Philippines as a member of ASEAN has signed various FTAs with China, Korea, Japan, Australia and New Zealand and India, and a bilateral FTA with Japan, there has been no significant adverse effects on non-signatories economies. The simple average tariff rate for non-FTA signatories is 6.23 per cent. On the other hand, the simple average preferential tariff in 2008 under AFTA is 0.69 per cent; under ASEAN-Korea FTA 3.32 per cent; and under ASEAN-China FTA 3.71 per cent. This would mean that economies that form part of these Philippine undertakings enjoy preferential rates vis-à-vis non-FTA signatories that face the Philippines MFN rate of 6.23 per cent. For further reduction on MFN rate, the Philippines fully supports the Doha Development Round, stressing consistently that the multilateral trading system can strongly contribute to further trade and investment liberalization and provides the fundamental framework of the Philippines multilateral, regional and bilateral trade policy.

The progress of tariffs reduction and elimination can be found in the readily-available publication, Tariff and Customs Code of the Philippines. Transparency of the Tariff Regime including implementation of APEC Leaders’ Transparency Standards on Market Access is provided in the annual updates of its MFN tariff schedule on the APEC Tariff database and the WTO integrated database.

#### Implementation of FTAs/RTAs

A commitment to WTO principles has been integral to Philippine economic policies since the Philippines ratified of the WTO Agreement in 1994. Philippine undertakings under the WTO Agreements typically, as in other middle-level developing WTO Members, included a

significant increase in tariff bindings, extensive tariff reductions, elimination of quantitative and other non-tariff measures and commitment in many services sectors.

Concurrently, the Philippines has also pursued preferential trading agreements as a means of increasing trade flows. Within ASEAN, the Philippines is party to the Common Effective Preferential Tariff (CEPT) scheme, signed in 1992. While the CEPT originally called for the reduction of tariffs to 0-5% by 2015, ASEAN in 1999 accelerated the realization of the ASEAN Free Trade Area (AFTA) by 2010. To date, the Philippines has reduced tariffs to zero per cent on almost 80 per cent of total tariff lines. Although CEPT could lead to trade diversion, this effect is currently mitigated by the share of Philippine trade with other ASEAN members, which is modest relative to that of other member states. In the longer term, the diversion effect would be minimized by the gradual reduction of external barriers in the Philippines and other ASEAN economies in AFTA.

APEC's role in the Philippines' economic policy formulation has not changed materially since the last IAP Peer Review. APEC continues to serve as an expression of the Philippines' commitment to domestic reforms, serving as an impetus for trade and investment liberalization and for increasing transparency and productivity. In this context, the Philippines remains pragmatic in approaching FTAs. As a member of ASEAN, it concluded RTAs with a number of ASEAN dialogue partners and ratified a bilateral FTA with Japan in December 2008. ASEAN is considering FTA negotiations with the Gulf Cooperation Council (GCC) and Mercosur. Regional and bilateral agreements are viewed as useful drivers of trade and investments liberalization and are important vehicles to gather mutual support on issues of common interest.

## **2. *Non-tariff Barriers***

The Philippines continues to pursue its import liberalization program that calls for the elimination of non-tariff measures other than those necessary to (a) safeguard public health, safety, security and welfare; and (b) meet international treaty obligations related to the regulation of certain products/commodities as well as medical, scientific and other legitimate needs of the economy.

In addition, the Philippines maintains export licensing requirements for certain products classified as "regulated" and "prohibited" for reasons of national interest, international agreements (CITES), environmental reasons or to conserve depletable raw materials. The Philippines' remaining NTMs affecting imports were on rice and those necessary for health, safety and national security reasons.

The Philippines has had no major change on NTMs since its last IAP, because it has been consistent with its obligations in international treaties such as the WTO, where the Philippines submits regular notifications. Thus, it has adhered to the commitments in transparency standards and market access similarly set forth by APEC. More importantly, to ensure and maintain transparency of its non-tariff measures, the government through the central bank, Banko Sentral ng Pilipinas maintains a list of regulated commodities, which is circularized and made available to the public to ensure transparency and accountability on the non-tariff measures.

The Philippines through ASEAN maintains an NTM database as part of ASEAN integration effort to achieve the ASEAN Economic Community by 2015. This database is updated regularly to include newly-introduced NTMs by Member Economies. Further, ASEAN has a work program to eliminate NTMs according to different tranches that stretch from 1 January 2008 to 1 January 2012 for the Philippines. This ASEAN work program is extended for the use of other APEC economies and to assure of the Philippines' commitment to further review its NTMs.

### 3. *Services*

Overview:

Services comprise about half of the Philippines economy and are responding to growing domestic and overseas demand. Indeed the Philippines has become a popular site for international call centres, and is also becoming established as an exporter of other IT services, especially including business processes outsourced services, where annual growth has averaged around 50 percent since 2001 . But while very important intrinsically, services are also critical given their role in supporting the competitiveness of goods-producing export sectors. It is widely understood that the efficiency of telecommunications and transport services, for example, directly affect the cost of production of in many other sectors of the economy.

While this importance has been widely recognized in the Philippines it is also the case that the progress in services liberalization has been more modest than has been the case for trade in goods, and this is likely to continue to be the case for some time to come. This is due to the presence of some fundamental legal constraints embodied in the Philippines Constitution that limit market access and national treatment. The widely-accepted view is that Philippine domestic services industries should be locally controlled. For some professional services, no foreign participation is allowed—the practitioner must be a Philippine citizen. For others, foreign equity is permitted, but it is limited to 40 per cent. There have been initiatives to amend the Constitution to allow more foreign economic participation, but agreement to do so has not yet been achieved. As a result no change to this scenario seems likely in the foreseeable future.

For their part the Philippines authorities rightly does not consider the Bogor Goals to preclude strong domestic regulation of services for the public good. There are considerable efforts underway to privatize former state-controlled assets, to increase competition among service providers, as well as to both streamline and strengthen domestic regulatory and supervisory regimes. Given the perspective that such behind-the-border reforms are a necessary precursor to the liberalization of trade in services, these efforts are commendable. However, in number of cases, implementation of such reforms has proven to be challenging in the Philippines milieu.

Finally efforts to update the IAP chapter for the services sector have been limited due to a lack of resources. There has been a similar concern expressed by Philippine officials regarding the negotiation of services commitments in the WTO and ASEAN. It must be recognized that the design and implementation of public policies with respect to services sectors is exceedingly complex and challenging for a developing economy. The Philippines has been progressing steadily and does so in the context of a democratic political system in

which stakeholders with divergent views and interest are actively engaged in the debate over public policy-making.

#### Telecommunications:

The telecommunications sector in the Philippines has been deregulated and the former private monopoly known as Philippine Long Distance Telephone Company, or PLDT, was broken down in 1995 with the enactment of the Public Telecommunications Policy Act or RA 7925. Currently the telecommunications sector is, like those in many other economies, characterized by the existence of a dominant provider of fixed lines services (PLDT) but with robust competition in both fixed line and mobile services. There is strong growth in demand, particularly for mobile services and significant technological enhancements. An independent regulatory body is in place known as the National Telecommunications Commission (NTC). The emphasis in regulatory reform is currently focused on strengthening NTC, including a proposal to create a fixed term for commissioners.

Since the last IAP a number of improvements have been implemented in the form of promulgating rules to enhance competition. Efforts are also underway to further enhance domestic competition, especially for value added services and new technologies, such as Voice over Internet Protocol (VOIP). These initiatives also include a convergence bill and legislation to combat network fraud. Both are working their way through the Congressional process, but it will likely be some time before they become law.

While there is significant activity underway designed to enhance competition further, and to update and streamline the regulatory and supervisory processes, there are no plans to change current restrictions on foreign equity participation in the Philippines telecommunications sector enshrined in the Philippine Constitution. Thus for the present the Philippines is constrained from opening its market further and from removing existing restrictions on national treatment.

#### Distribution Services:

Although foreign brand names are prominent within Philippine domestic retailing, in most cases they are based on locally-owned franchise arrangements. There are only about 10 large foreign- controlled retailers operating within the economy.

Since the last IAP the documentary requirements to support application of foreign retailers for prequalification with the Board of Investments has been simplified. Enterprises with paid up capital of less than \$2.5 million are reserved for Philippine-owned companies. Retail enterprises may be 100 per cent foreign owned, subject to earlier transitional arrangements, which have now lapsed. During the transitional period, the 60/40 equity requirement was applied. The law permits 100 per cent foreign ownership to retailers whose minimum paid-up capital is equivalent to Philippine Pesos of US\$2.5 million or retailers of luxury goods whose paid-up capital is equivalent to Philippine Pesos of US\$250,000.00 per store. A reciprocity condition applies to access to retail trade in the Philippines to economies that permit entry of Filipino retailers.

There are no immediate plans to liberalize market access or national treatment provisions further. Nevertheless the Philippines authorities argue that the capital requirements for 100 per cent ownership are not very restrictive.

#### Financial Services:

The banking sector consists of 38 universal/commercial banks (i.e. large institutions), 77 thrift institutions and 703 rural banks, the latter accounting for less than five per cent of total assets. With this structure the Philippines banking system is more similar to that of the United States than to the more concentrated European, Australian, or Canadian systems. In addition, the *Bangko Sentral ng Pilipinas* (BSP) has supervision over 6,439 non-banking institutions composed mostly of pawnshops and non-stock savings and loan associations.

There are 14 branches and 3 subsidiaries of foreign banks currently licensed to operate in the Philippines. The three possible modes of entry are: (1) establishing a Philippine subsidiary; (2) acquisition of an existing banking license; and (3) opening of branches). An acquisition or the establishment of a subsidiary is subject to a 60 per cent equity cap. There is also foreign participation through representative offices and offshore banking. Currently the foreign banks control around 14 per cent of total banking assets; this level is well below the 30 per cent aggregate ceiling under existing Philippine legislation.

Banking was opened to additional foreign participation in the 1990s, but there are currently no plans to issue additional licenses. There have been reforms and initiatives noted in the banking system since the last IAP review, such as the increase in deposit coverage, introduction of new banking products such as unit investment trust funds, expansion of derivative licenses, adoption of international best practices such as Basel II, international accounting standards and risk-based supervision and lately, the reform of foreign exchange regulations. Moreover the BSP has introduced measures such as enhanced surveillance and communication, regulatory forbearance and liquidity support to address the fallout from the global financial crisis. There is considerable interest among other APEC members on the possibility of increasing access to the Philippine banking market.

The banking sector is stable, having purged the problem assets dating from the Asian financial crisis from institutions' balance sheets. But the authorities would like to see further consolidation, particularly among the smaller institutions. This is a primary reason why there are currently no plans to consider additional foreign banking licenses. Finally, the Philippine banks appear quite well-positioned in the light of the recent global pressures. Exposure to the international credit crisis amounts to 1.3 per cent of total assets and only 13 per cent of bank capital, with the exposures concentrated in a few banks

Banks are supervised by *the Bangko Sentral ng Pilipinas*, the independent central monetary authority. A significant development is the passage of a law establishing a centralized credit information system for the collection and dissemination of fair and accurate information relevant to credit activities of all entities participating in the financial system. There are separate supervisory authorities for insurance companies and securities firms the Insurance Commission and Securities and Exchange Commission, respectively.

#### Transport Services:

Air and sea transport are of primary importance, given the geography of the Philippines, an archipelago consisting of thousands of islands spread over a vast area. Moving people and goods safely and at low cost is a challenge. There is a consensus that all Philippine transport sub-sectors have been constrained by a lack of infrastructure investment. While progress is evident on a number of fronts, overall the Philippines needs to exert more effort in the development of modern transport services. In general foreign equity investment in the transport sector is limited to 40 per cent limit, and there are no plans to alter this in the foreseeable future.

For air transport, the Civil Aeronautics Board provides economic regulatory oversight, based on legislation dating from 1952, whereas the Civil Aviation Authority of the Philippines (CAAP) provides safety and technical oversight. International air traffic rights have been further liberalized for certain airports, notably Clark and Subic, the former US bases located near Manila. This is an improvement since the last IAP. For other airports, including the gateway Ninoy Aquino International Airport (NAIA) in Manila, traffic rights are negotiated through bilateral agreements in the traditional manner following the progressive liberalization policy of the government.

It is notable that there has been a marked increase in the number of such bilateral agreements in recent years, with over 20 sets of negotiations having been held since the beginning of 2008. This has resulted in expanded capacity. NAIA dates from the 1940s, and growth is constrained by the infrastructure. A new Terminal 3 has been the subject of a dispute between the Philippines and the erstwhile foreign developer, though this has now been resolved.

A number of legislative and regulatory reforms related to maritime transport have taken place since the last IAP, most notably the issuance of implementing rules and regulations pertaining to the Domestic Shipping Act of 2004. But more broad-based reforms of the regulation and supervision of the maritime transport sub-sector are being considered with assistance from an international donor. An Omnibus Merchant Shipping Act is under development that will cover all aspects of registration through the management and manning of ships for safety. The Philippines Port Authority oversees regulations and operations of the economy's 600 plus ports, though many operations have been privatized. The privatization process has evidently improved productivity as both terminal operating costs and turnaround times are falling.

## Energy Services

The Philippines 2008 IAP makes outlines few specific plans for further improvement. The major undertaking noted is to further promote geothermal energy development through service contract applications, which would be used to encourage foreign investment for exploration and development activities. To put this into context the Philippines would like to increase its degree of energy self-sufficiency to 60 per cent by 2010. The focus is on development of indigenous energy sources with a particular emphasis on renewables, where the Philippines is a potential leader. At the present time 25 per cent of requirements come from coal, 34 per cent from gas, 7 per cent from oil, 16 per cent from hydro, 18 per cent from geothermal sources, with wind and solar power playing a minimal role to date.<sup>3</sup>

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<sup>3</sup> In 2007, the economy's energy mix of 39.4 million tons of oil equivalent (MTOE) yielded an energy self-sufficiency level of 56 percent. The share of imported oil and coal accounted for over 44 percent in the supply

The Philippines is in the eighth year of implementing a program of domestic power sector reform, based on privatization of producers, the separation of generation from distribution, and the creation of competitive markets. The passage and implementation of the Electric Power Industry Reform Act of 2001 (EPIRA) was intended to achieve secure and reliable electricity supply, as well as reasonable electricity rates, through restructuring and privatization of the Philippine electric power industry. To date this has resulted to major changes in the electric power industry, including the separation of control and operation of the generation and transmission assets of the National Power Corporation (NPC); the unbundling of rates among generation, transmission, distribution and other related services; and the establishment and commercial operation of the Wholesale Electricity Spot Market (WESM).

However, Open Access and Retail Competition, a key feature of the EPIRA, has not yet been implemented, due to a delay in achieving compliance with the remaining preconditions, specifically privatizing 70 per cent of the total NPC generating assets in Luzon and Visayas, and the transfer of the management and control of the total energy output of power plants under contracts with NPC to the IPP Administrators. Thus the results to date have not been as hoped, particularly with regard to the achievement of lower prices. For the foreseeable future policy makers and regulatory and supervisory bodies will be preoccupied with implementing the agreed reforms in an effort to create an effective competitive domestic market.

Looking to the future, a comprehensive energy plan has been developed covering the period to 2014. The achievement of the medium term goals will depend on the development of renewable energy projects. These in turn await the passing of legislation to provide specific investment incentives. Significantly, the 2009 Investment Priorities Plan, of which energy is a priority sector, was approved on 7 May 2009. Energy conservation is also an important part of the overall medium-term plan, and there is evidence of progress in this regard. Government has achieved significant savings through energy conservation, while the Asian Development Bank is funding an energy-efficiency project that is expected to save about \$100 million every year in fuel costs.

Finally, the Philippine authorities have made concerted efforts to involve all stakeholders in the development and implementation of the plans. An innovative event in this regard was the Philippine Energy Summit, held in February 2008 at a time when oil prices were rising rapidly. The summit brought together 2500 stakeholders to consider how the Philippines could reduce its dependency on imported fossil fuels.

#### Tourism and Travel Related Services:

In its 2008 IAP the Philippines did not identify any specific further improvements related to travel and tourism services. Yet the sector is an important potential source of further development of the economy. Tourism reached a milestone in 2007 when the Philippines welcomed 3 million foreign visitors. This is a modest level of activity compared to other economies in SE Asia, though tourists in the Philippines tend to stay longer and spend

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mix. Among indigenous energy resources in the economy, the main contributors are geothermal, biomass and natural gas. Essentially, these data levels are expected to be sustained in 2008 based on forecast data from the Philippine Energy Plan.



more—an average visit lasts 16 days. Arrivals continued to grow in 2008 by 1 per cent despite the downturn in the global economy. The major markets are Korea, the United States, Japan and China. Visiting friends and relatives traffic is an important component in some markets, such as the United States. Investor interest is high.

There are currently \$20 billion of tourism investment projects in the pipeline, most related to building accommodations. Lack of infrastructure and limited air connections are two major constraints to the development of the Philippines tourism sector. Charter flights from China to Cebu have recently been established, an innovative response to the problem of a lack of direct air links.

Domestic regulations also militate against the development of the tourism sector. As a result of a 1991 effort to decentralize decision-making, the responsibility for licensing hotels has been delegated to local authorities. This makes the development of Philippines-wide quality standards difficult. Decentralization also works against infrastructure development.

The Philippines participates in ASEAN regional cooperation on tourism. In January the Philippines signed the new ASEAN MRA for tourism professionals, which is aimed at standardizing and strengthening occupational skills and standards for the hospitality industry. Trading partners have requested that the Philippines reduce current restrictions on tour guides, an activity currently reserved for Philippine citizens.

#### **4. Investment**

The Philippines economy has been growing more rapidly in the recent years due to steady inflow on foreign direct investment and increased domestic investment. It is committed to the objective of economic growth driven by investment and increased in productivity. Increasingly, FDI together with technology transfer have been the primary sources of economic growth in the Philippines. It encourages foreign investments in enterprises that significantly expand employment opportunities, enhances the value of its products, quality and volume of exports and their access to foreign markets. As a result, the government does not discriminate against any investment sources economy. National treatment is provided. All areas are open to foreign investment, except those restricted under the negative list by legal and or constitutional constraints and for reasons of security, risk to health and morals and to protect small and medium enterprises (SMEs).

The Philippines has one of the most liberal policy and regulatory frameworks for investment in Southeast Asia. When investing in the economy, businessmen are guided by clearly spelled out laws, rules and regulations that govern the conduct of investments in the economy. Further liberalized foreign investment participation in retail trade through EO 584 or the 7<sup>th</sup> Regular Foreign Investment Negative List that provides for full foreign participation in retail trade enterprises provided capital and establishment requirements are satisfied. The basic problem of investing in the Philippines lies in the restriction on the level of foreign equity participation that is enshrined in the Philippines Constitution and negative perception of the investment environment, regulatory coordination and administrative bureaucracy. Therefore, there are both legal and practical limitations to investment liberalization imposed by institutional framework, given that constitutional reform is difficult. The enactment of the Citizen's Charter with the strategic goals of enhancement of revenue collection, developed personnel competence and welfare, secured trade facilitation, strengthened enforcement and

improved work environment has contributed to much upgrading and efficiency of the investment environment and customs regime in the Philippines. Citizen's Charter and the establishment of the National Competitiveness Council (NCC) in October 2006 to address the improvement of the economy's competitiveness through reduction of transaction costs and increased investment flows have improved significantly transparency and administrative bureaucracy.

The Philippines has bilateral investment agreements with 11 APEC economies and 30 non-APEC economies. The general provisions of the bilateral investment agreements include reciprocal protection and non-discrimination; free transfer of capital, payments and earnings; freedom from expropriation and nationalization; and recognition of the principle of subrogation. Further details on the Philippines' investment policies are provided in the Guide to the Investment Regimes of the APEC Member Economies and on the Internet.

Regarding implementation of the APEC Leaders' Transparency Standards on Investment, the Philippines promotes transparency in respect of laws, rules and regulations affecting investment. Public hearings and consultations are conducted in the formulation of policies. The civil society and the private sector have consultative representation in government committees. As a general rule, laws and rules and regulations cannot take effect after 15 days following complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines unless otherwise provided.

As a full member of the Multilateral Investment Guarantee Agency, the Philippines is committed to protect investments through the agency against risks associated with host government restrictions on currency conversion and transfer, expropriation, war, revolution and civil disturbance. On performance requirements, the Philippines has eliminated all trade-related investment measures (TRIMS) notified to the WTO. The coverage of the FINL has not changed since the last IAP Peer Review since no new laws were enacted or removed on foreign equity limitations on investment areas/activities. However, the Philippines government is scheduled to release the 8<sup>th</sup> List on the FINL in early 2009

The Philippines is a signatory of ASEAN Comprehensive Investment Agreement (ACIA) that has four major pillars of liberalization, facilitation, protection and promotion. This would promote immediate benefits for both ASEAN investors and ASEAN-based investors. As a result of this ACIA Agreement, there is a significant improvement on transparency and consistency on investor-to-state dispute settlement mechanism.

The Philippines is committed to the Bogor Goals for a continuing unilateral trade and investment liberalization and an adoption of a standstill requirement that will endeavor to refrain from using measures that will increase the level of protection. There has not been any complaints concerning any adverse impact on APEC economies that have not signed a bilateral investment treaty (BIT) with the Philippines. This is due to the fact the investment climate has significantly improved over the years, and has been strengthened by regional and bilateral agreements and by increasing national competitiveness and transparency. However, there were some empirical studies done by OECD and UNCTAD to indicate that investment climate is less favourable in the Asia-Pacific, including the Philippines, compared to other regions. These conflicting empirical claims could be attributed to the fact the measurement of FDI and barriers to FDI is not as straightforward as measurement of tariff barriers. After the in-economy visit, the experts have been impressed with various important positive changes in

Philippine's investment regime. However, there is a continuing need for further capacity building to properly investigate measurement barriers to FDI as the Philippines is still lagging behind other ASEAN economies in attracting FDI.

## **5. Standards and Conformance**

The Philippines government considers standards and conformance is a vital component to facilitate and increased trade flows. It actively participates in international standardization activities. At present, it is a participating member to 28 ISO Technical Committee (TCs) and observer (O) to 46 ISO TCs. It also participates in 15 Codex committees and annually participates in the Commission Meetings. The Philippines will continue to participate in the standardization activities of international standardizing bodies. In this respect, the Philippines participates in plurilateral arrangements on conformity assessments within APEC and currently participates in the APEC Arrangement for the Exchange of information on various industrial products. It has also signified its participation in recognition of test results in the ASEAN Mutual Recognition Arrangement for Electrical and Electronic Equipment and telecommunication Equipments.

Since its last IAP Peer Review, the Philippines has signed a number of MRAs with APEC economies, including Australia for the certification of food exports to Australia; technical cooperation with Indonesia; and concluded the Mutual Recognition Chapter of the Japan-Philippines Economic Partnership Agreement; product certification and approval schemes with Malaysia; on cooperation of industrial products safety and TBT Measures with China.

The following are the major achievements in the area of standards and conformance from 2005 to 2008:

- (a) Alignment of standards with international standards—From January 2005 to December 2008 a total of 2,090 Philippine National Standards (PNS) are aligned with International Standards. To date 78.36 per cent of total PNS are aligned with ISO/IEC standards;
- (b) Alignment of standards with international standards in priority areas agreed by the Subcommittee on Standards and Conformance (SCSC)—Adopted a total of 20 international standards under the priority products of APEC;
- (c) Active participation in the international standardization activities of international standardizing bodies;
- (d) Participation in plurilateral recognition arrangements of conformity assessment in the regulated sector;
- (e) Participation in bilateral recognition arrangements of conformity assessment in the regulated sector.

Since its last IAP Peer Review, the Philippines has been actively and vigorously pursuing APEC Leaders Transparency Standards on Standards and Conformance that are aligned with international standards both in the consumer and manufacturing sectors. There is a continuing need for further capacity building in standardization and conformity, especially in the area of coordination to maintain the consistency and monitoring of standards and conformance. However, the Philippines government is keenly aware of the importance of standards and conformance in promoting trade and investment towards the Bogor Goals.

## **6. Customs Procedures**

Since its last IAP Review in 2005, the Philippines has intensified its efforts to simplify and harmonize customs procedures in order to facilitate international trade and build confidence through greater transparency. In doing so, the Philippine experience has shown that the collaboration of government with the business community is critical in ensuring success in trade facilitation policy development and implementation. Thus, it participated with and secured support from international organizations and local stakeholders in customs-related activities, including baseline studies on customs procedures. These studies and training contributed to the continuing organizational transformation of the Philippine Bureau of Customs as well as its local stakeholders. There are significant numbers of improvements such as launching website for greater public access to information and transacting with customs, internet lodgment of import declarations in 11 ports through 3 value added service providers, enhanced the risk Management System and to be implemented as soon as the required organizational and technical infrastructure improvements are in place.

On the Kyoto Convention on Customs Procedures, the instrument for accession has been signed by the President and forwarded to the Senate for ratification. In line with the Kyoto Convention, the Philippines has undertaken a review of data elements used by Customs. It is also undertaking consultations with other relevant agencies to determine data needs as well as in exploring the possibility of harmonizing data elements, computerization of its appeals procedures and rulings on classifications and database for customs processing with other APEC economies. It continues to pursue a computerization program in order to provide an efficient revenue collection service, facilitate trade and investment, and to protect domestic trade and industry against illegal trade and terrorism. It continuously enhances its post entry audit system towards an informed compliance regime using risk management approach.

As part of ASEAN Single Window Agreement, the Philippines has initiated and established measures and institutions related to National Single Window. This program has facilitated and harmonized customs procedures contributing towards its efforts to simplify and standardize customs procedures in order to facilitate trade through greater transparency to all its trading partners, including APEC economies.

On the APEC Leaders' Transparency Standards on Customs Procedure, the Philippines made much progress on transparency standards, accessibility, and harmonization of customs rules and regulations. Specifically, it has improved measures in (a) providing for the prompt review, (b) ensuring that importers are provided with the right level of administrative review independent of the office issuing the determination subject to review and (c) maintaining the availability of judicial review of customs administrative determinations.

The basic system and administrative mechanism for best practices on customs procedures are already established. What it needs is to upgrade continually its capability and coordination to manage and maintain a high standard of customs procedures as stipulated in the amended rules and regulations pertaining to customs procedures since the Philippines' last IAP Peer Review.

## 7. *Intellectual Property Rights*

The Philippines recognizes the importance of having an effective intellectual property system to encourage domestic creative activity, facilitate technology transfer, attract foreign investments and assure the access of Philippine-made products in the world market. The Philippines has developed a sound legal system for the protection of intellectual property rights, based on the Intellectual Property Code of the Philippines, which took effect in January 1998. The Philippines is in full compliance with its legal obligations under the TRIPS Agreement A and is a member of the World Intellectual Property Organization (WIPO).

Concerns expressed by other APEC members relate to the effectiveness of the implementation of these commitments. It has been suggested by its trading partners that the enforcement of intellectual property rights by the Philippines should be stronger, particularly in regards to pirated copies of electronic media. The Philippines recognizes these concerns and has been striving to strengthen its enforcement of intellectual property laws.

“Strengthening the IPR Regime Strategy”, is a comprehensive strategy articulated by the Philippine government in 2005, which encompasses Public Outreach; Institution and Capacity Building; IPR Enforcement; Judicial and Adjudication Reforms; Legislation and Policy Reform, and International Cooperation. Officials within the Intellectual Property Office of the Philippines (IP Philippines), a unit of the Department of Trade and Industry, express confidence that genuine progress is being made. This is corroborated by independent assessments suggesting that steady progress is being made, for example (emphasis added):

“There are a number of IP protection concerns in the Philippines. The legal system puts formalities ahead of substance; judges are inexperienced in IP matters; and cases are fraught with delays. There are numerous practical issues as well, such as bureaucratic inefficiency, poor inter-agency co-ordination, and corruption. The legal system is US-based. Most IP enforcement takes place in Manila, with one or two other cities, such as Cebu and Davao, having sufficient commercial importance to warrant occasional enforcement interest. *But slowly the system is improving and more successful cases are taking place every year.*”<sup>4</sup>

Progress is also evident in terms of specific activities. Since the last IAP Peer review of the Philippines has updated its intellectual property framework in several important respects, including the following:

- The implementing rules and regulations of the Optical Media Act of 2004 were finalized to operationalize the mandates of the law which created the enforcement structure and mechanism for optical media-embodied intellectual properties.
- IP Philippines, in partnership with the IP Coalition of intellectual property owners, has implemented the Local Government Unit Ordinance Project of 2005, which

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<sup>4</sup> Rouse & Co, *Brief Guide to Intellectual Property in the Philippines*, <http://www.iprights.com>

resulted in several anti-intellectual property piracy ordinances. As of 2008, 11 local government units have already adopted such ordinances, including the cities of Makati; Quezon; Muntinlupa; Navotas; Cebu; Iloilo; Davao; Baguio; Naga; Balanga, Bataan; and Tuba, Benguet.

- Executive Order 736 of June 2008 created permanent units to enforce intellectual property rights coordinated by the National Committee on IPR.
- A research and training arm of the Intellectual Property Office has been established.
- The Intellectual Property Office and the IPRTI spearheaded the training of government officials, intellectual property practitioners, and members of the academe on patent drafting process and intellectual property enforcement, among others. IPRTI has also trained the members of the commercial court judiciary on the oversight of intellectual property law.
- A Philippines Intellectual Property Policy Strategy (PIPPS) has been developed and submitted to the President. The strategy emphasizes that the strong protection of IP rights in the Philippines national interest—Philippine exports are increasing based on intellectual property and exporters hold patents.
- The Filipinas Copyright Licensing Society (FILCOLS) was launched as the first collection society for book authors in the economy that will manage arrangements for copyright licensing, marketing and distribution of the members' works.
- The “Universally Accessible Cheaper and Quality Medicines Act” and accompanying implementing rules and regulations were signed in 2008, bringing Philippine legislation into conformance with recent WTO agreements, including modifications to the rules governing compulsory licensing.
- Public consultations are seen as an integral part of the policy-making process, and critical for promoting transparency.
- IP Philippines has aggressively pursued programs of public education since 2005 to build awareness of intellectual property issues, respect for IP owners' rights, and to encourage entrepreneurs to avail themselves of opportunities to protect intellectual property, for example encouraging use of the patent system.
- In 2008, IP Philippines has established the Intellectual Property Regional Operations Unit (IP-ROU) to take charge of opening intellectual property satellite offices in various regions of the economy through partnership with the Department of Trade and Industry Regional Offices. As a service delivery mechanism in the regions, the satellite offices shall play a strategic role in promoting public awareness and education on intellectual property.
- E.O. 736 of June 2008 has created permanent units to enforce intellectual property rights coordinated by the National Committee on Intellectual Property Rights (NCIPR). This Presidential move has received commendation from the Business Software Alliance (BSA), Asia-Pacific and the Intellectual Property Coalition, Inc. which said that:

“We commend the Philippine government for taking this resolute action towards the protection of IPRs in the Philippines. The Executive Order signed by the President is an important step forward to fight against software piracy and will help spur the progress not just for the information and communications technology (ICT) sector but of the entire economy, to which ICT is one of the major driving forces.”<sup>5</sup>

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<sup>5</sup> Jeffrey Hardee, BSA Vice-President and Regional Director, Asia-Pacific. [www.regulations.gov](http://www.regulations.gov).

- The combined enforcement efforts of the Philippine Bureau of Customs (BOC), Optical Media Board (OMB), Philippine National Police (PNP), and National Bureau of Investigation (NBI) since 2005, and of the NCIPR member agencies in 2008, have strengthened the government's continuing campaign against pirated goods. The OMB has received the Asia-Pacific Copyright Enforcer (ACE) Award 2006, a top Asian Copyright Award which recognized the dedication and achievements of those tasked with fighting film piracy within the Asia Pacific Region. The Asia-Pacific Motion Picture Association International has also written the Philippine President commending the OMB's dedication in protecting IPRs in the country.<sup>6</sup> The campaign against pirated optical media trade has also scored high in 2008 when the country had another record zero-piracy of films that were shown in the Metro Manila Film Festival.<sup>7</sup> Even non-government organizations<sup>8</sup> have commended these enforcement efforts.

## 8. *Competition Policy*

Discussions of competition policy in the Philippines should be seen in the context of domestic market structure. Although small and medium-sized enterprises (SMES) are the most common type of business establishment in the Philippines, in the aggregate the marketplace is quite concentrated. The Philippine corporate sector is dominated by large, family-owned businesses operating in diversified sectors. At the end of 2003, 62 of the market capitalization of PSE was composed of 23 family-controlled groups.<sup>9</sup>

While the Republic of the Philippines has several pieces of legislation on the books that deal with various aspects of competitive behaviour in the marketplace, it lacks a comprehensive national competition policy supported by comprehensive legislation. This situation was discussed in detail in the 2005 IAP study report, which welcomed plans for reform of competition laws, while also noting that the Constitutional limits on foreign equity participation has the effect of reducing competition.<sup>10</sup>

While as noted below the legislative process is considering reform, there has been no fundamental change in this situation since the last IAP. The lack of cross-cutting legislation is readily acknowledged to have created problems with the enforcement of anti-trust. Current anti-trust laws are based on criminal jurisprudence, making convictions difficult. However, attitudes regarding competition are changing. Officials report that a culture of competition is

<sup>6</sup> <http://www.omb.gov.ph/citations.html>

<sup>7</sup> [http://omb.gov.ph/newsdetails.jsp?news\\_id=26](http://omb.gov.ph/newsdetails.jsp?news_id=26)

<sup>8</sup> Philippine Association of the Record Industry, Inc. (PARI), Association of Video Distributors of the Philippines (AVIDPHIL), Filipino-Chinese General Chamber of Commerce, National Cinema Association of the Philippines (NCAP); <http://www.omb.gov.ph/citations.html>.

<sup>9</sup> Philippine Centre for Investigative Journalism 2004, as quoted by the Asian Development Bank. See [www.adb.org/documents/Reports/PSA/PHI/chap1.pdf](http://www.adb.org/documents/Reports/PSA/PHI/chap1.pdf)

<sup>10</sup> *Individual Action Plan (IAP) Peer Review of the Philippines Study Report*. 2005/SOM1/010anx2 pp. 24-25. The report noted that Philippine officials stated that “while the Constitution cannot be amended easily, its provisions are constantly reviewed by the Supreme Court.”

developing in the Philippines—cartels and anti-competitive practices are increasingly subject to open criticism.

As a result of this situation, and given the complex nature of the Philippine policy-making and legislative processes, the 2008 IAP chapter on competition policy focuses on the current legislation. It does not make many specific commitments for future improvement. The congressional legislative agenda is noted as an improvement since the last IAP, as is the participation of Philippine officials in several international training activities. The Philippines has welcomed technical assistance for capacity building purposes. It participates in the ASEAN experts group on competition, as well as a number of APEC joint activities.

The Philippines is not in favour of creating multilateral rules regarding competition policies — that is, it did not support the WTO taking on the so-called “Singapore issues”— but it has committed to promote competition in financial services and telecommunications. Nonetheless policy change is under serious consideration. There are currently seven competition bills under consideration by the Congress. Those in the House of Representatives deal with the establishment of a Fair Trade Commission, while bills in the Senate focus on antitrust. However, the prospects for draft legislation becoming law soon appear remote. Realistically change in Philippines competition policies and laws are likely to be externally driven, coming from a need to implement commitments under regional or bilateral agreements.

## **9. Government Procurement**

IAP guidelines specify that economies should promote transparency in government procurement, establishing where possible a procurement information database with a common entry point. Economies are to take steps on a voluntary basis to make their procurement processes more consistent with the APEC Non-binding Principles on Government Procurement (i.e. transparency, value for money, open and effective competition, fair dealing, accountability and due process, and non-discrimination), using electronic means where possible.

The principle of favouring domestic suppliers is enshrined in the Philippines Constitution, and thus in principle and by policy the Philippines does not appear to subscribe to non-discriminatory government procurement. This reflects concerns that local suppliers have been systematically discriminated against in the case of ODA projects, which remain important in the Philippines context<sup>11</sup>. In other respects, however, the Philippines has made great efforts to make its government procurement more transparent, open and competitive, increasingly using electronic procurement systems. Procurement is highly decentralized, but has been subject to national standards and policies through Republic Act 9184, the Government Procurement Reform Act, and its related regulations.

Since the last IAP the Philippines has reported several improvements. A Procurement Transparency Group, which involves both government and civil society members, is now in place to monitor and evaluate the procurement activities of government and to promote good

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<sup>11</sup> About 45% of infrastructure-related government procurement takes place under ODA projects.



practice<sup>12,13</sup>. This is an important initiative to promoting accountability and transparency and an excellent example of the commitment of the Philippines to involve stakeholders in matters of public policy and public administration. In addition, a set of Joint Venture Guidelines has been issued to clarify the term on which the private sector may participate in government projects, and a modular curriculum on best procurement practices has been developed by a leading graduate school of management<sup>14</sup>. A comprehensive electronic database and government procurement system has been established. In addition, procurement manuals and standard bidding documents for use of both national and local authorities have been issued. Future plans include additional investment in capacity building and electronic transaction processing, and the studying of global best practices.

There are indications that these efforts are paying off and that transparency and open competition have improved. Currently 90 percent of government contracts are through competitive bids, whereas previously 60 to 70 percent were negotiated.

### ***10. Deregulation/Regulatory Review***

APEC economies have undertaken to make their regulatory regimes more transparent; to eliminate domestic regulations that impede trade and investment, which are not necessary to achieve legitimate policy objectives; and to speed up reforms in order to make product and factor markets function more effectively. The Philippines recognizes the need for such domestic economic restructuring. Since the 1990s it has embarked on multiple rounds of privatization of former state-owned assets, as well as programs of regulatory reform designed to strengthen competitive markets in key sectors. Privatization efforts are now in a third wave, encompassing social services such as health care, education and pension funds. In addition programs are underway to reform the tax system and streamline public administration. As noted earlier, limited tax revenue-generating capacity and inefficient public administration have been two widely-acknowledged constraints on the development process in the Philippines.

Significant regulatory reforms have taken place and more are planned in the financial, energy and telecommunications sectors, as set out in detail in the 2008 IAP. However, the Philippine officials acknowledge that there have been problems with implementation in some cases, as examples described elsewhere in this report indicate. More generally the Philippines 2004-2010 medium term development plan acknowledges that more bureaucratic reforms are necessary to sustain the economy's growth and development.

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<sup>12</sup> Executive Order (EO) 662-A entitled "Amending EO No. 662 entitled Enhancing Transparency Measures under Republic Act No. 9184 and Creating the Procurement Transparency Groups (PTG)," was issued in November 2007 to encourage the involvement of civil society in monitoring the procurement activities of projects susceptible to problems or anomalies.

<sup>13</sup> Executive Order (EO) 662-A entitled "Amending EO No. 662 entitled Enhancing Transparency Measures under Republic Act No. 9184 and Creating the Procurement Transparency Groups (PTG)," was issued in November 2007 to encourage the involvement of civil society in monitoring the procurement activities of projects susceptible to problems or anomalies.

<sup>14</sup> The Joint Venture Guidelines was issued in May 2008 by the National Economic and Development Authority in consultation with the Government Procurement Policy Board (GPPB) and the Office of the Government Corporate Counsel .

Independent assessment suggest, that there is considerable room for further improvement Despite the considerable efforts to date the Philippines does not rank particularly well on the World Bank benchmarks of “Ease of Doing Business” measures. In the latest such report based on 181 economies ranked, the Philippines placed as follows.

Category	2009	2008	Dif
<u>Doing Business (Overall)</u>	140	136	-4
<u>Starting a Business</u>	155	151	-4
<u>Dealing with Construction Permits</u>	105	102	-3
<u>Employing Workers</u>	126	123	-3
<u>Registering Property</u>	97	88	-9
<u>Getting Credit</u>	123	116	-7
<u>Protecting Investors</u>	126	125	-1
<u>Paying Taxes</u>	129	132	+3
<u>Trading Across Borders</u>	58	58	0
<u>Enforcing Contracts</u>	114	113	-1
<u>Closing a Business</u>	151	150	-1

*Source:* World Bank

This challenge has been recognized, and some innovative instruments have been developed to promulgate the importance of comprehensive regulatory reform. Notable has been the creation of the National Competitiveness Council (NCC), which was formed through an Executive Order in October 2006 as a public-private task force to address the need to improve the improvement of the economy’s competitiveness. The goal is to move from the bottom third of competitiveness rankings to the top third by 2010.

The Philippines performs well with regard to transparency of government regulations. With its vigorous democracy, public policy is developed through extensive consultation, and legislation and regulations are widely publicized. As was noted in the previous IAP Peer Review study, the Philippine approach to regulatory reform is on a sector-by-sector basis. Regulatory reviews are conducted by the agencies responsible for specific sectors, and there is no comprehensive program of Regulatory Impact Analysis in place. It remains to be seen whether the NCC can move the Philippines in the direction of an economy-side approach to regulatory reform.

## ***11. Implementation of the WTO Obligations***

The Philippines subscribes to the full implementation of its WTO. It adheres to relevant WTO Ministerial Decisions and Declarations, including notification obligations under various WTO agreements. This commitment is reflected in the Philippines' approach to regional and bilateral trade liberalization. In line with commitment under the WTO Agreement on Agriculture, the government continues to expand tariff quota and reduce in-quota and out-quota tariff rates for sensitive agricultural products. Notable achievements include elimination of tariffs on substantially all information technology products and accelerated the implementation of WTO TRIPS Agreement in respect to patents, trademarks, geographical indications and copyrights.

Due to the fact that the Philippines has been pursuing regional and bilateral FTAs, the rules of origin issues are very important to APEC economies which do not fall under preferential rules. On this aspect, the Philippines is committed to adopt and support all the ROO principles established and agreed under the WTO trading arrangements, which call for transparency, clarity and trade facilitating elements and measures. Such commitment has been reflected in the Philippines' continued support for the advancement of negotiations at the Committee on Rules of Origin (CRO), as well as the resulting ROO Agreements that Philippine has managed to forge with ASEAN and its Dialogue Partners. In recognizing the risk of discriminating non-preferential APEC economies, the Philippines has gone to special measures to introduce key supplementary ROO elements and modifications in its preferential ROO under its concluded and currently negotiated bilateral and regional FTAs.

The approaches taken in the development and implementation of the Philippines's preferential rules of origin for its various FTAs are fully based in the principles and guidelines set by the WTO. This implies that all rules to be adopted by parties in any FTA must be implemented in a predictable and consistent manner. To date, the Philippines is party to five implemented FTAs, namely, Japan-Philippines FTA, ASEAN-China FTA, ASEAN-Korea FTA, ASEAN-Japan FTA and CEPT-AFTA. However, policy divergence is still present and inevitable in the area of product-specific rules. The reason is that in non-preferential ROO, origin is claimed for application of trade measures, while in preferential ROO origin it is claimed for tariff preference. In view of these differential policy considerations, the Philippines will continue to develop non-preferential rules of origin on the basis of the outcome of the negotiations in the WTO and the application of the rules to be adopted, and will try to improve where possible the degree of similarity in ROO principles adopted in both preferential and non-preferential agreements.

## ***12. Dispute Mediation***

APEC economies have undertaken to address disputes cooperatively and in a non-confrontational manner; to develop timely and effective mechanisms to resolve private-public disputes; and to make government regulation and administrative procedures more transparent. The Philippines acknowledges and supports these goals, and moreover views the formal

dispute settlement mechanism of the WTO very much as an expensive last resort. As a developing economy, the Philippines has used these mechanisms very sparingly. The Philippines has been a party to nine WTO disputes, five as the complainant.

There have been two additional cases since the last IAP Peer review, DS 371 and DS 375-376-377. As reported in the IAP in 2008, the Philippines requested consultations with Thailand concerning fiscal and customs measures affecting cigarette imports and is under panel process and with the EC on the Information Technology Agreement.

There are dispute settlement chapters in the Philippines regional and bilateral trade agreements, typically based on Alternative Dispute Resolution (ADR) principles. Within ASEAN, the mechanism is the ASEAN Protocol on Dispute Settlement Mechanism. Domestically legislation was passed in 2004 to promote the use of ADR mechanisms to resolve legal disputes; however, the implementing rules and regulations have yet to be finalized by the Congress.

The Philippines has bilateral investor protection agreements in place or under negotiation with over 50 economies. Regarding investor-state disputes, the Philippines is a signatory to the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID).

Officials believe that the Philippines performs well with respect to this chapter, and as a consequence no improvements were noted since the previous IAP. Looking ahead, the Philippines plans to publicize and promote the use of ADR and to take steps to further enhance transparency of government laws, regulations and administrative procedures. As noted elsewhere in this report the Philippines has already achieved a high degree of transparency with respect to legislation and government regulations. Rules and regulations are published in the Official Gazette as well as in broadly-circulated newspapers. The Philippines recognizes the potential consequences of changes in domestic policies and practices on the rights of foreign investors and the settlement of potential investor disputes. To this end the inter-agency coordination and communication is very important. The Philippines has put in place inter-agency consultation processes that meet every two months at least.

### ***13. Mobility of Business People***

The Philippines continues to intensify efforts to liberalize its policy on business mobility in keeping with APEC thrust of enhancing the mobility of people engaged in the conduct of trade and investment. This APEC chapter receives strong public support and national attention as the Philippines migrant professionals and workers are major foreign exchange earners. Measures to improve mobility of business and professional people have strong domestic constituencies and stakeholders and there is no domestic vested interest to oppose such policy and legislations. Towards this end, the Philippines is one of the participating economies of the APEC Business Travel Card Scheme and the Philippines has taken a leadership role within ASEAN and APEC on this issue. Along this line, information exchange on mobility concerns is being enhanced, both within the government and between the government and the business sector. During the in-economy visit, we were informed that initiatives are also being undertaken to review and streamline the regulatory regime, principally the Philippine Immigration ACT (PIA) and related laws. Likewise, we were

impressed with the overall capability of government agencies and immigration personnel, which is being strengthened to meet the increasing demand for their services and for growing movement of people across borders. Based on the immigration statistics, the number of people using the APEC Business Travel Card Scheme has been increasing over the years.

Information exchange and database are being enhanced, both within the government and between the government and the business sector. The Mobility of Business People chapter has been very much facilitated with increasing connectivity of business activities in the Philippines with the regional economies through the regional production network of agglomeration and fragmentation in electronic, computer peripherals, information and communication technology. Nonetheless, there are a number of immediate challenges the Philippine Bureau of Immigration has to face in the issues of immigration and temporary residence status such as outdated enabling law, a small workforce, an urgent need to coordinate among relevant agencies in response to rapidly changing need for a trade off between facilitation and security due to rising regional and international terrorism.

#### **14. *Information Gathering and Analysis***

The Philippines is committed to providing accurate and timely economic data to facilitate the analyses of trade and investment liberalization and facilitation. Both the National Statistical Office and the Department of Trade and Industry publish data regularly through on-line access. The latter operates *TradeLine Philippines*, including product and market information, an exporter's directory, profiles of selected exporters, and product-market matching information. The Philippines provides information on tariffs and NTMs through the respective APEC databases. It is a participant in the APEC Study Centres (ASC) consortium through PASCN, and has embarked a number of joint studies since the last IAP review.

Officials noted that the ASC's studies of potential economic impacts of trade liberalization have been particularly useful. A substantial number of studies had been devoted to issues related to the impact of regional economic integration and its consequences for trade and investments, both within the respective regions and with the rest of the world. However, relatively little has been studied on how non-regional members can participate in the dynamic regionalism taking place within APEC. Initiatives to conduct intensive studies on intra-regional trade and investments within APEC should be considered. More sector-specific studies should be devoted to assessing the potential impact of APEC policies and related issues on developing member economies

Philippine officials also had a number of suggestions on way to make the ASC stronger and more meaningful: For example consideration could be given to increasing the frequency of the conferences to twice a year from once a year as presently. The first conference could retain the original ASC format, while the other could be a round table discussion where ASC members and members of technical working groups within APEC could discuss pressing global issues, thus enhancing interactions between ASCs and policymakers. The APEC Secretariat might also assign a professional staff person as ASC coordinator. Finally, it would be beneficial to link all ASC websites for easier information access and to improve linkages/coordination

#### ***APEC Food System***

Food security is an important policy consideration in the Philippines, and considers the APEC Food System Chapter of the IAP to be of significance. The economy has been a net importer of agricultural products since 1994, and the pressures on food and energy prices in 2008 were of considerable concern. Seventy per cent of the population is rural, many engaged in subsistence agriculture. According to the medium term development plan agriculture accounts for one fifth of the Philippines economy, and one third of the labour force is engaged in agricultural production. Agricultural productivity is not keeping pace with that of other economies in the region, however, for several reasons including high input costs (particularly of fertilizer), lack of knowledge and skills (important for the cultivation of high-yield hybrid grain varieties), and infrastructure constraints on post-harvest handling and distribution. The weak productivity performance in agriculture not only limits the opportunities for improving the welfare of the rural population, but also constraints overall development opportunities.

Chief crops include staple grains (rice, corn), and livestock, which are considered politically-sensitive products, plus high-value cash crops, mostly tropical fruits. The fishery and forestry sectors are also important. Basic food security was addressed in the Agriculture and Forestry Modernization Act (AFMA) of 1997. The April 2008 National Food Summit set out a six-part FIELDS Program addressing fertilizer; irrigation and infrastructure; extension and education; loan and insurance; dryers and post-harvest facilities; and seeds and other genetic materials.

## **Conclusions and Policy Recommendations**

The Philippines has made significant economic progress since the last IAP Peer review study in 2005 and is coping quite well in the current severe global economic crisis. It is important, however, that the Philippines should resist the expediency to raise tariffs on an ad hoc basis given the gap between its applied and bound tariffs. The most notable impacts of the global economic crisis have been felt in export industries like electronic, automotive components, IT offshore services, and also remittance income. It has been sheltered to some degree from external shocks due to its less open- economy, sound banking system and relatively strong final domestic demand. Nonetheless, the World Bank has expressed some concern regarding the sustainability of the Philippines' high-growth performance of recent years, citing some underlying structural weaknesses such as low rates of tax collection and administrative inefficiencies, relatively high cost infrastructure and underemployment of human resources.

Overall conclusion is that the Philippines' has continued to make significant progress since 2005 towards achieving the Bogor Goals. The liberalization process is proceeding steadily, particularly for trade in goods, buttressed by strong underlying economic growth. Progress is also evident in the Trade Facilitation Action Plan and APEC Transparency Standards. Substantive improvements have been achieved in standards and conformance, customs rules and regulations, and mobility of business people and in various structural policy reforms that will support domestic competition, the growth of the market economy and private sector development. Notable of institutional and structural policy reforms have been manifested in the establishment of the National Competitiveness Council (NCC) in October 2006 to improve the economy's competitiveness. Citizens Charters and the Procurement Transparency Group have been established to provide transparency and administrative bureaucracy.

On the other hand, the Philippines faces some systemic challenges in achieving the Bogor Goals in services and investment, which have been noted in the last IAP Peer Review Study report, namely the Constitution limits the degree of foreign participation in key sectors of the economy and the nature of policy-making and legislative processes. Nevertheless, there is a strong evidence of both incremental progress and strong commitment to the Bogor Goals.

The emphasis throughout the Report is on understanding the context of the Philippines' structural transformation and development challenges, rather than simply providing a technical review of its trade policy. Arising from comments from other APEC economies and the experts' in-economy study visit to the Philippines, chapters on services, investment, the management of intellectual property, customs administration (not customs rules and regulations), competition policy are singled out for closer examination. Details of the examination and study on those chapters are provided in respective IAP chapters. The underlying challenges seem to relate to the degree of effective competition within the domestic economy, the need to improve the efficiency of public administration and the need to improve the economy's infrastructure. It is not the issue of the absence of rules and regulations but rather implementation and sustained enforcement. There are visible evidences that the government and public administration are gradually moving to establish institutions and mechanisms essential to the sustainable and effective implementation of rules and regulations as originally intended. Specifically, strengthened institutional linkages and inter-agency coordination supported by a comprehensive updated central database, public-private partnership are urgently required.

In addition, rural infrastructure development, funding mechanisms to facilitate and reduce the cost of private sector investment in rural areas, public/private partnerships and investment information technology to link rural areas to the national and international economies, and rural education and health care to allow complementary income from the food sector and non-farm employment are strongly recommended. After all an overwhelming proportion of the Philippines population live in the rural and agricultural areas. Without upgrading the rural infrastructure and the rural people education and training for capacity building and enhancing the agriculture productivity, a viable and sustainable development would not be possible. This would be vital in the Philippines' capacity to implement effectively its strong commitments to the WTO and APEC.

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## **List of Acronyms**

ACIA	ASEAN Comprehensive Investment Agreement
ADR	Alternative Dispute Resolution
AFMA	Agriculture and Forestry Modernization Act
AFTA	ASEAN Free Trade Area
AHTN	ASEAN Harmonized tariff Nomenclature
APEC	Asia-Pacific Economic Cooperation
ASC	APEC Study Centres
ASEAN	Association of Southeast Asian Nations
BIT	Bilateral investment treaty
BOC	Philippine Bureau of Customs
BSA	Business Software Alliance
BSP	<i>Bangko Sentral ng Pilipinas</i>
CAAP	Civil Aviation Authority of the Philippines
CEPT	Common Effective Preferential Tariff
CRO	Committee on Rules of Origin
EO	Executive Order
EPIRA	Electric Power Industry Reform Act
FDI	Foreign Direct Investment
FILCOLS	Filipinas Copyright Licensing Society
FINL	Foreign equity limitations on investment areas/activities
FTA	Free Trade Agreement
GCC	Gulf Cooperation Council



IAP	Individual Action Plan
ICSID	Washington Convention on the Settlement of Investment Disputes States and Nationals of Other States .
IP Philippines	Intellectual Property Office of the Philippines
IP-ROU	Intellectual Property Regional Operations Unit
IPRTI	Intellectual Property Research and Training Institute
ISO	International Organization for Standardization
MFN	Most-favoured Nation
MRA	Mutual Recognition Agreement
NAIA	Ninoy Aquino International Airport
NBI	National Bureau of Investigation
NCC	National Competitiveness Council
NPC	National Power Corporation
NTMs	Non-tariff Measures
OECD	Organization for Economic Cooperation and Development
OMB	Optical Media Board
PASCN	Philippines APEC Study Center Network
PARI	Philippine Association of the Record Industry, Inc.
PIA	Philippine Immigration ACT
PIPPS	Philippines Intellectual Property Policy Strategy
PLDT	Philippine Long Distance Telephone Company
PNP	Philippine National Police
PNS	Philippine National Standards
ROO	Rules of Origin
SCSC	Subcommittee on Standards and Conformance
SME	Small/Medium Sized Enterprise
TRIMS	Trade-related Investment Measures
UNCTAD	United Nations Conference on Trade and Development
VOIP	Voice over Internet Protocol
WESM	Wholesale Electricity Spot Market
WIPO	World Intellectual Property Organization
NCIPR	National Committee on Intellectual Property Rights
WTO	World Trade Organization

**Appendix I**  
**Replies to the**  
**Comments and Questions on the Philippines IAP**

(as of 19 July 2009)

**General Overview**

**(Expert)**

- 1. Please provide a brief summary of the Republic of the Philippines (hereafter RP) macroeconomic performance since that last IAP peer review study in 2004. The description should cover major indicators such as GDP growth rate, inflation rate, unemployment rate, as well as provide an overview of major economic policies, including the fiscal position of government.**

*Gross domestic product (GDP) adjusted for inflation grew above historical average at 6.4 percent, 5.0 percent, 5.4 percent, 7.2 percent and 4.6 percent from 2004 to 2008, respectively. Meanwhile, the real gross national product (GNP) steadily grew by 6.9 percent in 2004, 5.4 percent in 2005, 5.5 percent in 2006, 8.0 percent in 2007 and 6.1 percent in 2008.*

*Since 2004, inflation was kept at single-digit levels despite pressure emanating mainly from international oil prices. Inflation averaged 6.2 percent in 2006, lower than the 7.6 percent inflation rate in 2005 but slightly higher than the 6.0 percent inflation rate recorded in 2004. For 2007, average inflation of 2.8 percent was well below the target of 4-5 percent. In 2008, the inflation rate rose to 9.3 percent as the escalating prices of commodities in the world market, particularly petroleum and cereals, in the early part of 2008 fueled domestic prices.*

*Increased globalization and faster economic growth have provided opportunities for the Filipino workforce as more workers are absorbed into the labor market. The unemployment rate improved from 11.9 percent in 2004 to 11.4, 11.1 and 10.8 percent in 2005-2007, respectively, lower than the targets. Nonetheless, unemployment remains high and meeting job creation targets continue to be a challenge. Using the new ILO-based methodology<sup>15</sup>, unemployment rate stood at 8.0 percent in 2006, 7.3 percent in 2007 and 7.4 percent in 2008. The estimated 3.5 million employment generated in the 2004-2008 period represents a backlog of about 3.5 million employment, given a target of at least 1.4 million employment created per year. Moreover, employment creation in 2008 suffered following a slowing economy, generating only 530 thousand employment.*

*The fiscal reforms initiated by the government were well-received by credit rating agencies, international creditors, investors, and development partners; effective monetary management kept inflation rate in check; and the overall balance of payments (BOP) position recorded surpluses starting 2005. As a result, market confidence on the economy was invigorated, characterized by vibrant inflows of foreign direct and portfolio investments, Philippine stocks surging at its pre-Asian*

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<sup>15</sup> The unemployment rate is the percentage of the unemployed to the total labour force (sum of the employed and unemployed).

*crisis levels, robust external demand, stronger peso and a significantly reduced public debt.*

*The government implemented crucial reforms to improve tax collections, increase revenues and prudently manage expenditures. Enhanced revenues buoyed by the implementation of tax reform measures (i.e. sin tax law and the landmark Reformed Value Added Tax {RVAT} Law) along with administrative measures to promote efficiency in the collection of taxes and continued fiscal discipline enabled the government to improve its finances.*

**2. How does the RP government see the economic outlook over the next 18 months to two years, given the global financial crisis?**

*The Government is positive that the Philippines will not slip into a recession despite contractions and slowdowns experienced in developed economies in Europe, Asia and the United States. We anticipate that the economic outlook will remain uncertain due to the global economic crisis but that the economy will remain resilient and among the least affected.*

*The weak US economic condition is expected to continue until 2009 and the outlook for world oil and rice prices will remain at high levels. In spite of these the Philippine economy will continue to grow in 2009 to post a 3.7-4.7 percent GDP growth.*

*Growth will be driven by the following: (1) agriculture sector, benefiting from heightened government support and good weather condition; (2) manufacturing sector that now caters to local and foreign markets for Halal products; (3) semiconductor industry rebounding from the recovery of industrial economies; (4) pick up in mining production; and (5) higher demand for business process outsourcing as the US economy recovers.*

*The government has put up a contingency plan as the economic slowdown in the US, the economy's biggest trading partner, became apparent. The plan includes a fiscal stimulus package where much of the public spending will go to infrastructure and social services to promote more investments.*

**3. What, if any, macroeconomic and microeconomic policies have the RP taken to mitigate the effects of the current global slowdown?**

*The economy has come up with a Philippine Economic Resiliency Plan which aims to pump prime the economy in 2009. The Plan, which is the economy's own stimulus package, was borne by President Arroyo's desire for the economy "to hit the ground running in 2009" in response to the global economic crisis. It centers on upgrading infrastructure and capital stock and expanding social protection at the same time.*

*The resiliency plan hopes to ensure sustainable growth and attain the higher end of the growth targets for the year. In particular, the Plan aims to save and create jobs, protect the poorest of the poor, returning OFWs and workers in export industries, ensure low and stable prices to support consumer spending, and enhance competitiveness in preparation for the global rebound.*

Moreover, in order to mitigate the current global slowdown, the Department of Finance aim to sustain improvements in tax collection.

- While our tax effort grew to 14% in 2007 from 12.2% in 2004, we aim to further increase it to 14.5% in 2008 and 14.7% in 2009.
- To attain this, we will pursue the following revenue enhancement measures to increase tax compliance and enforcement, strengthen governance, and improve customer service of our revenue agencies.

To increase tax compliance and enforcement, we are implementing the following measures:

- a. First, we are enhancing the database of BIR and BOC through data matching with third party sources of information.
- b. Second, BIR is adopting a risk-based audit system to focus resources on taxpayers where the potential for collection is greatest.
- c. Third, we are simplifying procedures for tax and duties filing and payment by Computerizing all 115 BIR revenue district offices (RDOs) this year from 44 RDOs in 2006. We are also integrating customs procedures to comply with our ASEAN commitment for a queue-less, cashless and paperless customs operations. We are also encouraging our taxpayers to also use the LANDBANK Efficient Service Machines (ESMs) which are similar to automated teller machines where tax payments are accepted to provide greater convenience to our taxpayers, especially during tax payment season.
- d. Fourth, we are institutionalizing technology-based measures to help us plug leakages in our revenue collection agencies such as:
  - Fuel marking to curb oil smuggling in the ports;
  - Implementation of the Revenue Dashboard Project that provides real-time data on revenue district offices' performance;
  - The LGU Assurance Project that improves BIR's current registry database by matching information on business permits with local governments;
  - X-ray machines in our collection ports to detect misdeclaration and undervaluation of imported goods; and
  - The National Single Window Program where the BOC is interconnected with 43 government agencies which also process import documents.
- e. Finally, we are encouraging Congress to enact the following legislative measures:
  - Rationalization of fiscal incentives which aims to reduce the cost of doing business for investors,
  - Removing the BIR and BOC from salary standardization to boost the compensation of our revenue personnel to motivate them to work harder and allow us to attract the best and the brightest, and

- *Simplifying net income taxation for self-employed and professionals (SNITS) where an optional standard deduction of up to 40% of gross income is given, in lieu of submitting supporting documents for allowable deductions.*

*We support moves to increase the tax on alcohol and tobacco products, which are commonly referred to as sin products.*

*The proposed increase in the tax on alcohol and tobacco products also has the biggest revenue impact of P20 billion to P30 billion in additional excise tax collection in the first year of implementation, P30 billion to P40 billion on the second year, P40 billion to P50 billion on the third year, and P60 billion to P70 billion annually thereafter.*

*In addition to efforts in improving tax collection, the Philippines will also improve efforts to strengthen governance by further intensifying anti-corruption initiatives, namely:*

- RATE or Run After Tax Evaders;*
- RATS or Run after the Smugglers; and*
- RIPS or the Revenue Integrity Protection Service, to move from the filing of cases to prosecution and conviction of tax evaders, smugglers and corrupt revenue officials.*

*We are instituting customer-friendly services at the Bureau of Immigration (BIR) and Bureau of Customs (BOC) through:*

- Developing systems that will allow taxpayer inquiry via text messaging or the Internet;*
- Looking into the feasibility of using credit cards for the payment of tax liabilities; and*
- Studying ways on how to shorten tax returns and forms to make return filing easier on the part of taxpayers.*

*On the financial stability of the public sector as a whole, we aim to further reduce financial burden of state owned enterprises on the national government. To this end, we have to do the following:*

- Further privatization of government-owned and – controlled corporations (GOCCs) which we believe will be better managed by the private sector;*
- Improvement of corporate governance standards through greater accountability and transparency, and*
- Improvement of GOCC balance sheets through targeted and more effective subsidy programs, such as in the case of the National Food Authority (NFA) which is burdened by its rice procurement and price stabilization mandate.*

*On the financial markets, together with the Capital Market Development Council, the Department of Finance aims to put financial markets on a healthier footing through a more robust regulatory oversight, and an effective risk management of financial institutions. We hope to achieve these by:*

- Ensuring a healthy capitalization of the insurance sector. This year, we have raised the minimum capitalization requirement to P75 million for domestic*

insurance companies, and we're increasing it further to P100 million by end-2009, and

- b. *Increasing the deposit insurance coverage by the Philippine Deposit Insurance Corp. (PDIC) to P500,000 from the current P250,000. We are encouraging Congress to expedite the approval of this urgent measure to assure that hard-earned savings of our depositors are safe and protected from market volatilities.*

*The Philippines will also boost public spending in 2009 to shield economy from global financial turmoil. The bulk of our public expenditure will be spent on infrastructure and social services that will likely increase the deficit to P 102 billion from an initial projection of P 40 billion.*

- 4. Please provide a short description of the evolution of the RP's export and import structure and current account position since the last IAP review. The review should cover the value and volume of exports and imports, current account balance, major trading partners, and the commodity composition of trade. Please also provide a short description of outlining any major changes in trade policies implemented since the last review.**

*The Philippines continues to rely heavily on manufactured exports, which accounted for 85% of total merchandise export value in 2007 (89.5% in 2004). These comprised mainly of electronic products, other electronics, garments and machinery and transport equipment, which together represented 87.2% of total exports in 2007, up from 80.9% in 2004. Meanwhile, mining exports upped its share to 5% of total exports in 2007 from 2% in 2004 as exports of copper metal, recorded substantial increases in exports beginning 2006.*

*Raw materials and intermediate goods as well as capital goods continue to account for most imports with a combined share of 74% in 2007 (80% in 2004). These include materials and accessories for the manufacture of electronics, raw materials for the manufacture of garments, iron and steel, chemicals, office machines and telecommunication equipment, power generating and specialized machines. Mineral fuels and lubricants upped its share to 16.6% in 2007 (10.5% in 2004) as a result of the international oil price increases. .*

*The United States (US) remains the Philippines' major export market accounting in 2007 for 17.9% of total merchandise exports (17.9% in 2004). Other major export markets in 2007 were the European Union (EU) (17.4%), ASEAN (15.9%), Japan (14.5%), and China (11.4% up from 6.7% in 2004). In 2007, imports are sourced mainly from ASEAN (23.2%), the US (14.1%), Japan (12.3%), EU (10.4%), Middle East (10.1% up from 5.9% in 2004), China (7.2% up from 6% in 2004), and Korea(5.9%)*

*From a net importer of services in 2004, the Philippines became a net exporter beginning 2006 with a net balance of US\$137 million increasing to US\$1.08 billion 2007. The current account balance remains positive, and accounted for 4% of GNP in 2007 (1.7% of GNP in 2004). .*

*The Philippines continues to pursue a more outward trade regime, increased overseas market access for exports and greater integration with the world economy through multilateral, bilateral and regional trade initiatives. The Philippines, together with her ASEAN partners, signed free trade agreements (FTAs) with China, Korea and Japan and are set to sign FTAs with New Zealand and Australia, and India. The*

*Philippines also signed an Economic Partnership Agreement with Japan, which came into force last December 2008. Meanwhile, the economy continues to participate in the Doha Round of the World Trade Organization (WTO). The Philippines also continues to pursue measures that would enhance production and productivity as well as improve the environment for private domestic and foreign investments. Measures to simplify procedures and reduce transaction costs were likewise pursued.*

**5. Please provide a description of recent trends in the capital account of the balance of payments, beginning with at the time of the last IAP review. What can be said regarding capital inflows and outflows, foreign direct investment, major investment partners and sectors?**

*In keeping with the objective of maintaining a sound balance of payments (BOP) position, the Philippines registered a BOP surplus of US\$3.8 billion in 2006, a 56.4 percent increase from the 2005 BOP surplus of US\$2.4 billion. For 2007, the economy's BOP surplus doubled to a record high of US\$8.6 billion, given the reversal of the economy's capital and financial account balance, from a net outflow in 2006 to a net inflow.*

*The surplus is partly attributed to the strong surge in OFW remittances, growing at an annual average of 19.1 percent for the period 2004-2006. Also contributing positively were the inflows of foreign portfolio investments (FPI) with net FPI reaching US\$3.6 billion in 2007. However, this was 22.6 percent lower than the US\$4.6 billion recorded in 2006. Positive investor sentiment because of strong economic fundamentals, outlook upgrades in the economy's credit rating and the strengthening of the Peso helped bolster FPI inflows.*

*In the first three quarters of 2008, net FPI worsened as investor confidence weakened due to the ongoing crisis in global financial markets, registering an outflow of US\$2.4 billion. Likewise, foreign direct investment flows posted a net outflow in 2007 following net inflows in 2004 to 2006. In 2008, BOP registered a surplus of US\$88 million.*

*As the economy's overall external position improved, accompanied by an environment conducive to foreign exchange inflows, the gross international reserves (GIR) increased to about US\$23 billion as of end December 2006. In 2007, GIR stood at US\$33.8 billion covering 5.7 months worth of goods imports and payments for services and income. From 2004-2007, total GIR exceeded the annual targets set in the Plan. Furthermore, the level of reserves remained healthy after the US\$220 million prepayment of the remaining credit to the International Monetary Fund and the US\$72 million prepayment on various Asian Development Bank loans. In 2008, GIR reached an all-time high of US\$37.6 million, enough to cover imports worth 5.7 months.*

**6. What role does APEC play within RP trade and investment environment? What is the share of APEC economies in the RP'S total exports, imports, trade, investment and FDI?**

*APEC continues to be an important forum for promoting trade in goods and services, investment, and the transfer of technology and professional skills. Continued access to the markets of the Asia-Pacific economies is important to the Philippines, as well as understanding the market peculiarities of each APEC economy.*

*In 2007, APEC accounted for 78 percent of the Philippines total trade. The economy's top five trading partners comprise of APEC member economies namely, People's Republic of China; Hong Kong, China; Japan; Singapore; and the United States, which collectively account for 54 percent of the Philippines total trade or US\$54B.*

*In terms of the commodity structure, top Philippine exports to APEC economies are: semiconductor device; machineries and equipment; optical disk drives; laptops; parts and accessories of machineries; semi-conductor devices; cathodes and sections of cathodes; wiring harnesses for motor vehicles; electronic micro-assemblies; and wood products.*

*Major imports from APEC comprise of molding compounds or dice; wafers and discs; parts and accessories of machineries; materials for the manufacture of watches and watch cases; rice; gas oils; materials for the manufacture of electrical and electronic machinery, equipment and parts; electronic integrated circuits and microassemblies; crude petroleum oil; and motor spirit.*

*Investments from APEC economies account for 76 percent of total approved FDI in 2007 or USD 3.4 billion (1 USD=47 Philippine Peso). Companies from Japan; Korea; Singapore; Chinese Taipei; the US are among the top five investors. Other APEC economies with investments in the Philippines are Australia; China; Hong Kong, China; Malaysia; and Thailand.*

**7. What role has APEC played in determining the RP's economic policy formulation? Has this changed in any material way since the last IAP peer review? Please provide concrete examples of instance where the APEC dialogue process has contributed to the formation of RP policies.**

*APEC's role in the Philippines' economic policy formulation has not changed materially since the last IAP peer review. APEC continues to serve as an expression of the Philippines' commitment to domestic reforms, serving as an impetus for trade and investment liberalization and for increasing transparency.*

*Some concrete examples of how the APEC dialogue process has contributed to the formation of Philippine economic policies:*

- Commitment to the multilateral trading system and active support for the conclusion of an ambitious and balanced Doha Development Agenda;*
- Commitment to standards and conformance in the areas of (1) adoption of good regulatory practices; (2) recognition of conformity assessments; (3) cooperation in technical infrastructure development, and (4) recognition of conformity assessments in the voluntary sector;*
- Alignment of 78.5% of Philippine National Standards (PNS) with international standards;*
- Intensified promotion of standards and conformity assessment activities in the economy through intensive mass media campaign;*
- With APEC's emphasis on transparency and good governance, the Philippines adopted the Hong Kong, China model on Anti-Corruption with its three pronged approach of 1) strong implementation of the law, 2) adoption of*



*systems designed to reduce anomalies and irregularities in government transactions and 3) inculcation of values in school and government agencies;*

- *Institutionalized lifestyle checks on government officials and undertook reforms at the Office of the Ombudsman and Office of the Special Prosecutor to improve institutional capacities.*

**8. What is the policy of the government of the RP with respect to the negotiation of FTAs/RTAs? Has this changed since the last IAP review in 2005, or from what is set out in the IAP Reporting Template on FTAs/RTAs? What role does the RP envisage for regional agreements in the conduct of overall trade and investment liberalization and facilitation strategies?**

*The policy remains unchanged. The Philippines remains pragmatic in approaching FTAs/RTAs. As a member of the ASEAN, it participated in negotiations with a number of dialogue partners (see answers to Question 9 below). It will continue to participate meaningfully and substantially in economic integration initiatives, consistent with national domestic capability.*

*The Philippines' experience with regional agreements has been modest compared to other APEC economies. Regional agreements, especially as the Philippines views its participation in ASEAN, are useful drivers of trade and investments and are important vehicles to gather mutual support on issues of common interest.*

**9. With what economies have the RP formally signed FTAs, and with what economies is RP formally negotiating FTAs? Please update the IAP Reporting Template on FTAs/RTAs to reflect recently ratified agreements, e.g. JPEPA.**

*The Philippines as a member of ASEAN has negotiated various FTAs with the following Dialogue Partners.*

- a. China – Trade in Goods and Services Agreement concluded and being implemented. Investment Agreement ready for signing at the ASEAN Summit with Dialogue Partners tentatively scheduled in April 2009. A second package of improved offers under the Trade in Services Agreement is currently being negotiated.*
- b. Korea – Trade in Goods and Services Agreement concluded. To date, only Trade in Goods Agreement is implemented. Trade in Services Agreement is awaiting executive ratification by the President before it gets implemented. Investment Agreement is currently being negotiated.*
- c. Japan – ASEAN-Japan Comprehensive Economic Partnership Agreement signed. Awaiting executive ratification by the President before it gets implemented.*
- d. Australia and New Zealand - Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) ready for signing at the ASEAN Summit with Dialogue Partners tentatively scheduled in April 2009.*

e. *India – Trade in Goods Agreement ready for signing at the ASEAN Summit with Dialogue Partners tentatively scheduled in April 2009. Trade in Services and Investment Agreement simultaneously being negotiated.*

f. *EU – currently being negotiated.*

*The comment on JPEPA is noted. The IAP Chapter on RTA/FTAs was submitted in October 2008 and does not reflect the updates since December. Said update will be reflected in the next submission or in the experts' final report.*

**10. Are there any additional economies which RP is currently considering FTA negotiations? Are there any “priority” economies with which RP wants to form an FTA? Are there any economies with which RP will not consider signing a FTA?**

*ASEAN, where the Philippines is a member, is considering FTA negotiations with the Gulf Cooperation Council (GCC) and Mercosur. The Senior Economic Officials are currently deliberating on the terms of reference of a study to be conducted on the feasibility of concluding FTAs with these groups.*

**11. What is RP’s “definition” of the Bogor Goal with respect to trade in goods? Does it include zero tariffs on all items (no exceptions) or “substantially” all items? If the latter, what items would be exempted from zero tariff provisions? What other measures are envisioned by the government to fulfill the Bogor Goal?**

*As it concerns goods, RP defines the Bogor Goal as achieving free and open trade no later than 2020, with consideration of flexibility extended to developing members in the implementation of their commitments, particularly some ‘breathing room’ in terms of the coverage of products for liberalization.*

*RP commits to liberalizing “substantially all trade” in light of its level of economic development. RP is constrained to open up entirely, considering the economic importance of certain goods and domestic sensitivities that freeing them entails. Particularly, some highly-protected agricultural products (i.e., rice and sugar) are not being offered for liberalization.*

*Through progressively measured steps, RP is set to realize its Bogor targets in the area of tariffs. RP has made a good progress in reducing its import tariffs, currently with rates lower than most developing member economies of APEC. Since the implementation of the Tariff Reform Program in 1996 tariffs have been substantially and gradually reduced. In 2008, RP’s simple average applied tariff rate stands at 6.23%, and its import-weighted average applied tariff rate at 3.76%, significantly brought down from their 1996 level of 13.99% and 10.27%, respectively.*

## **IAP Reporting Template on FTAs/RTAs**

**(Japan)**

### **Part 2: Agreement under negotiation**

### **Agreement #1: Japan-Philippines Economic Partnership Agreement**

- 1. The Agreement entered into force on December 11, 2008. JPEPA has already entered into force, and thus, it should be listed in “Part 1 Description of current agreements”.**

*The comment is noted. The IAP Chapter on RTA/FTAs was submitted in October 2008 and does not reflect the updates since December. Said update will be reflected in the next submission or in the experts’ final report.*

### **Agreement #3: ASEAN-JAPAN Comprehensive Economic Partnership Agreement**

- 1. For the status of negotiation, the Agreement entered into force among Japan, Singapore, Viet Nam, Laos Republic and Myanmar 1<sup>st</sup> December 2008. For the ASEAN member economies including the Philippines, this agreement is undergoing domestic procedures for its early ratification and entry into force.**

*The President ratified the AJCEP Agreement on 24 December 2008. The draft executive order to implement tariff concessions under the AJCEP Agreement will be subjected to a line-by-line review by an Inter-Agency Committee before the Cabinet/National Economic Development Authority’s (NEDA) Board endorsement. Entry into force is reckoned to be June-July 2009.*

- 2. In "Issues being covered in the negotiations”, the name of provisions should be written correctly.**

*The names of provisions are reflected correctly.*

### **(United States)**

- 3. For the RTAs/FTAs section, all those being negotiated on and current agreements of the RP are reflected. However, particular agreements will just need some updating, i.e., JPEPA should now fall under current agreements instead of under negotiations. This document was written in early October. Hence, the team conducting the due diligence may still update it prior to its release.**

*The comment is noted. The IAP Chapter on RTA/FTAs was submitted in October 2008 and does not reflect the updates since December. Said update will be reflected in the next submission or in the final experts’ report.*

## **Chapter 1 Tariffs**

### **(Expert)**

- 1. Over the years, the Philippines has progressively reduced tariff levels down to an average of 6.23 per cent. However, transport equipment, textiles and clothing relatively have high tariff rate. Any specific plan to reduce tariff rate on these sectors? What is the tariffs dispersion?**

The Philippines has undertaken Tariff Reform Program (TRP) over the years. Tariff levels on textiles and clothing have been progressively reduced since 1996 while tariffs on transport equipment were reduced after 2006 (Pls. refer to Table 1). The latest TRP carried out was in 2006 with the issuance of EO 574 signed on 04 November 2006. As of the moment, the Philippines has no specific plan to further reduce the tariff rates on these sectors.

Table 2 shows the tariff dispersion in percentage share of the concerned sectors in 1996, 2000, 2006 and 2008. In 1996, majority of tariff lines on textile and clothing and transport equipment clustered at tariff bands 20% and above. After 12 years of progressive reduction, majority of tariff lines on textile and clothing and transport equipment are grouped at tariff bands of 6%-10% and 1%-5%, respectively.

**Table 1. Simple Average Applied Tariffs**

Sectors	1996	2000	2006	2008
Textiles and Clothing	21.19	13.03	11.36	10.87
Transport Equipment	14.33	8.99	17.67	15.04
All Goods	13.99	7.22	7.33	6.23

**Table 2. Tariff Dispersion Table: Percentage Share**

Number of Tariffs At or Between	1996		2000		2006		2008	
	Textiles and Clothing	Transport Equipment	Textiles and Clothing	Transport Equipment	Textiles and Clothing	Transport Equipment	Textiles and Clothing	Transport Equipment
0%	-	-	-	-	0.34	3.62	0.32	1.52
1-5%	7.12	47.12	8.27	54.28	11.55	24.93	13.73	36.04
6-10%	16.35	15.25	51.41	28.29	38.91	11.09	43.45	13.03
11-15%	-	-	-	1.32	44.77	3.99	37.45	5.25
16-20%	36.50	10.51	40.32	3.62	4.42	16.64	5.04	13.37
20% +	40.03	27.12	-	12.50	-	39.72	-	30.80
TOTAL	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

- 2. On bound tariffs, no change was made since 2004. Is there any plan for further reduction? What is its MFN applied rates in relation to its bound rates in recent years?**

Further reduction of bound rates will be in line with Philippine commitments upon the conclusion of the ongoing Doha Development round of negotiations on Agriculture and Non-Agricultural Market Access under the WTO. In 2008, simple average of bound rates is 25.44% while the simple average applied rate is 6.23%, thus, a tariff overhang of 19.21 percentage points (please refer to page 9 of Chapter 1).

- 3. Considering that the Philippines has signed a lot of bilateral FTAs, has there been any adverse effect on APEC economies which are non-FTA signatories with the Philippines?**

The Philippines has only one bilateral FTA, that is, with Japan. The others are ASEAN FTAs. In 2008, simple average tariff rate for non-FTA signatories is 6.23%. On the other hand, simple average preferential tariff in 2008 under AFTA is 0.69%; under AKFTA 3.32%; and under ACFTA 3.71%. This would mean that those

*economies which form part of these Philippine undertakings will enjoy preferential rates vis-à-vis non-FTA signatories that face the Philippine MFN rate of 6.2%.*

**4. How will the Philippines intend to treat tariff reduction through WTO process?**

*As an active participant in all negotiations and meetings including the various Committees and Working Parties in the WTO, the Philippines fully supports the Doha Development Agenda (DDA), stressing consistently that the multilateral trading system can genuinely contribute to economic growth and development should negotiations remain true to its developmental spirit. Developing economies constitute majority of WTO members and priority must be given to their needs and concerns. As a founding member of the G-20, the Philippines is deeply concerned with and will continue in the course of the negotiations to work towards correcting the imbalances on the distribution of benefits accruing from the multilateral trading system.<sup>16</sup>*

**(Hong Kong, China)**

- 5. We commend Philippines' effort in bringing down its average applied tariff from 13.99% in 1996 to 6.23% in 2008. We are glad to note that the Philippines has fully implemented tariff elimination for IT products under the WTO's Information Technology Agreement. We encourage the Philippines to keep up with its efforts in reducing its applied tariff. (page 2 of chapter 1)**

*We note and appreciate these comments from Hong Kong, China.*

**Chapter 2: Non-Tariff Measures (NTMs)**

**(Expert)**

- 1. In Los Cabos, Mexico, APEC Leaders adopted the Statement to Implement APEC Transparency Standards and Market Access and directed that these standards be implemented as soon as possible, and in no case later than January 2005. However, the Philippines has no major change planned on NTB since its last IAP. Please explain.**

*The Philippines has had no major change on NTBs since its last IAP because it has been consistent with its obligations in international treaties such as the WTO where the Philippines submits regular notifications thus, have adhered to the commitments in transparency standards and market access similarly set forth by the APEC. Further to that, the Bangko Sentral ng Pilipinas (BSP) maintains a list of regulated commodities which is circularized and made available to the public to ensure transparency on its non-tariff measures.*

- 2. Based on the Philippines IAP 2008, its remaining NTMs affecting imports were on rice and those necessary for health safety and national security reasons. Are there other forms of NTM measures to curb imports?**

*The Philippines does not have other forms of NTMs to curb imports apart from that of rice and those necessary for protecting health, safety and for national security reasons.*

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<sup>16</sup> Excerpts from the Philippines report to WTO Trade Policy Review Committee, **WT/TPR/G/149**, 7 June 2005

*The Philippines has notified to the WTO its Import Licensing Procedures (ILPs) maintained for health, safety, and national security reasons.<sup>17</sup>*

**3. Are those improvement on NTM extended on MFN basis?**

*The improvements in the NTMs are extended on an MFN basis in line with our commitments in the WTO.*

**4. Maintaining and updating a database in monitoring NTMs and comparing them with other APEC economies would be helpful. What is the Philippines plan on this issue?**

*The Philippines – through ASEAN – maintains an NTMs database as part of ASEAN’s integration efforts to achieve the ASEAN Economic Community by 2015. This database is updated regularly to include newly-introduced NTMs by Member Economies. Further, ASEAN has a work program to eliminate NTBs according to the following tranches:*

*1<sup>st</sup> Package:*

*1 Jan 2008 for ASEAN 5  
1 Jan 2010 for the Philippines  
1 January 2013 for CLMV*

*2<sup>nd</sup> Package:*

*1 January 2009 for ASEAN 5  
1 January 2011 for the Philippines  
1 January 2014 for CLMV*

*3<sup>rd</sup> Package:*

*1 January 2010 for ASEAN 5  
1 January 2012 for the Philippines  
1 January 2015 with flexibility up to 2018 for CLMV*

*While the Philippines maintains and updates its database on NTMs, any plan on keeping such a record for the use of other APEC economies would be fully supported. Although we must assure that transparency be maintained among the member-economies.*

**(Hong Kong, China)**

**5. We note that the Philippines’ NTMs are applied mainly for reasons of health, safety, security, welfare and discharging international treaty obligations. We appreciate that the Philippines will review its NTMs and encourage it to reduce their use as far as possible. (page 2 of chapter 2)**

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<sup>17</sup> It must be noted that the WTO does not define an NTM, but has rules for what may be considered an NTM (e.g., ILP, standards, and phytosanitary measures).

*We appreciate these comments from Hong Kong, China and assure them of our commitment in further reviewing our NTMs.*

### **Chapter 3 Services**

**(Expert)**

***1. Many areas of investment and/or participation the provision of services are restricted to foreigners as a result of the 1987 constitution. Please explain succinctly the nature of these restrictions, and their rationale. Are there any plans in place to amend these provisions or any changes in their applicability since the last IAP review?***

*The restrictions on foreign service providers are on equity participation, participation in the Board of Directors, acquisition of land and practice of profession. The rationale for these limitations is provided in Article II (Declaration of Principles and State Policies), Section 19 of the Constitution, which states that “The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.” Certain areas of services and investment (e.g. mass media and educational institutions) are also fully or partially closed to foreigners under the 1987 Constitution because these are deemed impressed with public interest. These areas should be regulated for the protection of consumers, promotion of general welfare and national security.*

*There were initiatives to amend the economic provisions of the Constitution but these were opposed by certain sectors.*

***2. Please describe what concrete actions the RP has taken to implement the APEC Leaders’ Transparency Standards on Services.***

*The laws, regulations, and administrative procedures related to applications for licenses or authorizations (including, inter alia, licensing procedures and requirements/criteria, qualification procedures and requirements, and technical standards) and their renewal or extension as well as information on developments in their respective services, are available at agency websites.*

***3. Please outline the action plans with timeline for achieving each of the future improvements noted in the IAP aimed at strengthening the competitiveness of the telecommunications sector.***

*The draft rules and guidelines are undergoing public consultations. There are still legal issues that also need to be addressed. It is expected that these rules and guidelines will be issued within the first quarter of this 2009.*

***4. Have there been any changes to the status of RA 7721 since three last IAP review, or are any changes contemplate din the future?***

*None. There are no plans in the near term to amend existing rules on foreign bank entry.*

**5. Reference is made to Memorandum Order No. 244, which contemplate new legislation to encourage foreign investment in the Maritime Transport Sector. What is the status of the proposed legislation and what are its main features?**

*Memorandum Order No. 244 created the Department of Transportation and Communications-Norwegian Agency for Development Cooperation (DOTC-NORAD) Project on the Formulation of the Omnibus Merchant Shipping Act of the Philippines. An International Cooperation Contract was executed between the Norwegian Maritime Directorate and the Department of Transportation and Communications in order to pursue the said project.*

*The project composite team is made up of the maritime experts, academe and legal practitioners.*

*The project involves the comprehensive consolidation and updating of maritime legislation into an omnibus Merchant Shipping Act. The Merchant Shipping Act will cover the following maritime components:*

- General Provisions;*
- Definitions;*
- Registration of Ships;*
- Taxation of Ships;*
- Manning of ships and certification of seafarers;*
- Mortgages of Ships;*
- Safety and navigation of ships;*
- Protection of maritime environment and pollution from ships;*
- Salvage and wreck of ships;*
- Protection of maritime environment and pollution from ships;*
- Salvage and wreck of ships;*
- Management of ships;*
- Liens;*
- Contracts for the carriage of goods by sea;*
- Maritime insurance;*
- Limitation of liability;*
- Accidents, investigation and enquiries;*
- Admiralty jurisdiction and the arrest of ships.*

*To date, five (5) chapters of the bill have been drafted, which shall be subjected to stakeholder consultation, namely: Salvage of Ships, Wreck of Ships, Limitation of Liability, Carriage of Goods and Maritime Insurance.*

*A workshop/discussion is tentatively scheduled on the last week of January which will cover the chapters on Liens, Accidents, Investigations and enquiries, Protection of Maritime Environment and Pollution from Ships, and Safety and Navigation of Ships.*

**6. Also with regard to Maritime Transport, reference is made to planned amendments to legislation and/or implementing regulations through RA 9301 and RA 9295. What is the status of these proposed changes and what are their main features?**

*The Maritime Industry Authority has not yet embarked on amending Republic Act (RA) No. 9301. The Implementing Rules and Regulations for RA No. 9295 are being reviewed. The pertinent features of the review cover the inclusion of the provisions for operations in missionary routes, protection and indemnity, regulatory intervention and temporary*



*utilization of foreign-owned or -registered ships and Philippine-registered overseas ships in the domestic trade.*

- 7. The RP has not updated its IAP sub-chapters for a number of services sectors and sub-sectors, including various business and professional services, some land transport services and environmental services. Please indicate the reasons why this has been the case Are any recent or planned developments that the RP would like to share with other APEC members?**

*The Philippines provided updates for sectors with recent developments.*

- 8. What is RP'S definition of Bogor Goal as it concerns services? Does it include full national treatment and the liberalization of all service sectors, or "substantially" all sectors with some exceptions? If the latter, what exceptions does the RP feel must be maintained beyond 2020?**

*The Philippines' view is that "free and open trade" does not necessarily mean the absence of regulations. Thus, it will continue to adopt regulations that are needed and appropriate, and which are consistent with its national interests as well as the Bogor Goal.*

**(Australia)**

- 9. It would be recommended to include under the column heading " Further Improvements Planned" any prospects for further improvement or deregulation in accordance with WTO and/or FTA commitments, if any.—This comment was made specifically with respect to the section on "Financial Services".**

*Noted. However, the BSP cannot commit any improvement on or liberalization of nationality requirements in banking services since such can only be done through an act of Congress amending relevant laws on the matter. These include R.A. No. 7721, otherwise known as An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines (1994), and R.A. No. 8791 or the General Banking Law (2000). There are no plans in the near term to amend existing rules on foreign bank entry or relax the 70 percent minimum of bank assets under the control of Filipinos.*

- 10. Is there any plan or consideration to ease the 60% cap that applies to the voting stock of an existing bank or banking subsidiary incorporated under Philippine law?**

*See answer to question number 15.*

- 11. Does the reference to the number of foreign banks allowed entry (under Mode 3) in the Financial Services Annex include either foreign bank branches or locally incorporated subsidiaries (of a foreign bank) or both?**

*Both. The BSP would like to clarify that under R.A. No. 7721 (1994), foreign banks were allowed to operate in the Philippines through only one of the following modes of entry:*

- *Mode 1. By acquiring, purchasing or owning up to 60 percent of the voting stock of an existing domestic bank;*

- *Mode 2. By investing in up to 60 percent of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or*
- *Mode 3. By establishing branches with full banking authority*

*It may be noted that, presently, only the first mode is open for foreign banks to establish commercial presence in the Philippines since there is an existing moratorium on the establishment of new commercial banks (R.A. No. 8791 General Banking Law of 2000) and the numerical limit of ten foreign bank branches has already been reached.*

- 12. Reference is made to the following “while an additional four foreign banks may be allowed entry on recommendation of the same to the President.” What are the plans in this regard after the present?**

*See answer to question number 15.*

- 13. Reference is made to the following: “At all times, the control of 70 percent of the resources or assets of the entire banking system shall be held by domestic banks more than 50 percent of the subscribed capital of which are owned by Filipinos.” Are there any prospects for this rule to be eased in near future?**

*See answer to question number 15.*

- 14. Reference is made to the following: “A foreign bank or a Philippine corporation may own up to 60 percent of the voting stock of only one (1) domestic bank or new banking subsidiary.” Is there any specific reason for this one-bank rule? Is there any plan to relax this rule?**

*The one-bank rule is provided in Sec. 2 of R.A. No. 7721 to ensure that there is no dominant market position by any bank in the Philippines. Any amendment to this can only be implemented through an act of Congress.*

- 15. Why is a controlling share (over 50% of equity) not allowed to foreign investors in lending companies? Are there plan to relax this requirement?**

*It is stated in RA 9474 that foreign equity should not exceed 49% and as of this time, there is no move to relax this provision.*

**(Hong Kong, China)**

**Communication Services: Telecommunications**

- 16. We note under “Foreign Entry” that “Investment in a domestic Filipino Corporation, association or organization to engage in telecommunications services is limited to the 40 percent equity holdings.” We suggest the foreign restriction ownership of telecommunications business operation should be removed. (page 7 of Chapter 3(b:3))**

*Noted. Restriction on the foreign ownership of telecommunications business operation is a Constitutional provision (Article XII, Section 11) and would necessitate an amendment of the Constitution to remove it.*

## **Financial Services**

- 17. We note from Chapter 3 (g) of the Philippines' IAP that a foreign bank may acquire, purchase or own up to 60% of the voting stock of an existing bank, and also own up to 60% of the voting stock of one domestic bank or new banking subsidiary. However, it is noted from Philippines' schedule of specific commitments made in the WTO GATS context that the ceiling for foreign banks' acquisition of the voting stock of an existing domestic bank, and for investment in the voting stock of a new local banking subsidiary is at a lower level of 51%. We would like to seek the Philippines' confirmation as to whether it is indeed maintaining higher ceilings for equity participation by foreign banks on the ground than what it has committed under the GATS. If this is the case, would it consider reflecting its more liberal de facto regime in its future GATS offers for the current round of the WTO Services negotiations so as to enhance the legal certainty and predictability of its regime? (page 5 of Chapter 3(g))**

*The BSP confirms that the Philippines maintains commitments in the WTO GATS that are lower than the limits authorized by law to allow greater flexibility in both its negotiating stance and ability to adjust to any developments in the financial system.*

*This liberal de facto regime may be reflected as possible improvements in the WTO commitments but will be dependent on the current negotiations under the Doha round, i.e. request and offers of other WTO member economies, as well as the over-all negotiating stance of the Philippines.*

*It should be noted that any improvements in the commitments in banking services would likewise require the approval of the Monetary Board of the BSP.*

**(United States)**

## **Transport Services**

- 18. The section on transport services – air, may need to be updated. Among those worth including would be the legislation creating the Civil Aviation Authority and regional and bilateral open skies agreements of the RP. Also, although it is not clear yet whether it is an issue, but there concern about tax treatment issue for foreign carriers which may be a discriminatory treatment concern (foreign carriers pay a 3% gross receipts tax from which domestic carriers are exempt).**

*The Civil Aviation Authority of the Philippines was created in 2008 to address the needs of the growing aviation industry of the Philippines, particularly the safety and integrity of technical regulations and registration of aircraft.*

*The Philippines signed the ASEAN Multilateral Agreements in November 2008. Executive Order Nos. 253, 500 and 500-A declared the Diosdado Macapagal International Airport*

*to be an open skies region on both cargo and passenger respectively under the liberalized charter program of the government.*

*Any bilateral or regional air services agreements is not subject of legislation but of negotiation. The basic Philippine policy is still progressive liberalization and not open skies (except for Clark and Subic).*

*The scope of taxing persons/corporations engaged in trade or business in the Philippines is under the tax authorities based on existing taxation law(s). It is only the Congress of the Philippines that can impose taxes and grant exemptions. Domestic carriers have exemptions because Congress has granted them the privilege in their respective franchises.*

## **Chapter 4 Investment**

### **(Expert)**

- 1. Regarding the implementation of the APEC Leaders' Transparency Standards on Investment, what specific achievements have occurred on this issue, in addition to continuing to update its contribution to the APEC guidebook on Investment Regimes and the APEC software network on investment regulations?**

*The Philippines is transparent and if there are policy changes, we follow the APEC guidelines on transparency.*

*The Philippines established the National Competitiveness Council (NCC) last October 2006 by virtue of Executive Order (EO) 571 to address the improvement of the economy's competitiveness. One of the areas being addressed by the Council is the reduction of transaction costs and flows by improving transparency, among other measures. An example is the establishment of Citizen Charters in government agencies in compliance with the Anti-Red Tape Law.*

- 2. Has the Philippines signed the Multilateral Investment Guarantee Agency (MIGA)?**

*Yes. The Philippines is a signatory and a member of the Multilateral Investment Guarantee Agency (MIGA) since 04 February 1994.*

- 3. The Philippines has signed a lot of bilateral investment agreements (BITs). Has there been any adverse impact on non-signatories BIT APEC economies?**

*To date, the Philippines has not received any report on any adverse impact on APEC economies that have not signed a BIT with the Philippines.*

- 4. Studies on investment liberalization and facilitation in the region indicate that the Philippines is one of the economies that is clearly lagging on many important investment-related indicators. Are there any specific plans to improve on these indicators?**

*We pose our strong objection to this statement in the absence of specific reference to any study.*

**5. As the Philippines is moving into preferential ASEAN Investment Area, would APEC economies be severely discriminated?**

*No. The newly signed ASEAN Comprehensive Investment Agreement (ACIA), which amended the ASEAN Investment Area (AIA) Agreement, provides for the non-discriminatory treatment of ASEAN-based investors (who may be non-ASEAN Members but with substantial business operation in the region).*

**6. What is RP'S definition of Bogor Goal as it concerns investment? Does it include granting of national treatment and liberalization for investment in all sectors, or "substantial" liberalization of investment with some exceptions? If the latter, what exceptions does the RP feel must be maintained after 2020?**

*There is no RP definition of Bogor Goal as it concerns investment. The APEC Economic Leaders' Declaration in Bogor regarding investment pertains to a commitment for a continuing unilateral trade and investment liberalization and an adoption of a standstill commitment that will endeavor to refrain from using measures that will increase levels of protection. It further agreed to adopt the long-term goal of free and open trade and investment in the Asia-Pacific through reduced barriers to trade and investment and the promotion of free flow of goods and capital among the economies. This commitment is to be completed in the year 2020. The pursuit of free and open trade in the Asia-Pacific was also determined to encourage and strengthen trade liberalization in the world as a whole.*

**7. Have there been any changes to the coverage of the Foreign Investment Negative List (FINL) since the last IAP Peer Review? If so please provide the details. (Reference is made to the 7<sup>th</sup> Regular FIN and the drafting of the 8<sup>th</sup>.)**

*The 7th Regular Foreign Investment Negative List (RFINL) is the same as the 6th RFINL because no investment area/activity was added to or deleted from the RFINL since no new laws were enacted imposing or removing foreign equity limitations in investment areas/activities.*

*The 8th RFINL replacing the 7th RFINL is under review by the Office of the President.*

**8. Have there been any changes to the land tenure system in the RP since the last IAP Peer Review as it relates to the rights of foreigners to own or lease land, or are any changes contemplated in the future? If so, please provide details?**

*There have been no changes to the land tenure system in the Philippines.*

**9. Please provide an up to date list of all bilateral investment agreement currently in place or currently under negotiation.**

*Please refer to the tables below.*

**Table 1. RP Agreements for the Promotion and Protection of Investments**

	DATE SIGNED	FOREIGN PARTNER ECONOMY	ECONOMY/CITY WHERE AGREEMENT WAS SIGNED	DATE OF ENTRY INTO FORCE
1	8 June 2007	Lao People's Democratic Republic	Manila	-
2	8 September 2006	Japan-Philippines Economic Partnership Agreement (JPEPA) (10/08/08-ratification)	Helsinki	-
3	19 May 2006	Equatorial Guinea	Manila	-
4	2 October 2005	Kingdom of Saudi Arabia	Riyadh	-
5	8 November 2002	Portugal	Manila	-
6	11 April 2002	Austria	Manila	-
7	12 November 2001	Indonesia	Jakarta	-
8	7 November 2001	Bahrain	Manila	1 April 2002
9	1 September 2000	Mongolia	Manila	-
10	17 August 2000	Cambodia	Manila	-
11	12 March 2000	Kuwait	Kuwait	-
12	28 January 2000	India	Manila	29 January 2001
13	22 October 1999	Venezuela (MOU on Trade & Investments)	Manila	6 June 2000
14	20 September 1999	Argentina	Buenos Aires	1 January 2002
15	17 August 1999	Sweden	Manila	-
16	23 April 1999	Pakistan	Manila	2 March 2000
17	22 February 1999	Turkey	Manila	-
18	25 March 1998	Finland	Manila	16 April 1999
19	17 February 1998	Myanmar	Manila	11 September 1998
20	14 January 1998	Belgium and Luxembourg (Belgo-Luxembourg Economic Union)	Manila	19 December 2003
21	26 September 1997	Denmark	Manila	19 April 1998
22	12 September 1997	Russia	Moscow	-
23	8 September 1997	Bangladesh	Manila	1 August 1998
24	18 April 1997	Germany	Bonn	1 February 2000
25	31 March 1997	Switzerland	Manila	23 April 1999
26	20 November 1995	Chile	Manila	6 August 1997
27	9 November 1995	Canada	Manila	1 November 1996
28	8 October 1995	Islamic Republic of Iran	Manila	-
29	30 September 1995	Thailand	Manila	6 September 1996
30	5 April 1995	Czech Republic	Manila	3 April 1996
31	25 January 1995	Australia	Manila	8 December 1995
32	13 September 1994	France	Paris	12 June 1996
33	18 May 1994	Romania	Bucharest	14 June 1998
34	7 April 1994	Korea	Manila	25 September 1996
35	19 October 1993	Spain	Madrid	21 September 1994
36	20 July 1992	China	Manila	10 September 1995
37	28 February 1992	Chinese Taipei	Taipei	28 February 1992
38	27 February 1992	Viet Nam	Manila	29 January 1993
39	17 June 1988	Italy	Rome	4 November 1994
40	27 February 1985	Netherlands	Manila	1 October 1987
41	3 December 1980	United Kingdom	London	2 January 1981

**Table 2. Bilateral Investment Agreements Negotiated and Initialed and Scheduled For Signing**

	DATE INITIALED	FOREIGN PARTNER ECONOMY	ECONOMY WHERE AGREEMENT WAS INITIALED
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1	23 January 2008	Qatar	Manila
2	30 June 2000	Colombia	Sapporo
3	30 June 2000	Croatia	-do-
4	27 June 2000	Egypt	-do-
5	23 June 2000	Peru	-do-
6	22 June 2000	Ghana	-do-
7	11 June 1997	Papua New Guinea	Manila

**Table 3. Bilateral Investment Agreements for Negotiation**

	ECONOMY		ECONOMY
1	Bulgaria	10	Morocco
2	Belarus	11	Netherlands
3	Greece	12	Norway
4	Hungary	13	Oman
5	Israel	14	Panama
6	Latvia	15	Poland
7	Lithuania	16	Slovak Republic
8	Lebanon	17	Slovenia
9	Malaysia	18	US

**10. What concrete steps are currently being taken to implement the APEC Transparency Principles on investments?**

*Please refer to the reply made on Question No. 1.*

**(United States)**

**11. The section on bilateral investment agreements needs to be updated. The RP currently has bilateral investment agreements with 41 economies (11 APEC economies, 30 non-APEC economies). For addition to the list are Japan, Equatorial Guinea, Saudi Arabia, and Laos. On the Foreign Investment Negative List, the Philippine government is scheduled to release the 8<sup>th</sup> List in early 2009.**

*We take note of the comments from the United States.*

**12. In addition, the RP maintains an excise tax system that imposes vastly higher taxes on imported distilled spirits than on domestically produced spirits. We understand that the government has recommended to the Philippine Congress that these taxes be equalized. What is the status of these efforts?**

*The Department of Finance has submitted to the House of Representatives in November 2008 a draft bill seeking to impose a unified tax rate for cigarette and alcoholic beverages in the economy. The proposed bill is said to be an amended version of House Bill No 3759 (“An Act Restructuring the Excise Tax on Cigarettes Packed by Machine”) to impose a single excise tax on cigarettes, as well as House*

*Bill No 3787 ("An Act Restructuring the Excise Tax on Alcohol Products) seeking to remove the multilevel tax classification on liquor.*

## **Chapter 5 Standards and Conformance**

**(Expert)**

### **1. What are the major achievements on Standards and Conformance since its last IAP review?**

*The following are the major achievements in the areas of standards and conformance from 2005 to 2008:*

- a. Alignment of standards with international standards where appropriate - From January 2005 to December 2008 a total of 2,090 Philippine National Standards (PNS) are aligned with International Standards. To date 78.36% of the total PNS are aligned to ISO/IEC standards.*
- b. Alignment of standards with international standards in priority areas agreed by the SCSC - Adopted a total of 20 international standards under the priority products of APEC*
- c. Active participation in the international standardization activities of international standardizing bodies - The Philippines actively participates in international standardization activities as:
  - A participating (P) member to 28 ISO Technical Committees (TCs), and observer (O) to 46 ISO TCs;*
  - Re-admitted full member of the International Electrotechnical Commission (IEC) since 19 September 2008'; and*
  - A member in 15 Codex committees and annually participates in the Commission Meetings.**
- d. Participation in plurilateral recognition arrangements of conformity assessment in the regulated sector - The Philippines is currently developing/ strengthening its capability to enable it to participate fully in the APEC MRA on Telecommunications Equipment. It is in the process of reviewing and editing the submitted technical specifications of the Technical Working Groups (TWGs) for telecommunications equipment in preparation for the implementation of the APEC MRA, ATRC Sectoral MRA and other MRAs for telecommunications equipment. Although the National Telecommunications Commission is not yet into MRA with any economy, it accepts and recognizes certifications and test reports issued and conducted by recognized certification bodies from other economies as the basis for the issuance of type approval/type acceptance.*
- e. Participation in bilateral recognition arrangements of conformity assessment in the regulated sector - The Philippines has signed the following:
  - Memorandum of Understanding between the National Standardization Agency of the Republic of Indonesia (BSN) and the Bureau of Product Standards (BPS) on Technical Cooperation;**



- *Arrangement between National Accreditation Body (KAN) of the Republic of Indonesia and the BPS on Product Certification and Approval Schemes;*
  - *Arrangement between SIRIM QAS International Sdn. Bhd. of Malaysia and BPS on Product Certification and Approval Schemes; and*
  - *Memorandum of Agreement between the Department of Trade and Industry and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China on Cooperation of Industrial Products Safety and TBT Measures*
- f. *Identification of specific requirements, assistance and/or activities for technical infrastructure development*
- i. *Revised the procedures and instructions for applying to the National Registration Scheme for Quality Assessors (NRSQA). These are currently for verification for its implementation.*
  - ii. *Created the following new Technical Committees (TC) and subcommittees (SC) to develop Philippine National Standards for different products:*
    1. *BPS TC 70 – Equipment for Electrical Energy Measurement and Load Control*
    2. *BPS TC 71 – Government Quality Management Program*
    3. *BPS TC 72 – Halal Food*
    4. *PWGSR – Philippine Working Group on Social Responsibility*
    5. *DOH-BHDT-010 – Medical Suction Equipment*
    6. *DOH-BHDT-011 – Medical Infusion Equipment*
    7. *DOH-BHDT-012– Dialysis Machine*
    8. *DOH-BHDT-013 – Endoscopic Equipment*
    9. *DOH-BHDT-014 – Medical Device for Injections*
    10. *DOH-BHDT-015 – Laser Products*
    11. *DOH-BHDT – 017 – Electroencephalographs*
    12. *DOH-BHDT – 019 Reverse Osmosis Drinking Water Treatment system*
    13. *DOH-BHDT- 20- Health Effects R.O. System*
  - iii. *Trained laboratory assessors on ISO/IEC Guide 17025 and related topics such as Uncertainty Measurement (UM), Method Validation, Control Charting and Proficiency Testing; ISO 14000 and ISO 9001:2000.*
- g. *Participation in Specialist Regional Bodies activities - The Philippines is a member of APLAC, APMP, PAC and PASC. It participates in APLAC's proficiency testing programs.*
- i. *The Philippine Accreditation Office (PAO), an attached agency of the Department of Trade and Industry (DTI), signed the Pacific Accreditation Cooperation Multilateral Recognition Arrangement (PAC MLA) for its Environmental Management System (EMS ISO 14001) Accreditation on July 2007. In October 2007 it signed the IAF MLA for its Environmental Management System (EMS ISO 14001) Accreditation. The PAO maintains its IAF/PAC MLA (QMS) Recognition.*
  - ii. *The National Metrology Laboratory (NML) of the Industrial Technology Development Institute (ITDI), continuously participates in comparisons*

*(key, supplementary, bilateral, pilot) organized by the APMP, where it has an existing capability.*

*h. Continuously strive to increase transparency of their standards and conformance requirement*

*i. Designed and established a Standards and Conformance Portal, an on-line facility that offers an easy access to a wide range of information on standards, regulations and conformity assessment activities in the Philippines and other WTO member economies. It is an automated e-mail notification service that prompts exporters and other stakeholders on new and revised standards and regulations that affect the local and global markets. It enables all stakeholders to provide comments/inputs on draft standards and proposed technical regulations issued by WTO members. It features links to online catalogues of the different foreign national and international standards bodies to facilitate a faster and more efficient way of getting other trade related information. The Portal was launched on 08 October 2007, during the Standards Week Celebration. The website can be accessed thru this link: (<http://www.bps.dti.gov.ph/>)*

*ii. Developed with the Department of Education product modules and teachers' support materials (TSMs) that include lesson guides/ plans, activity sheets and notes for elementary, secondary and alternative learning education on the concepts of product quality and safety.*

*iii. Regularly airs a weekly consumer advocacy radio program entitled "Konsyumer, atbp" (Consumer, et.al) that tackles topics such as consumer rights and responsibilities and safety and reliability of products and services based on standards. On April 2007, the radio program started its simulcast airing on radio (DZMM, AM 630 KHz) and television (Sky cable channel 26) through the ABS-CBN Broadcasting Corp.'s Teleradyo project. The program's listeners were feted with the actual happenings in a radio station and were provided with visuals on the topics being discussed.*

*iv. Raised awareness on metrology, standards testing certification and accreditation (MSTQ) through the formation of the MSTQ organization*

*i.. Participate in relevant international fora - The Philippines participates in, and is a member of, the following international organizations:*

- International Organization for Standardization;*
- International Electrotechnical Commission;*
- International Laboratory Accreditation Cooperation; and*
- International Accreditation Forum*

*j. Other Activities - Introduced Batch 9 to the TQM Integration Program for Industry in July 2008. As of this date nine batches composed of twenty nine (29) participating companies are benefitting from the program. Activities include company diagnosis, coaching, monitoring and benchmarking from Philippine Quality Award (PQA) awardees/TQM implementing companies.*

**2. What is the status and progress of the three government agencies mandated under the Consumer Act of the Philippines to develop and implement Philippine National Standards?**

*The three government agencies mandated under the Consumer Act of the Philippines to develop and implement standards on consumer products are the following:*

- a. the Department of Health with respect to food, drugs, cosmetics, devices and substances;*
- b. the Department of Agriculture with respect to products related to agriculture;*
- c. the Department of Trade and Industry with respect to other consumer products not specified above.*

*As the Philippine National Standards Body, the Bureau of Product Standards (BPS) of the Department of Trade and Industry is mandated to develop, implement, and coordinate standardization activities in the Philippines. It is primarily involved in standards development, product certification, and standards implementation/promotion to raise the quality and global competitiveness of Philippine products at the same time to protect the interests of consumers and businesses. To date the total number of Philippine National Standards developed is 6,530. Of these number 78.36% (5,117) are aligned to ISO/IEC standards.*

*The BPS, through its Product Certification Scheme, ensures that conformity in standards is strictly observed by the industry in providing safe and world-class products. Under the scheme, products that are covered by mandatory certification are subject to inspections and tests according to the requirements of a standard prior to selling and distribution. DTI issues the PS (Philippine Standard) License and the Import Commodity Clearance (ICC) to manufacturers and importers, respectively, which have complied with the scheme.*

*A number of agencies under the Department of Health and the Department of Agriculture have submitted to the BPS a number of standards for endorsement as Philippine National Standards. These agencies maintain websites that discuss their activities, namely:*

- a. Department of Health - [www.doh.gov.ph](http://www.doh.gov.ph)
  - i. Bureau of Food and Drugs (19 standards) – [www.bfad.gov.ph](http://www.bfad.gov.ph)*
  - ii. Bureau of Health Devices and Technology (81 standards) - [www.doh.gov.ph/bhdt](http://www.doh.gov.ph/bhdt)**
- b. Department of Agriculture
  - i. Bureau of Agriculture and Product Standards (62 standards) ([bafps.da.gov.ph/Pages/About.php](http://bafps.da.gov.ph/Pages/About.php))**

**3. It is stated that the Philippines continues to align with international standards. Are these standards in the consumer or manufacturing sectors?**

*The Philippine National Standards that are aligned with international standards are both in the consumer and manufacturing sectors. The number and percentage of standards aligned from 2006 to 2008 are classified as follows:*

Standard developed/aligned to ISO/IEC 2006-2008
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Classification	Aligned to ISO/IEC		Standards Developed	
	Number of standards	(%)	Number of standards	(%)
Information technology	190	14.84	210	13.77
Electrical	131	10.23	145	9.5
Paper	92	7.18	92	6.03
Steel	87	6.79	90	5.9
Road vehicle	66	5.15	82	5.37
Textiles	63	4.92	73	4.78
Food	62	4.8	114	7.47
Medical equipment	61	4.76	63	4.13
Manufacturing Engineering (cutting tools)	60	4.68	60	3.93
Rubber and rubber products	50	3.90	57	3.73
Financial services	45	3.5	45	2.95
Paints	39	3.04	39	2.55
Information and documentation	37	2.90	37	2.42
Building and construction	32	2.5	19	1.24
Welding consumables	27	2.10	27	1.77
Ceramics	26	2.03	31	2.03
Plastic pipes	23	1.79	42	2.75
Personal and marine safety	21	1.64	21	1.38
Adhesives	16	1.25	42	2.75
Fire protection	15	1.17	15	0.98
Solar energy	15	1.17	15	0.98
Chemical/chemical analysis	13	1.01	15	0.98
Gas analysis	13	1.01	13	0.85
Wood	13	1.01	13	0.85
Geographic information	9	.70	9	0.59
Metrology	9	.70	9	0.59
Power transformer	8	.625	8	0.52
Mechanical System (plain bearings)	6	.46	6	0.39
School and office supplies	6	.46	8	0.52
Ergonomics	5	.4	5	0.32
Furniture	5	.4	5	0.32
Petrochem	5	.4	26	1.70
Elevating work platforms	4	.31	4	0.26
Sustainability in building construction	4	0.31	4	0.26
ISO Guide	3	.23	4	0.26
Jewellery	3	.23	4	0.26
Quantities and units	3	.23	3	0.19
Circuit breaker	2	.15	2	0.13
Domestic and commercial equipment (castors and wheels/kitchen equipment)	2	.15	2	0.13
Domestic and commercial equipment (ventilators/fans)	-	-	7	0.46
Terminology	2	.156	2	0.13
Wiring devices	2	.156	2	0.13

Standard developed/aligned to ISO/IEC 2006-2008				
Classification	Aligned to ISO/IEC		Standards Developed	
	Number of standards	(%)	Number of standards	(%)
Guide	1	.07		-
Health care technology	1	.07	3	0.19
Household appliances	1	.07	1	0.07
Material handling	1	.07	1	0.07
Project risk management	1	.07	1	0.07
Petroleum process and facilities			3	0.19
Packaging			1	0.07
Building construction (sealants)	-	-	13	0.85
<b>TOTAL</b>	<b>1,280</b>		<b>1,525</b>	

## Chapter 6 Customs Procedures

### (Expert)

- 1. The Philippines is not yet a signatory to the Kyoto Convention on Customs Procedures. What is the timeline of Philippines to accede to the Kyoto Convention?**

*The instrument for Accession has already been signed by the President and transmitted to the Senate for ratification. It is expected that accession shall take place within the year (2009).*

- 2. The Philippines is exploring the possibility of harmonizing data elements for customs processing with other APEC economies. When this exercise will be completed?**

*RP has been harmonizing its data elements for the ASEAN Single Window. Such exercise shall be completed within the year (2009).*

- 3. The ASEAN Single Window Scheme which is being implemented as part of the Philippines' commitment to streamline and standardize customs procedures would also benefit APEC economies. Please comment.**

*RP can share its experiences and developments on the National Single Window and the ASEAN Single Window to APEC economies.*

- 4. Philippines has adopted the Harmonized System, system for advance tariff classification and participated in customs-related activities/initiatives in ASEAN, WCO, UNCTAD and AFACT. Any other major initiative forthcoming?**

*RP plans to fully implement the Authorized Economic Operator concept.*

### (Peru)

- 5. Re. Temporary Importation Facilities: Which are the main benefits of the bilateral carnet system between the RP and Chinese Taipei?**

*There is no Carnet system in RP.*

**6. Re. Implementation of clear appeals provision: How does the appeals procedures and rulings on classification work?**

*Valuation and Classification rulings initially starts at the Collector of Customs through proceedings conducted by the Customs Valuation and Review Committee (CVRC) which the Collector heads and where the importer may present evidence to justify its valuation and/or classification for the imported product when questioned by the Bureau of Customs. During the VCRC proceedings, the importer may cause the provisional release of its products by depositing a required amount. Any ruling by the VCRC may be appealed by the importer to the Commissioner through the Customs Valuation and Classification Ruling Review Committee (CVCRRRC). If still unsatisfied with the CVCRRRC ruling, the importer may file its protest case but will have to pay the assessed duties and taxes due on the shipment.*

**7. Re. Adoption of Kyoto Convention: When will be implemented the Revised Kyoto Convention?**

*Upon ratification of the RKC by the Senate, it is hoped that RP shall comply within the time frame provided in the RKC.*

**8. Other: How does the mock/pilot test solution of the cell phone based License and Clearance System (LCS) work?**

*Under the e2M Customs system, the mobile technology is being used to verify the submitted permit/license by the importer/declarant.*

*Access to the system is given to concerned customs offices as well as to concerned government agencies.*

**Chapter 7 Intellectual Property Rights  
(Expert)**

**1. What specific measures have the RP taking to strengthen the enforcement of its laws protecting intellectual property since the last IAP Peer Review Study?**

*On 21 June 2008, the President signed Executive Order No. 736 (E.O. 736) entitled "Institutionalizing Permanent Units to Promote, Protect and Enforce Intellectual Property Rights (IPR) in Different Law Enforcement and Other Agencies Under the Coordination of the National Committee on IPR (NCIPR)". Under E.O. 736, the NCIPR is chaired by the Department of Trade and Industry (DTI) and vice-chaired by IP Philippines. Section 2 of E.O. 736 requires the NCIPR member agencies to establish and institutionalize a permanent intellectual property unit (IP Unit) with adequate personnel and budget allocation.*

*As a strategic component for our economy's socio-economic development and global competitiveness, the NCIPR member agencies, through their IP units, is mandated to intensify the promotion, protection and enforcement of IPR in the economy. The NCIPR is also directed, among others, to provide the Executive and the Legislative branches of government with policy and legislative proposals on IP laws, ensuring*

*that these are in compliance with the economy's existing international obligations embodied in treaties and other agreements.*

*On 11 July 2008, the President signed Executive Order No. 737 (E.O. 737) entitled "Establishing Intellectual Property Research and Training Institute (IPRTI) as the Research and Training Arm of the Intellectual Property Office." IPRTI shall be the economy's center of education, training, and research on IP. It shall foster IP creation and utilization by raising the level of IP awareness among academic and research and development institutions, small and medium enterprises (SMEs), business, rights holders, and IP professionals.*

*IP Philippines, IPRTI and the Philippine Judicial Academy (PhilJA) entered into a Memorandum of Understanding (MOU) to implement an Educational and Training Program for Judges and Court Personnel on Intellectual Property on 10 September 2008. Under this MOU, IP Philippines, IPRTI and PhilJA, with the cooperation and support of the Supreme Court of the Philippines, organized the "Second Advanced Course on Intellectual Property Law for Commercial Court Judges Cum Colloquium on Current Issues in IP Law" on 26-28 November 2008. Twenty (20) commercial court judges were trained in this activity.*

*In his keynote speech during the colloquium, the Chief Justice of the Supreme Court of the Philippines tasked PhilJA and IPO to look into all existing rules of procedure for adjudication and to recommend new rules for IP litigation. He also said that "Administratively, if focusing our interventions on just one or a few specific courts would work better to yield satisfactory results, then we can make the adjustments – perhaps on a pilot basis at the start."*

*In November 2007, IP Philippines submitted the Philippine IP Policy Strategy (PIPPS) to the President at the National Innovation Summit. The summit, led by the Department of Science and Technology (DOST), sought to develop an environment conducive for innovation through the adoption of policies that could accelerate innovation and spur growth across industries. Inventors, entrepreneurs, artists, policymakers and experts in the field of science and technology, and the academe cooperated in crafting the PIPPS.*

*The PIPPS is a fresh approach in advocating a legislative agenda. The document itself and the broad, participating process behind it will serve as a unifying theme for the many sectors affected by IP. Moreover, the growing interest among legislators can be organized into an influential caucus of IP champions.*

- 2. Are there any other significant legislative and/or regulatory changes implemented since the last IAP Peer review beside RA 9502 that should be highlighted? If so please provide the relevant details. (Please take note of the comments below from the United States.)**

*Republic Act No. 9502 (R.A. No. 9502) otherwise known as the "Universally Accessible Cheaper and Quality Medicines Act of 2008 was signed into law by President Gloria Macapagal-Arroyo on 06 June 2008. It was published in two newspapers of general circulation on 19 June 2008.*

*On 29 July 2008, the IP Philippines conducted two public hearings on the implementing rules and regulations (IRR) of RA No. 9502. Representatives from Congress, academe, law firms, pharmaceutical companies and associations,*

consumer organizations, non-governmental organizations (NGO) and government agencies attended the consultations.

*IP Philippines recognized the significance of a participatory process and transparency in crafting the IRR. The intention is to have an open and transparent process to ensure the integrity of the law and the IRR.*

*Section 16 of RA No. 9502 provides that the Intellectual Property Office, in coordination with the Department of Health and the Bureau of Food and Drugs, shall issue and promulgate, within one hundred twenty (120) days after the enactment of the Act, the implementing rules and regulations to effectively implement the provisions of the Act that relate to Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines.*

*On 04 November 2008, the Department of Health (DOH), Department of Trade and Industry (DTI), Intellectual Property Office (IPO) and Bureau of Food and Drugs (BFAD) Joint Administrative Order 2008-01 (IRR for R.A. No. 9502) was signed. It took effect on 21 November 2008.*

*In addition to conducting regular consultations with all its private and public stakeholders, IP Philippines has initiated the formation of an Inter-Government Agency (IGA) PIPPS Cluster aimed at drafting the strategic planning matrix for the activities involved in implementing the PIPPS. The 1<sup>st</sup> IGA PIPPS Cluster meeting was held last 27 August 2008 and attended by 22 government agencies, including representatives from the Congressional Committee on Science, Technology and Engineering (COMSTE). The IGA PIPPS Clusters co-lead government agencies then met between September to October 2008 and came up with the draft strategic planning matrix for the following PIPPS policy areas:*

- a. Public health;*
- b. Biodiversity/genetic resources/indigenous knowledge system and practices/folklore;*
- c. Geographic indications/SMEs;*
- d. Copyright and other creative industries;*
- e. Patent reform/universities/RDIs; and*
- f. Institutional capacity building and enforcement*

*An IGA PIPPS Cluster Seminar/Workshop is planned during the 3<sup>rd</sup> week of April 2009 where experts will be provided by the World Intellectual Property Organization to speak on the PIPPS policy areas. This seminar/workshop is aimed at building the capacity and expertise of the cluster members which will be needed in the implementation of the activities outlined in the strategic planning matrix.*

- 3. What have been the results achieved from the efforts noted to improve public education and awareness of IP, and enhanced IP users skills (e.g. Basic Orientation Seminars for Universities, etc.) Can the RP point to any evidence that these efforts are having a measurable effect?**

*Aside from improving public awareness of IP, the IP public education and awareness activities in the Philippines, which IP Philippines has been aggressively pursuing*



since 2005, are also meant to achieve the following objectives: (1) encourage small and medium-sized enterprises (SMEs), research and development institutions (RDIs) and the academe to use the patent system to protect their creations; (2) enhance the competitive advantage of SMEs in both the domestic and export markets through the use of trademarks; (3) encourage universities, RDIs, SMEs and local industries, and the Department of Science and Technology (DOST) to make effective use of patent information for technological development; (4) encourage innovation and technology commercialization by SMEs, academic institutions and creative industries; and (5) promote respect for IP and encourage participation in the IP system.

Based on the above objectives, the impact of the public education and awareness activities may be measured according to the following: (1) increase in the number of patent and trademark applications by SMEs, RDIs and the academe; (2) number of universities and academic institutions that have established technology licensing offices (TLOs) and have adopted IP policies; and (3) decrease in piracy rate in the Philippines.

In 2008, the following activities were undertaken:

**Table 1. Public Education and Awareness Activities 2008**

Target Sector	Type of Activities	No. of Times Conducted	Total No. of Participants	Impact
Universities	IP Policy Workshops	10 Work-shops from Region 1 to 12	350 coming from 80 state and private universities	8 Universities with approved IP Policy 3 in final stages of the approval process 80 in various stages of drafting
Research and Development Institutions	Patent Drafting	1	80	Enhanced skill in basic specification and claim drafting to improve quality of patent applications being filed
Universities and Research and Development Institutions of DOST	National Conference on IP and Technology Commercialization	1 activity with participants coming from various parts of the economy	111 high level officials from academe and RDIs	Knowledge and skills on IP and to encourage commercialization
Small and Medium Enterprises	Basic Orientation Seminars	20 in 19 provinces	809	<ul style="list-style-type: none"> <li>▪ Higher level of awareness resulted into 6 MOUs forged with SME organizations to promote use of IP among their members</li> <li>▪ 1,916 Incremental increase in local trademark applications between 2007/2008</li> </ul>
	Strategic Management of IP	3 in 3 major cities	233	
General IP Seminars	Basic Orientation and Introduction to IP	114	1, 259	Higher level of awareness among various sectors of society, including students at the secondary level of education would result to better appreciation and protection of IP

Target Sector	Type of Activities	No. of Times Conducted	Total No. of Participants	Impact
Specialized Basic IP Seminar	Basic Patent Search and Document-ation Seminar	3	122	Higher level of skill and knowledge in patent search
Seminars Relating to Copyright and Neighboring Right	Seminar and Consultations on Collective Management	6	237	Higher level of understanding of copyright from potential economic benefits therefrom resulted in the formation of a collecting society for reprographic rights FILSCOLS and the strengthening of the collecting society for performances
	Basic Copyright Seminar	16	740	
	Global Prospectus on Copyright	1	143	
<b>TOTALS</b>		175	4,084	

*On top of the above, the Office has aggressively used the print, broadcast and television in disseminating IP information. Activities to create awareness were also institutionalized and the holding thereof coincide with major IP celebrations such as the World IP Day, the World Copyright Day and the month long celebration of the IPR Week in the last week of October.*

**(United States)**

**4. The points/updates that were included are in order. They have included the Cheaper Medicines Law update. The burden is with the Philippine government to include updates and a team will conduct due diligence to verify the updates that the GRP included. Nonetheless, points that may be worth considering for inclusion would be:**

- **The E-commerce law (RA 8792) extends the legal framework established by the IP code through the use of telecommunication networks, such as the internet. Through RA 8792, infringement on intellectual property rights is punishable. The penalties are the same as hacking --**

*Philippines E-Commerce Law - Republic Act No. 8792....”SEC. 33. Penalties. - The following Acts shall be penalized by fine and/or imprisonment, as follows: ...*

*(b) Piracy or the unauthorized copying, reproduction, dissemination, distribution, importation, use, removal, alteration, substitution, modification, storage, uploading, downloading, communication, making available to the public, or broadcasting of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights shall be punished by a minimum fine of one hundred thousand pesos (P100,000.00) and a*

*maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years; “*

- **The executive order EO 736 which institutionalizes permanent IP units in the different GRP agencies/departments may be worth adding as well.**

*IP Philippines has taken note of the observations of the United States with regard to the provisions of the Electronic Commerce Act. On the proposal to include E.O. 736 in the report, the same has been addressed by the response to Question No. 1, which contains a discussion on the same executive order that institutionalizes the establishment of intellectual property units in law enforcement agencies.*

- 5. Going over the IPR chapter, the WIPO internet treaties implementing legislation comes to mind. It is not clear whether it should fall under the IPR chapter but should be a “to do” of the RP under "further implementation planned" to enact implementing legislation for the WIPO Internet treaties. Given that the Philippines acceded to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (known collectively as the WIPO Internet Treaties) in 2002, the Philippine government has to enact necessary amendments to its Intellectual Property Code that would fully implement the requirements of these two WIPO treaties into domestic law. This information should be highlighted in the report.**

*The implementing legislation for the WIPO Internet Treaties is covered by House Bill No. 3741, which was introduced by Representative Rufus Rodriguez and is now pending deliberations in the Thirteenth Congress. The proposed bill seeks to amend the existing copyright provisions of the Intellectual Property Code through the integration of comprehensive and adequate strategies designed to respond to the criminal onslaught of internet piracy. It provides rights to performers, phonogram producers and broadcasters similar to those rights accorded to authors of artistic and literary works by acknowledging the right of such phonogram producers, performers or broadcasters to control or be compensated for the various ways in which their works are used or enjoyed by others. It also recognizes the rights to distribution and rental, as well as the right to receive payments for certain forms of broadcasting or communication to the public.*

*In addition, House Bill No. 3741 contains provisions that ensure rights holders to effectively use technology to protect their own rights and license their own works online, especially when their creations are disseminated on the internet. It also recognizes the utilization of certain safeguards to prevent the deletion or alteration of information that accompanies any protected material available online which identifies the work, its creator, performer or owner, as well as the terms and conditions for the use of such protected work.*

## **Chapter 8 Competition Policy (Expert)**

- 1. Please describe in detail the proposed new legislation on Competition Policy that has been filed at the 14<sup>th</sup> Congress. Is there a single bill being considered, or several competing legislative proposals? What are the pertinent features of the proposed legislation, and what are the prospects for passage into law? Will this legislation address the need to create a comprehensive economy-wide competition policy framework?**

*The following draft bills have been filed at the Senate and House of Representatives:*

- a. *House Bill No. 1678 by Rep. Jose De Venecia, Jr., “An Act Prescribing a Fair Competition law, and the Creation of a Fair Trade Commission and for Other Purposes”*
  - *Aims to level the business playing field by strengthening the legal and institutional framework that would combat unfair trade practices*
  - *Creation of a Fair Trade Commission that would investigate, gather evidence and initiate prosecution of those engaged in unfair trade practices, the description of monopoly power or market abuse, and the imposition of defined sanctions to key officials of companies that have violated fair competition.*
  
- b. *Un-numbered House Bill by Rep. Rufus B. Rodriguez, “An Act Penalizing Monopolies and Unfair Competition and Establishing the Fair trade Commission, Defining its Powers and Functions, and for Other Purposes”*
  - *Aims to level the business playing field by strengthening the legal and institutional framework that would combat unfair trade practices*
  - *Creation of a Fair Trade Commission that would investigate, gather evidence and initiate prosecution of those engaged in unfair trade practices, the description of monopoly power or market abuse, and the imposition of defined sanctions to key officials of companies that have violated fair competition.*
  
- c. *House Bill No. 3856 by Rep. Junie E. Cua, “An Act Creating the Phil. Trade Commission, Regulating and Penalizing Unfair Fair Trade Practices and other Anti-Competitive Practices and Conduct, Unlawful Mergers, Acquisitions and Combinations in Restraint of Trade, Unfair Competition, Abuse of Dominant Power and Appropriating Funds therefore”*
  - *Aims to level the business playing field by strengthening the legal and institutional framework that would combat unfair trade practices.*
  - *Creation of a Philippine Fair Trade Commission that would investigate, gather evidence and initiate prosecution of those engaged in unfair trade practices, the description of monopoly power or market abuse, and the imposition of defined sanctions to key officials of companies that have violated fair competition.*
  
- d. *House Bill No. 3077 by Reps. Narciso D. Santiago and Marcelino R. Teodoro, “Amending Rep. Act No. 3815, otherwise known as the Revised Penal Code, as amended, Article 186 on Monopolies and Combinations in Restraint of Trade”*
  - *Increases the penalty for the violation of Art. 186 of the Revised Penal Code to an afflictive penalty (prison mayor) or the imposition of a fine in the increased amount of ONE MILLION PESOS, if a corporation, or P500,000.00 in case of a natural person.*
  - *Expands the coverage of the acts deemed in violation of the Article as provided in paragraph 1 of the proposed House Bill.*
  
- e. *Senate Bill No. 123 by Sen. Juan Ponce Enrile, “An Act Prohibiting Monopolies, Attempt to Monopolize an Industry or Line of Commerce, Manipulation of Prices of Commodities, Asset Acquisition and Interlocking Memberships in the Board of Directors of competing Corporate Bodies and Price Discrimination Among Customers, Providing Penalties Therefore and for Other Purposes.”*
  - *Prohibits and penalizes monopolies, attempt to monopolize an industry or line of commerce, manipulation of prices of commodities, asset acquisition and*

*interlocking memberships in the board of directors of competing corporate bodies and price discrimination among customers*

- *Penalizes combinations or conspiracies in restraint of trade and all forms of artificial machinations that will injure, destroy or prevent free market competition.*
- f. *Senate Bill No. 1122 by Sen. Miriam Defensor Santiago, “An Act Amending Rep. Act No. 3815, also known as the Revised Penal Code, as Amended, Article 186 on Monopolies and Combinations in Restraint of Trade”*
- *Amends RA 3815 or the Revised Penal Code, as Amended, Article 186 on Monopolies and Combinations in Restraint of Trade*
- g. *Senate Bill No. 2544 by Sen. Antonio Trillanes IV, “An Act to Strengthen the Prohibition Against Monopolies and Cartels of Basic Necessities or Prime Commodities, Amending for the Purpose Rep. Act No. 7581 (Price Act )*
- *Strengthens the prohibition against monopolies and cartels of basic necessities or prime commodities under the RA 7581 or the Price Act.*

*As to the prospects for passage into law, the proposed Senate and House Bills on Competition Policy and Anti-Trust have a good chance of being enacted into law just like other Bill. The Senate consolidated version of all Competition and Anti-Trust Bills (“The Philippine Anti-Trust Act of 2008”) has already passed the scrutiny of the Technical Working Group and is due for plenary deliberation and debates at the Senate.*

*The enactment of the Philippine Anti-Trust Act of 2008 would elevate the level of legislative enactment which pertains to Competition Policy and Anti-Trust. It would somehow provide a jump start answer as to the need to create a comprehensive economy-wide competition policy network.*

**2. Please describe the most significant challenge in the enforcement of competition policy under the present legislative framework in the Philippines, for example, degree of enforcement, jurisprudence, consistency of various laws, etc. What are the priorities for policy reform?**

*The glaring lack of a comprehensive and national in scope competition policy law/s and Anti-Trust law in the Philippines is the foremost challenge in the enforcement of the various laws having a competition aspect. Although there are various provisions in the 1987 Constitution which specifically deal with competition and anti-trust, the same constitutional provisions are, however, not self-executing and need an enabling law from Congress to be made effective.*

*Given the above situation, the Philippine authorities are constrained to implement the various and separate pieces of legislation existing in the Philippines which contain elements of Philippine competition framework ; such as the Revised Penal Code (R.A. 3815), the Intellectual Property Code of the Philippines (R.A. No. 8293), the Price Act (R.A. 7581) and the Consumer Act of the Philippines (R.A. 7394), at the sectoral level. This oftentimes resulted in the vesting of such enforcement and regulation of unfair trade practices and anti-competitive behavior in various government agencies (i.e. DTI, Intellectual Property Office, the National Telecommunication Commission, the Energy Regulatory Commission, etc.) which eventually resulted in the emergence of diverse approaches and interpretations by*

*these government bodies of the identified separate pieces of legislation containing elements of Philippine competition framework.*

**3. Please describe to what extent the current situation in the Philippines conforms to APEC's Principles on Competition Policy and Deregulation? What are the most significant areas of divergence, if any?**

*The Philippines, as an APEC member economy, is cognizant of its commitments to adhere, as much as possible, to the APEC Principles on Competition Policy and Deregulation. The Philippines is cognizant of the fact that the continuation of trade reforms so as to meet the challenges of international competition would require the support of a broader policy framework so as to improve productivity through greater competition in the domestic markets. However, given the lack of an existing comprehensive and national in scope competition policy law/s and Anti-Trust law in the Philippines, the Philippines can only promise its best efforts to comply with the APEC mandated Principles on Competition Policy and Deregulation.*

## **Chapter 9 Government Procurement**

**(Expert)**

**1. Please describe briefly the mandate and operations of the Procurement Transparency Group created in 2007. What have been its main accomplishments and what have been its most significant challenges?**

*The Procurement Transparency Group (PTG) is mandated to enhance transparency and accountability thru monitoring compliance of government agencies with anti-graft mechanism and RA 9184 (Government Procurement Reform Act) in the bidding and awarding of public sector contracts, with the end view of deterring anomalies therein, as well as to prevent losses due to procurement anomalies.*

*The said mandate is in line with, and supplements/enhances, the Government Procurement Policy Board's (GPPB) efficiency and effectiveness in carrying out its monitoring functions, as a way of protecting national interest in all matters affecting public procurement.*

*The PTG is a collaborative effort between the government and the civil society. The membership is equally spread among five (5) government agencies with oversight function or capability to gather information on the field, and five (5) civil society organizations/non-government organizations (NGOs/CSOs) involved in training of procurement observers and procurement reforms.*

*The PTG shall be under the GPPB which renders policy guidance and technical assistance on all procurement issues encountered during the monitoring of projects. It shall have a database of all procurement documents, reports, and the like which all government agencies are directed to submit pursuant to E.O. 662.*

*The PTG, in general, shall evaluate, comment on, record and monitor procurement activities of NGAs, GOCCs, GFIs, SUCs and LGUs. To do this, it shall review the different agencies' Annual Procurement Plans (APP), postings of bid opportunities and awards at the Philippine Government Electronic Procurement System (PhilGEPS), and other procurement documents*

*in order to identify which projects need focusing on, as well as to determine which CSO observer need to be deployed. A matching between the agency's Bids and Awards Committee (BAC) and the CSO will have to be made to ensure the integrity and independence of the procurement process.*

*The identification of projects shall be based on the following criteria: (1) mode of procurement; (2) amount of budget, (3) volume; (4) susceptibility to problems and anomalies; and (5) importance of the project to the developmental objectives of the economy. Once the PTG has identified the potential red flag situations, it will coordinate with the agency concerned and strategically deploy its trained observer to monitor action taken by the agency to prevent violation or avert violations of RA 9184.*

*The deployed observers will report their findings/observations/recommendation to the PTG, GPPB, Office of the Executive Secretary; as well as call the attention of agency heads. Upon finding of non-compliance, the PTG shall recommend to PAGC and other appropriate body, the imposition of sanctions, implementation of remedial measures, and the filing of criminal, civil, and/or administrative charges.*

*A considered major accomplishment of the PTG is the forging of a more open and strengthened partnership between the government and the civil society. This has, to some extent, paved the way for the latter's easier access to public procurement documents from selected government agencies.*

*Considerably, although civil society interest has increased, there still exists the difficult task of sustaining their participation in monitoring procurement projects, absent the institutional support (ideally from development partners thru grants and the like) for their continued training, as well as a centralized and functional registry and/or umbrella organization of observers to be deployed. Equally challenging is the task of prosecuting and bringing to justice all identified/reported anomalies and irregularities in procurement by certain agencies.*

**2. Has the RP conducted an evaluation of the results of RA 9184? What specific changes have occurred in the actual management of government procurement as a result of this legislation? If any studies such studies have been conducted, we would appreciate receiving a copy.**

*During the fourth quarter of 2006, the Social Weather Stations (SWS) conducted a national survey on the public's opinion on procurement reforms, specifically on its awareness of RA 9184. In sum, the survey results showed that only 13 percent of the general public and 30 percent of government employees knew about RA 9184 which was passed in 2003. A copy of the results of the SWS survey is attached hereto as Appendix 1.*

*In terms of specific changes, RA 9184 has introduced a number of significant reforms in the economy's procurement system. These changes are exemplified in the table below:*

<b>Problems Before RA 9184</b>	<b>Reforms/Changes Introduced thru RA 9184</b>
Confusion caused by a fragmented legal system	Uniform applicability of the law to both national government agencies and local government units
Inconsistent policies, rules and regulations; lack of standards and monitoring	Formation of the GPPB as the sole procurement authority
Collusion and lack of transparency	Approved Budget for the Contract (ABC) as ceiling
Delays, collusion and lack of competition	Simplification of Pre-qualification and stronger post-

	qualification
Abuse of discretion	Use of objective non-discretionary criteria
Lack of transparency	Use of the Philippine Government Electronic Procurement System (PhilGEPS)
Lack of check and balance	Civil Society Organization's observance of bidding process and result monitoring/reporting
Unresolved procurement cases/controversies	Clearly defined protest mechanisms in place
Non-compliance with the requirements of the law	Penal, civil, and administrative sanctions available

Also, the Country Procurement Assessment Report dated 18 June 2008 issued by the World Bank showed the following changes since RA 9184's passage:

- a. The public procurement system has become more efficient, and many loopholes in corruption opportunities have been closed.
- b. The promotion of e-procurement through the Philippine Government Electronic System (PhilGEPS) has brought the system into the digital age and vastly improved transparency and efficiency.
- c. Standard bidding documents and manuals are being used by the procuring agencies and the private sector providers.
- d. Alignment with international practice improved, and the national procurement system became more widely used following the increase in the use of National Competitive Bidding (NCB) thresholds for foreign-assisted projects.
- e. Many government agencies adopted e-procurement and have benefited from the transparency and competitiveness it fosters.

**3. Please provide details of the Joint Venture Guidelines for the private sector's participation in government projects. What is the legal status of these guidelines? Have they resulted in any noticeable change in either policy or practice? If so, please explain.**

Details of the JV Guidelines

a. Legal Basis

In line with the government's thrust of promoting and strengthening its partnership with the private sector (i.e. public-private partnership), the Guidelines and Procedures for Entering Into Joint Venture (JV) Agreements Between Government and Private Entities was passed, pursuant to Section 8 (Joint Venture Agreements) of Executive Order (EO) No. 423 dated 30 April 2005, which mandates the National Economic and Development Authority (NEDA), in consultation with the Government Procurement Policy Board (GPPB), to issue the necessary guidelines on Joint Ventures (JVs). The Guidelines took effect on 02 May 2008.

b. Objectives

- i. To prescribe the rules, guidelines and procedures forging JV Agreements between government corporations, and private entities;
- ii. To encourage pooling of resources and expertise between government and private sector entities through JVs as a viable, efficient, and practical alternative in pursuing development goals of the government; and
- iii. To ensure that all JV Agreements are entered into under the policy that all government contracts shall be awarded through a transparent process.

c. Coverage

It shall apply to all government-owned and/or controlled corporations (GOCCs),



government corporate entities (GCEs), government instrumentalities with corporate powers (GICPs), government financial institutions (GFIs), state universities and colleges (SUCs), and which are expressly authorized by law or their respective charters to enter into JV Agreements. Local Government Units (LGUs) are not covered by these Guidelines. Also, it shall be inapplicable to transactions of GFIs in the ordinary course of business as part of their normal and ordinary banking, financial or portfolio management operations.

*d. Principles to be considered by Government when entering into a JV Agreement:*

- i. Free Competition: The creation of the JV should not prevent potential players from profitably entering into business venture/market.*
- ii. Efficiency: The cost of producing the particular product, activity, or service should be efficient or potentially efficient towards earning potential profits for government and the market player/private sector partner.*
- iii. Government Exit: There should be no barriers for the government's withdrawal of its contribution to the JV investment.*
- iv. Conflict-Free: The role of government as regulator of the business of the JV should be clearly and explicitly delineated from its role as implementer of the business to avoid conflicts of interest.*
- v. Government Divestiture: As differentiated from projects procured under Official Development Assistance (ODA), Build Operate and Transfer Law (BOT) and Government Procurement Reform Act (GPRA) where ownership of the asset/business will stay with the government, JV Agreements allow the private sector to take over the undertaking of the projects in its entirety after the government divests itself of any interest in the JV.*
- vi. Agency Accountability: Accountability for the JV project ultimately devolves on the Head of the Government Entity involved in the JV Agreements and the implementation of the JV project. The private parties dealing with the Government are similarly held accountable for all their actions relative thereto.*

*e. General Guidelines*

*Prior to entering into a JV Agreement, the proposed JV activity shall be approved in principle, in accordance with the procedure stipulated below:*

- i. For JV Agreements regardless of cost, the Head of the Government Entity concerned shall have the authority to approve the proposed JV Agreement in principle, subject to the compliance to the conditions listed hereunder:*
  - a. Justification that the JV activity is within the mandate and charter of the Government Entity concerned as certified and notarized by the head of the Government Entity;*
  - b. Clear description of the proposed investment, including its activities, objectives, source(s) of funding, extent and nature of the proposed participation of the investing Government Entity, period of participation of the Government Entity, and the relevant terms and conditions of the undertaking under the proposed JV Agreement, among others;*
  - c. Justification as to the responsiveness and relative priority of the proposed*

- JV activity in meeting national or specific development goals and objectives; and*
- d. All other components of the JV Agreement, including the technical, financial, legal and other aspects in determining the over-all feasibility of the proposed JV activity, among others, shall be established.*
  - ii. For JV activity that will require national government undertakings, subsidies or guarantees, clearance/approval of the Department of Finance (DOF) and/or the Department of Budget and Management (DBM), as the case may be, shall be secured.*
- f. Modes of Selecting a JV Partner*
- a. Competitive Selection – The process for the conduct of Competitive Selection, contract award and final approval shall be stipulated under Annex A of these guidelines. In the conduct of the Competitive Selection process, the Government Entity shall ensure the following:*
    - a. all activities during the competitive selection, award, and final approval are conducted in a transparent and competitive process that promotes accountability and efficiency; and*
    - b. the competitive selection parameters are clearly defined and shall include the parameters as approved by the Head of the Government Entity.*
  - b. Negotiated Agreements – Negotiated agreements may be entered under the following circumstances:*
    - a. When a Government Entity receives an unsolicited proposal;*
    - b. When there is failure of competition when no proposals are received or no private sector participant is found qualified and the Government Entity decides to seek out a JV partner; and*
    - c. When there is failure of competition, i.e., there is only a single interested party remaining as defined under VIII(6) of Annex A.*

*In the case of subsection ii(c) above, the procedures outlined in Annex B (Limited Negotiation Procedures in case of Failed Competitive Selection under Section 6 of Annex “A” of the Guidelines) shall apply. Subsections ii(a) and ii(b) shall be governed by the rules under Annex C (Detailed Guidelines for Competitive Challenge Type Procedure Public-Private Joint Ventures).*

- h. Deviations and Amendments to the JV Agreement*

*The concerned Government Entity shall not proceed with the award and signing of the contract if there are material deviations from the parameters and terms and conditions set forth in the proposal/tender documents that tend to increase the financial exposure, liabilities, and risks of government or any other factors that would cause disadvantage to government and any deviation that will cause prejudice to losing private sector participants. The Head of the Government Entity concerned shall be responsible for compliance with this policy. Violation of this provision shall render the award and/or the signed JV Agreement invalid.*

*Any amendment to a JV Agreement after award and signing of contract, which does not materially affect the substance of the competitive selection, shall be subjected to the requirements stipulated under Sections 7.1 and 7.2 hereof. Non-compliance with the*

*corresponding approval process stated shall render the amendment null and void.*

*h. Reporting Requirement*

*During the course of implementation of the JV Agreement, the concerned Government Entity shall submit an annual report on the status of its implementation during a current year to the Department of Finance, for monitoring purposes. The annual report shall be submitted within the first quarter of the succeeding year. The report shall use current standards in the production of corporate annual reports and shall include the audited financial statements of the JV. In addition, the report shall also contain the JV's work program for a period of three (3) years starting from the year the annual report is issued.*

*Pursuant to Section 10 of EO No. 423, the heads of government entities as defined in Section 5 of these Guidelines, shall submit to NEDA the salient features and a copy of JV Agreements amounting to at least Three Hundred Million Pesos (P300 Million) together with all documents required thereto for monitoring of compliance with relevant policies, procedures and conditions for approval of the JV undertaking.*

*Legal Status and Assessment of Implementation*

*The JV Guidelines took effect last 02 May 2008, which is fifteen (15) days from the date of its publication in the Philippine Star (a newspaper of general circulation) on 17 April 2008.. Since then, the Office of the Government Counsel (OGCC) has embarked on a rigorous information dissemination campaign, thru the conduct of lectures/workshops, as well as the publication of materials/brochures on the same .*

*Inasmuch as the JV projects contemplated under the JV Guidelines clearly do not fall within the ambit of RA 9184, the GPPB is bereft of expertise to provide a proper appraisal of the Guidelines' efficiency and adequacy. Nonetheless, we have coordinated with the National Economic and Development Authority (NEDA) and the OGCC, and they have given information that several GOCCs and GFIs have already utilized the Guidelines for some of their JV projects. Relatedly, the OGCC has so far received close to two hundred (200) requests for clarification and/or legal opinion on various issues pertaining to the Guidelines.*

*Corollary thereto, it is posited that the OGCC and the NEDA stand in a better position to give the appropriate assessment in the implementation of the said Guidelines. We, however, remain confident and hopeful that it shall strengthen the ties between the public and private sectors through the promotion and proliferation of joint programs for economic development.*

*In reply to the question on noticeable change in either policy or practices, there are no significant changes in the procurement policy of the Government, since the JV Guidelines are consistent with government's general policy that promotes transparency, competitiveness, and accountability in government transactions, and, where applicable, complying with the requirements of an open and competitive public bidding. The only difference between a JV and a regular procurement activity is that the former is a partnership between the government and the private sector, including the sharing of risks, profits and losses to undertake an investment activity. As such, this scheme offers an additional option for both government and private sector to mobilize resources to pursue development goals of the economy.*

Currently, a number of GOCCs are in the process of selecting a JV partner for their projects adopting the JV Guidelines. Below are some examples:

- a. National Housing Authority (NHA)
  - New Bilibid Prison Reservation; and
  - North Triangle Project
- b. Metropolitan Waterworks and Sewerage System (MWSS)
  - 300 MLD Bulk Water Supply; and
  - Laiban Dam Project.
- c. Philippine Reclamation Authority (PRA)
  - Roxas Boulevard Reclamation Project
- d. Philippine Tourism Authority (PTA)
  - Boracay Water Supply and Sewerage System

**4. What is the status of the AIM's Procurement Modular Syllabus? Has the program been implemented?**

*The Development of Procurement Modular Syllabus Towards a Certification Program for the Professionalization of Public Procurement Practitioners and Functions Project (hereinafter referred to as the Project) of the Government Procurement Policy Board (GPPB) under IDF Grant No. TF057655 of the World Bank (WB), was awarded to the Asian Institute of Management (AIM) last September 2008 after conduct of public bidding.*

*Through this Project, the GPPB aims to develop a detailed modular syllabus and materials, that once delivered, will create a cadre of trained procurement personnel throughout the public sector. The syllabus and materials will form the core of a certification program that will raise the level of efficiency and effectiveness of public sector procurement.*

*The Project has three (3) stages, viz:*

*Stage I: Development of Procurement Modular Syllabus*

*Stage II: Training of the Pilot Batch*

*Stage III: Downstream Activities*

*AIM has been specifically engaged by the GPPB for the first two stages. As of this writing, AIM has already prepared the initial drafts of twelve (12) out of the fifteen (15) modules, and the presentation of the modules for the review/comments of the GPPB Intern-Agency Technical Working Group (IATWG) has just been concluded this afternoon, 21 January 2009.*

*Once the modules have been completed and revised as per the recommendations of the IATWG, and thereafter accepted by the GPPB, AIM shall then proceed with Stage 2. The training of the pilot batch which will run for seventy-four (74) days on a staggered basis, has been scheduled in April of this year.*

*As a parallel activity, efforts are under way towards securing a Certification Program for the Project.*

*The Project is slated for completion/closure at the end of this year (i.e. December 2009).*

**5. What is the current practice with regard to providing preferential treatment to local suppliers? To what extent is this restricted by provisions in the constitution?**

*The current practice is to provide preferential treatment to local suppliers by way of nationality and price. The nationality preference limits participation to suppliers who meet a required minimum equity requirement for Filipino ownership. The price preference gives local suppliers a price percentage advantage over bids of foreign suppliers.*

*Examples of legislations limiting foreign participation through the imposition of nationality preference are Republic Act No. 5183 and Letter of instructions (LOI) 630.*

*R.A. 5183 prohibits award of government supply contract to a contractor or bidder who is not a citizen of the Philippines or which is not a corporation or association at least sixty percent (60%) of the capital of which is owned by Filipino citizens, except as to a citizen, corporation, or association of an economy the laws or regulations of which grant similar rights or privileges to Filipino citizens.*

*LOI 630, on the other hand, limits award of government civil works contracts to Filipino individuals and to corporations, partnerships, or associations seventy five percent (75%) of the capital of which is owned by Filipino citizens.*

*An example of price preference is Commonwealth Act 138, also known as the Flag Law. This law requires award of government contract to local suppliers and entities offering materials of the growth or production of the Philippines or materials to be manufactured substantially from articles of the growth or production of the Philippines whose bid does not exceed fifteen percent (15%) of the lowest foreign bid.*

*Instead of restricting these preferential treatments, the Philippine Constitution provides ample support in its imposition under Article XII, Section 12 thereof, to wit:*

*“The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive. “*

*However, the Philippine Constitution also requires observance of equality and reciprocity in pursuing its trade policies. This is expressly provided for in Article III, Section 13, to wit:*

*“The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.”*

#### **6. What strategy does the RP have to improve compliance with APEC Non-binding principles on Government Procurement?**

*At the outset, we are proud to note that RA 9184 is founded on the same principles espoused by the APEC on the matter of Government Procurement. Hence, the Philippines equally supports measures which promote transparency, competitiveness, accountability, value for money and efficiency in the procurement process.*

*In furtherance thereto, the Government of the Philippines (GOP) has been working closely with the development partners on procurement reform for many years as an essential element of good governance, and as an integral part of our joint economy assistance strategies. The goals of procurement work/reforms have been to analyze and improve public procurement policies, organization, and procedures by increasing capacity, improving accountability and transparency, reducing the scope for corruption, and bringing systems into harmony with internationally accepted principles and practices.*

*The latest phase of the foregoing efforts is the 2007 Country Procurement Assessment Report (CPAR) process which the GOP spearheaded. The results of the assessment showed a marked improvement in the GOP’s procurement, although there are still areas that need improvement.*

*The GOP has likewise volunteered to be a pilot economy for the Construction Sector Transparency Initiative Project of the DIFID. This project aims to increase transparency and accountability vis-à-vis the principle of “get what you pay for”, improve outcomes, and tackle corruption. An Assurance Team and a Multi-Stakeholder Group (MSG) composed of government, private sector, civil society and donors, have already been formed for the purpose of monitoring construction projects in terms of the adequacy and reliability of disclosures on project information from contract award to contract completion and beyond.*

*Reports shall be published and donors shall facilitate the capacity building, as well as the sharing of experiences/best practices, among the pilot economies.*

*Another strategy employed by the GOP is forging greater partnership with the civil society organizations involved in procurement reforms. This is provided for in RA 9184, and, further enhanced by the issuance of Executive Order No. 662 which created the Procurement Transparency Group.*

*The GOP, through the GPPB, is likewise embarking on a massive Communication Plan. This is aimed at raising the public profile of procurement so that its stakeholders and beneficiaries can participate more actively and safeguard it against wrongdoing. In this regard, there is a need to deepen civil society and private sector involvement in vigilant monitoring of procurement operation.*

*Efforts are likewise being done towards further harmonization of procurement guidelines, rules and regulations with the development partners/donors/IFIs. Consultations are currently ongoing for the drafting of a One IRR for both domestic and foreign-funded projects.*

*Lastly, the GOP, through the GPPB, is in the process of developing modular syllabus towards the professionalization of public procurement practitioners and functions. This is aimed at providing a career certification program for procurement officers and personnel.*

#### **(Chinese Taipei)**

### **7. We would appreciate further information on the following:**

#### **1. the threshold for open tendering;**

*Under R.A. 9184, no specific threshold amount is provided for public, competitive bidding, which is the default mode of procurement. However, the law and its Implementing Rules and Regulations Part A (IRR-A) mandate that only bids which do not exceed the approved budget for the contract (ABC) shall be qualified in the bidding, viz:*

*“Sec. 31 Ceiling for Bid Prices. – The ABC shall be the upper limit or ceiling for the Bid prices. Bid prices that exceed this ceiling shall be disqualified outright from further participating in the bidding. There shall be no lower limit to the amount of the award.”*

*The ABC is defined as the budget for the contract duly approved by the Head of the Procuring Entity, as provided for in:*

- a. the GAA and/or continuing appropriations, in the case of NGAs;*
- b. the corporate budget for the contract approved by the governing board, pursuant to E.O. 518, series of 1979, in the case of GOCCs and GFIs; and R.A. No. 8292, in the case of SUCs; or*
- c. the budget approved by the Sanggunian in the case of LGUs.*

*However, for foreign-assisted projects, reference should be made to the loan or grant agreement to determine the applicability of the ABC.*

#### **2. the bid bond amount for which the tendering suppliers must pay;**

*Under R.A. 9184 and its IRR-A, the bid bond referred to above pertains to bid security. Section 27.2 thereof provides that the required amount of bid security shall be in accordance with the following schedule:*

<b>Form of Security</b>	<b>Minimum Amount in % of Approved Budget for the Contract to be Bid</b>
1. Cash, certified check, cashier's check, manager's check, bank draft or irrevocable letter of credit	One percent (1%)
2. Bank guarantee	One and a half percent (1 ½%)
3. Surety bond	Two and a half percent (2 ½%)
Foreign government guarantee	One hundred percent (100%)

**3. the performance bond amount for which the awarded suppliers must pay;**

*Section 39 of the IRR-A of R.A. 9184 states that the required amount of the performance security (or performance bond) shall be in accordance with the following schedule:*

<b>Form of Security</b>	<b>Minimum Amount in % of Total Contract Price</b>
1. Cash, certified check, cashier's check, manager's check, bank draft or irrevocable letter of credit	Five percent (5%)
2. Bank guarantee	Ten percent (10%)
3. Surety bond	Thirty percent (30%)
4. Foreign government guarantee	One hundred percent (100%)

**4. any regulations regarding “cap on liability and liquidated damages” in the contract.**

Cap on Liability

*R.A. 9184 and its IRR-A are silent on the provision of a cap on liability. However, Section 67 of IRR-A provides:*

*“Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under the Act and this IRR or R.A. 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of government of any unwarranted benefit derived from the act in question or both, at the discretion of the courts.”*

*Further, under the General and/or Special Conditions of Contract (GCC/SCC) of the Philippine Bidding Documents (as harmonized with the Asian Development Bank, World Bank, and Japan Bank for International Cooperation ), a Limitation on Liability is included, viz:*

*a. For the procurement of goods:*

*“Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.”*

b. For the procurement of consulting services (PBDs, SCC)

*“Limitations of the Consultant’s Liability towards the Procuring entity are as follows:*

- i. *Except in case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity’s property, shall not be liable to the Procuring Entity:*
- ii. *for any indirect or consequential loss or damage; and*
- iii. *for any direct loss or damage that exceeds (A) the total payments for professional fees and reimbursable expenditures made or expected to be made to the Consultants hereunder, or (B) the proceeds the Consultants may be entitled to receive from any insurance maintained by the Consultants is to cover such a liability, whichever of (A) or (B) is higher.*

*This limitation of liability shall not affect the Consultant’s liability, if any, for damage to third parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.*

*(NOTE:*

*If the Parties wish to limit or to partially exclude the Consultant’s liability to the Procuring Entity, they should note that, to be acceptable, any limitation of the Consultant’s liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause the Procuring Entity, and (b) the Consultant’s ability to pay compensation using their own assets and reasonably obtainable insurance coverage. The Consultant’s liability should not be limited to less than (i) the estimated total payments to the Consultant under the Contract for remuneration and reimbursables, or (ii) the proceeds the Consultant may be entitled to receive from any insurance they maintain to cover such liability, whichever of (i) or (ii) is higher. A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Bank. Also, the Consultant’s liability should never be limited for loss or damage caused by the Consultant’s gross negligence or willful misconduct.*

*Provisions to the effect that the Procuring Entity shall indemnify and hold harmless the Consultant against third party claims are not acceptable, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Procuring Entity.)*

c. For the procurement of civil works/infrastructure projects

*The GCC of the PBDs for Procurement of Civil Works and IRR-A of RA 9184 provide:*

*xx Contractor’s Risk and Warranty Security*

*The Contractor shall assume full responsibility for the Works from the time project construction commenced up to final acceptance by the Procuring Entity and shall be held responsible for any damage or destruction of the Works except those occasioned by force majeure. The*



*Contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the Works, Equipment, installation, and the like to be affected by his construction work.*

*The defects liability period for infrastructure projects shall be one year from project completion up to final acceptance by the Procuring Entity. During this period, the Contractor shall undertake the repair works, at his own expense, of any damage to the Works on account of the use of materials of inferior quality within ninety (90) days from the time the Head of the Procuring Entity has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the Procuring Entity shall undertake repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.*

*In case the Contractor fails to comply with the preceding paragraph, shall suffer perpetual disqualification from participating in any public bidding and its property or properties shall be subject to attachment or garnishment proceedings to recover the costs. All payables of the Procuring Entity in the Contractor’s favor shall be offset to recover the costs.*

*After final acceptance of the Works by the Procuring Entity, the Contractor shall be held responsible for structural defects and/or failure of the completed project within the following warranty periods from final acceptance, except those occasioned by force majeure and those caused by other parties:*

- (a) permanent structures: fifteen (15) years*
- (b) semi-permanent structures: five (5) years*
- (c) other structures: two (2) years.*

*The Contractor shall be required to put up a warranty security in the form of cash, bank guarantee, letter or credit, GSIS or surety bond callable on demand, in accordance with the following schedule:*

<b>Form of Warranty</b>	<b>Minimum Amount in Percentage ( %) of Total Contract Price</b>
1. Cash deposit, cash bond or letter of credit	Five Percent (5%)
2. Bank guarantee	Ten Percent (10%)
3. Surety bond	Thirty Percent (30%)

*Cap on Liquidated Damages*

*R.A. 9184 and its IRR provide that all contracts executed in accordance thereof shall contain a provision on liquidated damages which shall be payable in case of breach thereof, as follows:*

- a. For the procurement of goods and consulting services: at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion for every day of delay*
- b. For the procurement of infrastructure projects, the amount of liquidated damages shall be in accordance with Annex “E” ( Contract Implementation Guidelines for the Procurement of Infrastructure Projects).*

*For all types of procurement, the total sum of liquidated damages shall, in no case, exceed ten percent (10%) of the total contract price. Once the cumulative amount reaches 10% of the amount of the contract, the Procuring Entity shall rescind the contract, without prejudice to other courses of action and remedies open to it.*

**(Hong Kong, China)**

- 1. We note that the Philippines has passed laws and executive orders in recent years to improve the transparency, openness and fairness of its GP regime. We appreciate that the Philippines will continue to examine ways to make improvement on government procurement policy. (page 2 of chapter 9)**

*We appreciate these comments from Hong Kong, China and assure them of our commitment in further improving our government procurement policy.*

## **Chapter 10 Deregulatory/ Regulatory Review**

**(Expert)**

- 1. Please provide details of the Electric Power Industry reforms noted as examples of improvements since the last IAP Peer review. What were the specific achievements, and what is the current status of the reforms. (For example, is the WESM in operation?) What are time timelines of the implementation of Open Access and Retail Competition?**

### *Privatization of the National Transmission Corporation (TransCo)*

*Republic Act No 9511 or “An Act Granting the National Grid Corporation of the Philippines (NGCP, the winning TransCo concessionaire) a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High-Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for Other Purposes” was signed on 01 December 2008. RA 9511 mandated the transfer of the franchise of TransCo to NGCP and allowed the private concessionaire to commence its operation, maintenance, and expansion of the electric transmission grid for 50 years, in accordance with the Concession Agreement.*

- 2. What further action is being planned to deregulate the economy and encourage privatization in the Philippines?**

*a. Legislative Action*

- i. Republic Act (RA) 9513: Renewable Energy (RE) Act of 2008. RA 9513 was signed into law on 16 December 2008. It provides fiscal incentives to companies that would invest in RE projects and direct the DOE and NPC to connect RE sources to the national power grid. The preparation of the Implementing Rules and Regulations is ongoing to facilitate the law’s implementation into the energy market.*

- ii. Industrial Energy Efficiency Research and Development Act of 2008. The bill was filed on 04 August 2008 and supports research and development of new environment-friendly industrial processes/technologies that utilize diverse energy sources and optimize energy efficiency.
- iii. Natural Gas Bill. The bill aims to institutionalize natural gas as a secure, stable, and clean source of energy. Further, it encourages competition by liberalizing entry and fair trade measures. It has passed 3rd reading by the House of Representatives and was re-filed as Senate Bill 733. It is now pending in the Senate Committees on Energy, Public Service, and Ways and Means.

b. *Privatization of Government Assets*

- i. Privatization of PNOC–Exploration Corporation (EC). The planned privatization of PNOC–EC has been deferred given recent market uncertainties. The Government plans to sell 40 percent of its 99.79 percent stake in PNOC–EC. Further, the PNOC–EC Board is contemplating on disposing more shares in the stock market.
- ii. Privatization of NPC Generation Asset in Luzon and Visayas. 15 out of 31 generating plants identified for privatization have been bid out since 2004. In 2008, five plants were successfully bid out (Manila Thermal, Tiwi–Makban, Panay Diesel, and Bohol Diesel). Privatization is now at 73.2 percent, marking the achievement of the mandated requirement of 70 percent under the EPIRA. Section 47-i of the EPIRA, provides that at least 70% of the total capacity of generating assets of NPC and of the total capacity of the power plants under contract with NPC located in Luzon and Visayas shall be privatized for the initial implementation of open access.
- iii. Selection of Independent Power Producer Administrators (IPPAs). Bidding for the selection of IPPAs commenced with the publication of the invitation to bid for Sual and Pagbilao power plants on 05 November 2008. The bid opening is set on 20 February 2009.
- iv. Implementation of Open Access and Retail Competition. With the attainment of the requirement of at least 70 percent privatization level of NPC assets and the transfer of management and control of NPC’s IPP contracts to IPPAs is being accelerated, the government plans to commence open access and retail competition in Luzon by 2009.

**3. Does the Philippine government, carry out systematic reviews of existing regulations? Does it conduct a Regulatory Impact Analysis examining the costs and benefits of regulations? Does the RP utilize sunset clauses limiting the duration of regulations unless they are explicitly renewed?**

*Reviews are conducted by respective agencies. In some cases, a third party reviewer is engaged. RP does not currently have an RIA mechanism in place.*

- 4. Has RP examined its regulatory regime against APEC's Principles on Competition Policy and Deregulation? If so, what were the results? Were there any particular weaknesses in the RP'S regulatory regime? If so, what measures are there in place to reform the regime to be more consistent with the APEC Principles? If the RP not examined its regulatory regime, why has it not done so? Does the government have any plans to carry out such an examination?**

*The Philippines has not examined its regulatory regime against the APEC Principles on Competition Policy and Deregulation.*

## **Chapter 11 Implementation of the WTO Obligations**

**(Expert)**

- 1. What is the Philippines' approach on Rules of Origin? Is it fully consistent with WTO obligations, considering that it has concluded various regional and bilateral FTAs?**

*The Philippines subscribes to the WTO Agreement on Rules of Origin, and is an active participant in the ongoing Harmonization Work Programme (HWP) on Rules of Origin.*

*The Philippines is committed to adopt and support all the ROO principles established and agreed under the WTO trading arrangement, which called for transparency, clarity and trade facilitating elements and measures. Such commitment has been demonstrated in RP's continued support for the advancement of negotiations at the CRO, as well as the resulting ROO Agreements that RP has managed to forge with ASEAN and its Dialogue Partners. Nonetheless, the existing negotiating constraints in the ROO negotiations for non-preferential ROO (WTO) have served as challenges for the Philippines to introduce key supplementary ROO elements and modifications in its preferential ROO under its concluded and currently negotiated bilateral and regional FTAs. Such effort was driven by strong public support and good business sense, which takes into account the evolving needs and requirements of a dynamic and highly integrated global business milieu.*

*The approaches taken in the development and implementation of the Philippines' preferential rules of origin for its various FTAs are fully anchored in the general principles and guidelines set by the WTO, that is, all rules to be adopted by parties in any FTA must be implemented in predictable and consistent manner. To date, the Philippines is party to four implemented FTAs, namely, (1) Japan-Philippines FTA, (2) ASEAN-China FTA, (3) ASEAN-Korea FTA, (4) CEPT-AFTA.*

*The rules of origin agreements implemented under preferential FTAs are similar to most of the core elements of the now progressing harmonization work relating to non-preferential ROO. Indeed, these are clear manifestations of policy convergence between preferential and non-preferential ROO.*

*However, policy divergence is still notable in the area of product specific rules. Nonetheless, the divergence is considered by experts as inevitable, as parties intrinsically pursue fundamentally different sets of objectives in negotiations. It must be underscored that in*

*preferential ROO, origin is claimed for tariff preference, while in non-preferential ROO, origin is claimed for application of trade measures. Thus, the WTO, cognizant of these issues and its inability to finalize ROO under the non-preferential system, accords parties to FTAs the liberty to exercise discretion in determining the most preferential ROO that will best serve their liberalization and integration interests. Note, however, that the overall liberalization objectives in FTAs must be based on the WTO assumption that all FTAs to be established under Article 24 or the Enabling Clause must result in FTA concessions that is WTO-plus.*

*In view of the foregoing, the Philippines will continue to develop non-preferential rules of origin on the basis of the: outcome of the negotiations in the WTO; the application of the rules to be adopted; and, the results of the preferential FTAs established - with the end view of sustaining and improving, where possible, the degree of similarity in ROO principles adopted in both preferential and non-preferential ROO.*

*Meanwhile, the PSR approaches/policies to be taken in FTAs may then continue to be pursued in accordance with the determined national trade policy interests for each FTA. Though the basis by which PSRs are negotiated in the two different forum (preferential and non-preferential) differ, all measures and implementation details that go with it must remain predictable, consistent, transparent, trade facilitating, and must not create and take in any guise or form additional barriers to trade.*

*Lastly, noting the unique behavior of factors affecting the policy considerations for ROO, the Philippines will continue to take a pragmatic and practical approach in creating relevant and responsive rules of origin, which will be available for the utilization and benefit of not only the large and integrated industry players, but for the small and medium scale industry players too.*

*For the detailed understanding of the Philippines' concluded bilateral and regional (ASEAN) ROO Agreements, interested parties may secure a copy of these through the following websites: [www.aseansec.org](http://www.aseansec.org) and [www.dti.gov.ph](http://www.dti.gov.ph).*

**2. What is the status of section on Performance Requirements under chapter on investment?**

*The Philippines has eliminated all trade-related investment measures notified to the WTO.*

*The local content and foreign exchange balancing requirements under the Car Development Programme (CDP), Commercial Vehicle Development Programme (CVDP), and the Motorcycle Development Programme (MDP), which were maintained since 1995, were eliminated as planned by 30 June 2003. The requirement for soap and detergent manufacturers to use at least 60% of locally produced input (cocochemical surfactant) was eliminated in October 2000 through RA 8970 which allowed the use of surfactants that are not necessarily coconut-based.*

**3. As the impetus of Philippines' trade and investment liberalization is increasingly being driven by regional and bilateral FTA, what are the challenges facing the Philippines in meeting and fulfilling the WTO Obligations?**

*The Philippines is faced with the same challenge of concluding an ambitious and balanced Doha Development Agenda (DDA). Meanwhile, bilateral and/or regional mechanisms complement the multilateral trading system.*

## Chapter 12 Dispute Mediation

### (Expert)

- 1. Can the RP provide further examples of foreign businesses utilizing the dispute mediation methods listed in the IAP since the last study report, when two cases were cited in response to a question from the expert? Have there been additional cases brought forward since then and how have they been resolved? Has the 2003 case brought by Fraport AG Frankfurt Airport Services Worldwide been resolved yet?**

*The 2003 Fraport case against RP was dismissed in August 2007 but the dismissal is being questioned in an annulment proceeding.*

- 2. Does the RP systematically track the use of dispute settlement mechanisms, and evaluate their effectiveness? If so, how is this done? Are there areas identified for improvement, bearing in mind that the IAP does not contemplate further changes?**

*The Philippines makes use of diplomatic, bilateral and/or regional mechanisms to settle trade issues. In terms of the WTO dispute settlement mechanism (DSM), however, it may be considered the final option in the resolution of any trade issue with bearing on multilateral trade rules. For a developing economy like the Philippines, the DSM may be viewed as a truly expensive option given its legal costs.*

## Chapter 13 Mobility of Business People

### (Expert)

- 1. APEC member economies have been very progressive and liberal in promoting movement of business people in the region. What is the Philippines policy with respect to granting visa for professional people?**

*Foreign citizens who work for Philippine or foreign private firms or institutes are granted a multiple-entry, prearranged employment visa under Section 9(g) of the Philippine Immigration Act which is valid for two years, provided the employee is able to secure an Alien Employment Permit (AEP) from the Department of Labor and Employment (DOLE). Visas may also be extended for another two years by the Commissioner of Immigration upon filing of a proper petition at least two months before the expiry date of the previous visa.*

*The pre-arranged employment 9(g) visa is issued by the Philippine Foreign Service Post in the employee's economy of origin or place of legal residence, upon the approval of the Bureau of Immigration and the receipt of the authority from the Department of Foreign Affairs. The pre-arranged employment visa is initially valid for one or two years while the validity of the AEP may be more than one year up to a maximum of five years.*

*The prospective respective employers of professional people generally apply for working visa under Section 9, paragraph g of the Philippine Immigration Act with the Bureau of Immigration (BI). The working visa is valid for a maximum period of three (3) years, provided, the period is covered by a valid employment contract between the prospective employer and the professional person and an Alien Employment Permit (AEP) issued by the Department of Labor and Employment (DOLE).*

*The BI, on December 26, 2007, through Commissioner Marcelino C. Libanan, issued Memorandum Circular No. MCL-07-005 prescribing the rules and procedures in the processing of applications for and issuance of visa, change of immigration status, visa extension and other special permits filed with the BI. These procedures are known as the New Rules and Procedures for VISA ISSUANCE MADE SIMPLE (VIMS). They are construed liberally in favor of speedy and expensive determination of the merit of every application.*

*The said Memorandum Circular provides for the guidelines on the electronic procedures of transactions at the BI. Under the VIMS System, the average decrease in application timeline is 82% while the average reduction in documentary requirements is 43%. The internal procedures being conducted digitally, the entire processes at the VIMS – covered units of the BI are rendered transparent, the work flow expedited, the latitude of discretion minimized and the degree of errors reduced.*

*Through this re-engineering of procedures in the granting of visas, this working visa can now be issued within three (3) weeks down from three (3) months.*

## **2. What major improvements on Mobility of Business People since its last IAP?**

*In terms of short term business entry:*

- a. *Visa-free entry of Russian citizens for a stay of 21 days or less.*

*Since August 2007, Russian citizens have been allowed to enter the Philippines without a visa for a stay of up to 21 days. With the exception of China and Chinese Taipei, citizens of APEC economies are allowed entry without visas for a stay not exceeding 21 days, if they are holders of passports valid for at least six months beyond the intended period of stay in the Philippines and valid return tickets for return journey to the economy of origin or next economy of destination. Passport holders of Hong Kong, China, however, may enter without visas for a stay not exceeding seven days only.*

- c. *Increased to 60 days period of initial stay for ABTC holders from 59 days*
- d. *Implemented Visa-Upon-Arrival program for businesspersons*

*A Temporary Visitor's Visa Upon Arrival (TVVUA) may be issued to businessmen upon entry into the Philippines if the application is endorsed by DTI, PCCI, current top 1000 corporations, and FCCI. Applications can be filed with the BOI One Stop Action Center in Makati City within forty-eight (48) hours before the applicant's scheduled date of arrival. The TVVUA allows for an initial stay of thirty (30) days, which may be extended for another thirty (30) days.*

- e. *Eased procedures for the extension of stay of short-term visitors*

*Per Bureau of Immigration Memorandum dated 31 July 2007, foreigners holding temporary visitor's visa may extend their stay in the Philippines every 2 months for a total stay of 16 months. Extensions of stay after 16 months up to 24 months need the approval of the Chief of the Immigration Regulation Division. Extensions of stay after 24 months need the approval of the Commissioner.*

*In terms of business temporary residency:*

a. *Simplification of processes*

*The processing of applications for Alien Employment Permits have been simplified by the decrease in the number of documentary requirements and the reduction of processing time for applications to 24 hours.*

*BI's Memorandum Circular No. MCL--07—005 Series of 2007 "Prescribing the Rules and Procedures in the Processing of Applications For, And Issuance of Visa, Change of Immigration Status, Visa Extension and Other Special Permits before the Bureau of Immigration (BI)" streamlined the conversion of visas from one category to another through the BI's Visa Issuance Made Simple (VIMS) Program to enable foreigners who are in the Philippines to temporary residency.*

*The latest projects of the Bureau of Immigration that will have the most positive impact on the mobility of business people are the following:*

a. *The Special Visa for Employment Generation (SVEG) under Executive Order No. 758 of the President of the Philippines which prescribes the guidelines for the issuance of a special visa to non-immigrants.*

*The SVEG is a special visa that will be issued to qualified non-immigrant foreigner who actually employs at least ten (10) Filipinos in a lawful and sustainable enterprise, trade or industry, his/her spouse and dependent unmarried child/ren below eighteen years old. Qualified foreigners who will be granted the SVEG shall be considered special non-immigrants with multiple entry privileges and conditional extended stay without need of prior departure from the Philippines.*

*Upon payment of regulatory fees, the Commissioner of Immigration shall receive and resolve the SVEG applications within fifteen (15) days from date of filing.*

b. *The launching of the BI's Mobile Interpol Network Database (MIND) Project on December 11, 2008 at the Ninoy Aquino International Airport (NAIA) Terminal II.*

*With the cooperation of the International Criminal and Police Organization (ICPO) in allowing the BI to have access to its Mobile Interpol Network Database (MIND) 24/7 facility and with the assistance of the International Organization for Migration (IOM) through its funding of the project, the Immigration Officers of the BI who are manning the arrival counters at NAIA Terminal II can now immediately interdict undesirable aliens, such as people included in the Interpol notices as fugitives, terrorists, human traffickers/smugglers, members of international criminal syndicates and lost and stolen passports from entering our borders.*

**2. Migration and temporary residence status will become increasingly prevalent and important in the APEC region. What challenges facing the Philippines on these issues?**

*The following are among the immediate challenges the Philippine Bureau of Immigration has to confront in the issues of migration and temporary residence status:*

a. *An outdated enabling law – Being able to respond to the demands of the present time using an old law, Commonwealth Act No. 613 or the Philippine Immigration Act of 1940, is a daunting task. Only the dynamism and innovative ideas of the officials of the Bureau and the staff's hard work, cooperation, and the willingness to rise above the challenges give momentum to work on these issues.*



- b. *A very small workforce – In part because of the outdated enabling law, the budgetary constraints and the existing Rationalization Plan<sup>18</sup> of the present administration prevent the Bureau of Immigration from expanding its workforce.*

*The old law failed to authorize the creation of the following critical units:*

- a. *Law Enforcement Division;*
- b. *Alien Integration Division;*
- c. *Anti-Fraud Division;*
- d. *Information Technology Division;*
- e. *Human Resource Development Unit; and*
- f. *Internal Audit Unit*

*The Bureau of Immigration is always confronted by the issue of the Rationalization Program of the government whenever it submits its requests for additional personnel.*

*In addition, these are the challenges faced by the Philippines in terms of migration and temporary residence status:*

- *Responsiveness to the challenges of the times*

*Cognizant of the needs of the business community for greater mobility, the Philippines sees the need to adapt its various processes and coordination amongst relevant agencies to respond to this need. Current laws and procedures may need to be revisited to allow for the streamlining of the entry and exit of businesspersons and temporary residents. This would require the further reduction of documentary requirements, greater coordination amongst agencies, increased security of borders and the upholding standards of identity documents. Much of these issues have already been addressed by a revision of immigration processes as well as policy reviews and capacity building.*

- *Balance between facilitation and security*

*Among APEC economies only China and Chinese Taipei are visa-required. Entry of persons from these economies is ensured by existing policies and procedures specific to these economies (i.e., ABTC scheme, visa policies towards Chinese citizens, etc.). To ensure greater mobility with the APEC region, however, the Philippines is also expected to facilitate the entry of non-APEC citizens which the Philippines deems as visa-required.*

*The Philippines allows for the visa-free entry of citizens of 150 economies. According to current policy, a number of economies not included in the list are considered visa-required for reasons of security. To enable the facilitation for the entry and of these*

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<sup>18</sup> *Executive Order No. 366 (Rationalization Program of the Executive Branch of the Government) of President Gloria Macapagal-Arroyo dated October 4, 2004 directed a strategic review of the operations and organizations of the executive branch of the government in order to focus government efforts and resources on its vital and core services and thus improving the quality and efficiencies of government services delivery by eliminating or minimizing overlaps and duplication and improving the agency's performance through the rationalization of service delivery and support system organization structure and staffing (Sec 2 and 3).*

*citizens, the Philippines needs to further streamline procedures and enforce security mechanisms.*

## **Chapter 14 Information Gathering and Analysis**

**(Expert)**

### **1. Please provide details of the joint research projects completed since that last IAP Peer review, as outlined in the 2008 update.**

*Research Projects Completed in 2008:*

- a. *The Impact of the Free Trade Area of the Asia Pacific (FTAAP) on Production, Consumption and Trade of the Philippines by U-Primo Rodriguez, UPLB*

*The study aims to evaluate the potential impacts of the FTAAP on the Philippines, specifically to describe current trends in international trade between the Philippines and other APEC economies; determine the impact of an FTAAP on aggregate and sectoral outputs, consumption and trade; and compare the impacts of the FTAAP vis-à-vis a free trade area between the economies of ASEAN+3.*

*Submitted final report (June 8) and was approved by the Steering Committee on June 11, 2008. Published as Discussion Paper (refer to list of Publications)*

- b. *Deepening Regional Cooperation for Disaster Recovery and Reconstruction: A Proposal for Proactive Approach to Risk Financing by Ms. Cathy G. Vidar and Dr. Erlinda M. Medalla*

*The paper proposes to expand the prevailing regional cooperation within APEC towards improving access to finance for disaster recovery and reconstruction, by looking at the experiences of other economies that have taken a more pro-active approach to risk financing. Regional cooperation is thus seen as a mechanism to promote the development of financial systems and products to effectively reduce the fiscal burden arising from disasters.*

*Paper presented during Annual Study Center Consortium and Business Meeting held in Piura, Peru, June 19-21, 2008. For minor revisions, to be submitted for Publication.*

- c. *Economic Dimension of the Evolving East Asian Regional Institutional Architecture: Perspectives from the Philippines by Ms. Jenny D. Balboa*

*The new regional architecture in East Asia involves two dimensions: economic and political. Both have wide-ranging impact on the management of trade and financial flows in the region and the security relations of economies in East Asia and its ties to the world. The paper looks into the economic dimension of the evolving regional architecture and its implications to the region. It will discuss market-driven and negotiated initiatives undertaken, and also the cooperation agreements that aim to*

strengthen and substantiate the new regional architecture. Finally, it will examine the participation of the Philippines in the various economic initiatives carried out in the region and thresh out the possible implications of this new order to a developing economy, focusing on the Philippine experience.

*Paper presented during Annual Study Center Consortium and Business Meeting held in Piura, Peru, June 19-21, 2008. For minor revisions, to be submitted for Publication.*

- d. *Suggested Rules of Origin Regime for EAFTA by Erlinda M. Medalla and M. Supperramaniam (May 2008)*

*To provide a clear understanding of the ROO and their proper application, the paper discusses the various approaches in determining the rules of origin. It also looks at the different ROO regimes in East Asia then points out some of the recurring ROO issues. Finally, the paper suggests key features of the ROO for the effective implementation and success of any preferential agreement such as the EAFTA. Published as Discussion Paper (refer to list of Publications)*

*This paper is part of the Phase II EAFTA Study and is drawn heavily from Medalla (2008), a paper submitted to Economic Research Institute for ASEAN and East Asia (ERIA). Published as Discussion Paper (refer to list of Publications)*

- e. *On Free Trade Agreements (FTAs): The Philippine Perspective by Erlinda M. Medalla and Melalyn C. Mantaring (July 2008)*

*The formation of free trade agreements (FTAs) has been set in motion worldwide and its conclusion does not appear imminent in the near future. In the face of such developments, the Philippines is hard pressed to formulate a more rational FTA policy framework to deal with not just external, but perhaps more importantly, domestic repercussions. Like any other economy, it would have to examine closely the motivations and impact, assess capacity needs and balance short-term adjustments with long-term opportunities. It would need to look further ahead and formulate a vision about its regional and global participation. This short paper is an attempt to contribute towards this end. It starts with a brief discussion on current developments in Philippine FTA engagement. A suggested framework for FTA policy follows, with some discussion on the noodle bowl syndrome. The paper concludes with a discussion on the prospects for an East Asian FTA.*

*The paper was presented during the Asian “Noodle Bowl” Conference and Technical Workshop on Impacts of FTAs on Business Activity in East Asia” in ADBI, Tokyo, Japan (July 17, 2008). For minor revisions, to be submitted for Publication.*

*On-going Projects (carried over from 2008)*

- f. *Revisiting Sectoral Liberalization: An Alternative to the Free Trade Area of the Asia-Pacific, Implications on the Philippines by Dr. George Manzano and Ms. Myrene Bedaña*

*This paper develops a modality of liberalization for the APEC, based on a sectoral basis, as an alternative to the politically sensitive Free Trade Area of the Asia-Pacific (FTAAP). The objectives include: a) identification of the sectors in the APEC region that are prime candidates for sectoral liberalization based on the overriding criterion of 'predominant APEC supplier' designed to address the political economy and b) to discuss the analysis of the impact of the proposed modality on Philippine offensive and defensive interests in particular.*

*The paper was presented during a Technical Workshop on November 12, 2008.*

g. *Concept Paper for an Integrated Approach to RTA/FTA Engagements by Dr. Erlinda Medalla*

*Recent trends on proliferation of RTAs/FTAs, ranging from bilateral agreements to possible formation of large trade blocs on opposite sides of the Pacific, pose some significant issues for the future path of economic relations within the Asia-Pacific region, and in particular for APEC and its vision of the Asia-Pacific region. In particular, for the Philippines, there is a need to develop a framework towards a more integrative approach to RTA/FTA engagements.*

**APEC Food System Chapter  
(China)**

**1. Please specify measures that have been taken and will be taken by RP to stabilizing domestic food price and securing domestic supply against international food price turbulence.**

*The Department of Agriculture through the GMA banner Programs (GMA Rice, GMA Corn, GMA Livestock, GMA Fisheries, and the GMA High Value Crops) are tasked to increase the production volume of food staples of the economy like rice, corn, pork and poultry, fish and other high value fruits and vegetables to ensure that the economy has enough supply to stabilize domestic food price. Also in April of 2008, the President set forth the F.I.E.L.D.S program which highlighted the rice self-sufficiency plan of the Philippines by 2013. F.I.E.L.D.S. stands for Fertilizer, Irrigation and other rural infrastructure, Extension, Research and farmers' education, Loans and insurance, Dryers and other postharvest facilities, and Seeds.*

**Appendix II**  
**IN-ECONOMY VISIT**  
**IAP PEER REVIEW OF THE PHILIPPINES**  
**23-26 March 2009**

**SCHEDULE OF MEETINGS AND LIST OF PARTICIPANTS**

<b>21-22 MARCH 2009</b>	
	<p><b>Arrival in Manila of Review Team Experts</b></p> <ul style="list-style-type: none"> <li>▪ <b>Dr. Charles A. Barrett</b></li> <li>▪ <b>Dr. Hank Lim Giok Hay</b></li> </ul>
<b>23 MARCH 2009</b>	
8:30 – 8:45 am	Meeting of experts with <b>Senior Undersecretary Thomas G. Aquino, International Trade Group, Department of Trade and Industry</b>
9:00 – 10:00 am	<p>Start of Discussions by Chapters/Sections of the Report</p> <p><b>GENERAL OVERVIEW</b></p> <p><b>Bangko Sentral ng Pilipinas (BSP):</b>  <b>BSP – International Department</b>  Acting Asst. Manager Roberto Quintos  Ms. Adelina Reyes, Sr. FX Officer  Ms. Dulce Ma. Valdivieso, <i>Bank Officer VI</i></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of Export Trade Promotion (BETP)</b>  Dir. Senen Perlada  Chief Crispina Gonzales  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Sec. Ramon Vicente Kabigting  Asst. Dir. Angelo Salvador Benedictos</p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  OIC - Asst. Dir. Amelia Menardo</p>
10:00 – 11:00 am	<p><b>TARIFFS</b></p> <p><b>Department of Agriculture (DA):</b>  <b>DA – Office of Policy, Planning and Research Development (OPPRD)</b>  Ms. Carolyn Castro, <i>Planning Officer IV</i>  Ms. Laura Prado, <i>Planning Officer III</i></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Sec. Ramon Vicente Kabigting  Asst. Dir. Angelo Salvador Benedictos  Ms. Regina Serafico, <i>Asst. Division Chief - Multilateral and Regional Arrangements Division</i>  Ms. Denise Cheska Enriquez, <i>Trade and Industry Development Analyst</i></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b></p>

	<p>OIC - Asst. Dir. Amelia Menardo</p> <p><b>Tariff Commission (TC):</b>  Chairman Edgardo Abon  Acting Commissioner Marilou Mendoza  OIC Chief Tariff Specialist Ma. Lourdes Saluta  Ms. Ma. Socorro Chua, <i>Supervising Tariff Specialist</i>  Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i></p>
11:00 – 12:00 am	<p><b>NON-TARIFF MEASURES</b></p> <p><b>Department of Agriculture (DA):</b>  <b>DA – Office of Policy, Planning and Research Development (OPPRD)</b>  Ms. Carolyn Castro, <i>Planning Officer IV</i>  Ms. Laura Prado, <i>Planning Officer III</i></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Sec. Ramon Vicente Kabigting  Asst. Dir. Angelo Salvador Benedictos</p> <p><b>Tariff Commission (TC):</b>  Chairman Edgardo Abon  Acting Commissioner Marilou Mendoza  OIC Chief Tariff Specialist Ma. Lourdes Saluta  Ms. Ma. Socorro Chua, <i>Supervising Tariff Specialist</i>  Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i></p>
12:00 – 1:00 pm	Lunch break
1:00 – 2:00 pm	<p><b>IMPLEMENTATION OF WTO OBLIGATIONS (INCLUDING ROO)</b></p> <p><b>Department of Agriculture (DA)</b>  <b>DA – Office of Policy, Planning and Research Development (OPPRD):</b>  Ms. Carolyn Castro, <i>Planning Officer IV</i>  Ms. Laura Prado, <i>Planning Officer III</i></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Dir. Angelo Salvador Benedictos  Ms. Norma Arpafo, <i>Trade and Industry Development Specialist (WTO Desk)</i></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  OIC - Asst. Dir. Amelia Menardo</p> <p><b>Tariff Commission (TC):</b>  Chairman Edgardo Abon  Acting Commissioner Edgardo Maralit  Acting Commissioner Marilou Mendoza  OIC Chief Tariff Specialist Ma. Lourdes Saluta  Ms. Ma. Socorro Chua, <i>Supervising Tariff Specialist</i>  Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i></p>
2:00 – 3:00 pm	<p><b>COMPETITION POLICY</b></p> <p><b>National Economic Development Authority (NEDA)</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS):</b></p>

	<p>OIC - Asst. Dir. Amelia Menardo</p> <p><b>Tariff Commission (TC):</b>  Chairman Edgardo Abon  Acting Commissioner Edgardo Maralit  Acting Commissioner Marilou Mendoza  OIC Chief Tariff Specialist Ma. Lourdes Saluta  Ms. Ma. Socorro Chua, <i>Supervising Tariff Specialist</i>  Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i>  Mr. Ranulfo Cruz</p>
3:00 – 4:00 Pm	<p><b>INVESTMENTS</b></p> <p><b>Board of Investments (BOI)</b>  Exec. Dir. Efren Leaño  OIC Division Chief Sharon Escoto  Ms. Evangeline Hernandez  Ma. Erlinda Racelis</p>
<b>24 MARCH 2009</b>	
9:00 - 10:30 Am	<p><b>RTAs/FTAs</b></p> <p><b>Department of Agriculture (DA):</b>  <b>DA – Office of Policy, Planning and Research Development (OPPRD):</b>  Ms. Carolyn Castro, <i>Planning Officer IV</i>  Ms. Laura Prado, <i>Planning Officer III</i></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of Export Trade Promotion</b>  Ms. Rafaelita Castro, <i>RP Lead: ASEAN-Australia-New Zealand FTA</i>  <b>DTI – Bureau of International Trade Relations (BITR):</b>  Asst. Sec. Ramon Vicente Kabigting  Ms. Lorna Pingol, <i>RP Lead: ASEAN India and Resource Person on JPEPA</i>  Ms. Regina Serafico, <i>RP Lead: ASEAN-Korea FTA</i>  Ms. Arlene Ligad, <i>RP Lead: ASEAN-EU FTA</i>  Ms. Denise Cheska Enriquez, <i>Trade and Industry Development Analyst</i>  Ms. Christine Barawid, <i>ITG Coordinator</i></p> <p><b>Board of Investments (BOI)</b>  OIC Division Chief Sharon Escoto  Ms. Evangeline Hernandez  Ma. Erlinda Racelis</p> <p><b>Bureau of Customs (BOC):</b>  <b>BOC – Assessment and Operations Coordinating Group (AOCCG)</b>  Deputy Comm. Reynaldo Nicolas (<i>BOC-AOCCG</i>)</p> <p><b>Tariff Commission (TC):</b>  Chairman Edgardo Abon  OIC Chief Tariff Specialist Ma. Lourdes Saluta  Ms. Rosalinda Abenes  Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i>  Mr. Gerry Gebela, <i>Sr. Tariff Specialist</i>  Ms. Beverly Tumbagahan</p>
10:30 – 12:00 am	<p><b>TRADE FACILITATION AND CUSTOMS PROCEDURES</b></p> <p><b>Bureau of Customs (BOC):</b></p>

	<p><b>BOC – Assessment and Operations Coordinating Group (AOCG)</b> Deputy Comm. Reynaldo Nicolas (<i>BOC-AOCG</i>)</p> <p><b>Department of Agriculture (DA) – Office of Policy, Planning and Research Development (OPPRD):</b> Ms. Carolyn Castro, <i>Planning Officer IV</i> Ms. Laura Prado, <i>Planning Officer III</i></p> <p><b>Department of Trade and Industry (DTI):</b> <b>DTI – Bureau of International Trade Relations (BITR):</b> Asst. Sec. Ramon Vicente Kabigting Asst. Dir. Angelo Salvador Benedictos Ms. Norma Arpafo, <i>Trade and Industry Development Specialist (WTO Desk)</i></p> <p><b>DTI – E-Commerce Office</b> Dir. Maria Lourdes Yaptinchay Chief Maria Crispina Reodica, <i>Chief Trade and Industry Development Specialist</i></p> <p><b>DTI – Export Development Council (EDC):</b> Deputy Executive Dir. Emmarita Mijares</p> <p><b>Board of Investments (BOI):</b> Mr. Albert Imperial Ms. Ophelia Adad Ms. Evangeline Hernandez Ma. Erlinda Racelis</p> <p><b>Tariff Commission (TC):</b> Chairman Edgardo Abon OIC Chief Tariff Specialist Ma. Lourdes Saluta Ms. Rosalinda Abenes Ms. Nydia Cometa, <i>Sr. Tariff Specialist</i> Mr. Gerry Gebela, <i>Sr. Tariff Specialist</i> Ms. Beverly Tumbagahan</p>
12:00 – 1:00 pm	Lunch break
1:00 - 2:00 pm	<p><b>APEC FOOD SYSTEM</b></p> <p><b>Department of Agriculture (DA):</b> <b>DA – Office of Policy, Planning and Research Development (OPPRD)</b> Ms. Carolyn Castro, <i>Planning Officer IV</i> Ms. Laura Prado, <i>Planning Officer III</i></p>
2:00 – 3:00 pm	<p><b>DEREGULATION/REGULATORY REVIEW</b></p> <p><b>National Economic Development Authority (NEDA):</b> <b>NEDA – Infrastructure Staff</b> OIC Division Chief Elmer Dorado Ms. Dulce Agnes Marquez Ms. Kathleen Mangune Ms. Pia Corrina Reyes</p> <p><b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b> OIC - Asst. Dir. Amelia Menardo</p>
3:00 – 4:00 pm	<p><b>GOVERNMENT PROCUREMENT</b></p> <p><b>Government Procurement Policy Board (GPPB):</b> Deputy Exec. Dir. Emiluisa Peñano</p>



	<p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Infrastructure Staff</b>  OIC Division Chief Elmer Dorado  Ms. Dulce Agnes Marquez</p>
<b>25 March 2009</b>	
9:00 – 10:00 am	<p><b>TELECOMMUNICATIONS SERVICES</b></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p> <p><b>National Telecommunications Commission (NTC):</b>  Mr. Samuel Sabile, <i>Engineer III</i></p>
10:00 – 11:00 am	<p><b>TRANSPORT SERVICES: AIR AND MARITIME TRANSPORT</b></p> <p><b>Civil Aeronautics Board (CAB):</b>  <b>CAB – Economic Planning and Research Division (EPRD)</b>  Chief Jesus Ibay, Jr.  <b>CAB – Air Operating Rights Division (AORD)</b>  Mr. Michael Baylosis, <i>Transportation Regulations Officer</i></p> <p><b>Department of Transportation and Communications (DOTC):</b>  Ms. Dolores Pua, <i>Supervising Communications Development Officer</i></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p> <p><b>Philippine Ports Authority (PPA):</b>  Asst. Gen. Manager Leopoldo Bungubung  Dept. Manager Emma Susara</p>
11:00 – 12:00 pm	<p><b>FINANCIAL SERVICES</b></p> <p><b>Bangko Sentral ng Pilipinas (BSP):</b>  <b>BSP – International Department</b>  Acting Asst. Manager Roberto Quintos  Ms. Dulce Ma. Valdivieso, <i>Bank Officer VI</i></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p>
12:00 – 1:00 pm	Lunch break
1:00 – 2:00 pm	<p><b>TOURISM AND TRAVEL-RELATED SERVICES</b></p> <p><b>Department of Tourism (DOT):</b>  <b>DOT – Office of Tourism Standards (OTS):</b>  OIC Division Chief Alex Macatuno  Ms. Phoebe Zelic Areño, <i>Tourism Operations Officer</i></p> <p><b>National Economic Development Authority (NEDA):</b></p>

	<p><b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p>
2:00 - 3:00 pm	<p><b>ENERGY SERVICES: POWER, OIL, RENEWABLE ENERGY</b></p> <p><b>Department of Energy (DOE):</b>  <b>DOE – Electric Power Industry Management Bureau (EPIMB)</b>  Ms. Luningning Baltazar, <i>Supervising Science Research Specialist</i>  Mr. Ferdinand Binondo, <i>Science Research Specialist II</i></p> <p><b>DOE – Energy Policy and Planning Bureau (EPPB)</b>  Ms. Susan Bardeloso</p> <p><b>DOE – Energy Utilization and Management Bureau (EUMB)</b>  OIC Chief Jess Anuncacion, <i>Chief Supervising Research Specialist</i>  Mr. Romulo Callangan, <i>Sr. Supervising Research Specialist</i></p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p>
3:00 - 4:00 pm	<p><b>DISTRIBUTION SERVICES</b></p> <p><b>Board of Investments (BOI):</b>  Atty. Marjorie Ramos-Samaniego,  Ms. Marcia Liezl Contreras  Ms. Evangeline Hernandez</p> <p><b>National Economic Development Authority (NEDA):</b>  <b>NEDA – Trade, Industry and Utilities Staff (TIUS)</b>  Ms. Irene Salonga-de Roma, <i>Sr. Economic Development Specialist</i></p>
<b>26 March 2009</b>	
8:30 – 9:30 am	<p><b>STANDARDS AND CONFORMANCE</b></p> <p><b>Department of Trade and Industry (DTI) – Bureau of Product Standards (BPS):</b>  Dir. Victorio Mario Dimagiba  Asst. Dir. Cirila Botor  Ms. Anne Daisy Omila, <i>Head - International Relations</i>  Mr. Samson Paden, <i>Head – Standards Conformity Group</i></p>
9:30 – 10:30 am	<p><b>INTELLECTUAL PROPERTY RIGHTS</b></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Intellectual Property Office (IPO)</b>  Asst. Dir. Corazon Marcial</p>
10:30 – 11:30 pm	<p><b>DISPUTE MEDIATION</b></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Dir. Angelo Salvador Benedictos  Ms. Norma Arpafo, <i>Trade and Industry Development Specialist (WTO Desk)</i></p> <p><b>Department of Justice (DOJ):</b>  Atty. Bernadette Ongoco</p> <p><b>Office of the Solicitor General (OSG):</b></p>

	Atty. Victor Torres Atty. Pantas de Leon
11:30 – 12:30 pm	Lunch break
2:00 - 3:00 pm	<p><b>MOBILITY OF BUSINESS PEOPLE</b></p> <p><b>Department of Trade and Industry (DTI):</b>  <b>DTI – Bureau of International Trade Relations (BITR)</b>  Asst. Sec. Ramon Vicente Kabigting</p> <p><b>Bureau of Immigration (BI):</b>  Deputy Exec. Dir. Marcela Malaluan</p> <p><b>Department of Foreign Affairs (DFA):</b>  <b>DFA – Office of the Undersecretary for International Economic Relations (OUIER)</b>  Mr. Michael Lyndon Garcia, <i>Principal Assistant</i>  Mr. Ryan Francis Gener, <i>Special Assistant</i>  <b>DFA - Office of Consular Affairs (OCA)</b>  Dir. Judy Robianes  Mr. Fernando Beup, Jr., <i>Principal Assistant</i></p> <p><b>Department of Labor and Employment (DOLE)</b>  <b>DOLE – Office of the Assistant Secretary for Employment and Manpower Development (EMD)</b>  Asst. Sec. Reydeluz Conferido  <b>DOLE – Bureau of Local Employment</b>  Division Chief Jose Sandoval</p>
3:30 – 4:30 pm	Closing Remarks from <b>Philippine Senior Official to APEC, Undersecretary Edsel Custodio, Office of the Undersecretary for International Economic Relations, Department of Foreign Affairs</b>
<b>27 MARCH 2009</b>	
	<b>Departure from Manila of Review Team Experts</b>

**VENUE OF MEETINGS:**

23 – 26 a.m. March 2009: BITR Boardroom  
Bureau of International Trade Relations  
Department of Trade and Industry  
4/F DTI International Bldg.  
375 Sen. Gil Puyat Ave.  
Makati City

26 p.m. March 2009:  
Carlos P. Garcia Conference Room  
Department of Foreign Affairs  
11/F DFA Bldg.  
2330 Roxas Blvd.  
Pasay City

**IN-ECONOMY VISIT SECRETARIAT:**

Bureau of International Trade Relations, Department of Trade and Industry

Ms. Marie Sherylyn Aquia, *Sr. Trade and Industry Development Specialist\**

Ms. Arlene Ligad, *Supervising Sr. Trade and Industry Development Specialist\**

Ms. Charina Villarino, *Sr. Trade and Industry Development Specialist*

Ms. Myrene Sabina Bedaña, *Sr. Trade and Industry Development Specialist*

Mr. Joseph Lining

Mr. Joseph Lacerna

Mr. Rizaldy Limuco

Mr. Gerardo Cumpas

Mr. Ryan Balmedina

\*Ms. Aquia and Ms. Ligad were in attendance in all of the meetings.

## **Appendix III**

### **The Peer Review Team**

Experts:

Mr. Charles A. Barrett  
Senior Executive Advisor  
The Conference Board of Canada  
[barrett@conferenceboard.ca](mailto:barrett@conferenceboard.ca)

Mr. Hank Lim Giok Hay  
Director  
Singapore Institute of International Affairs  
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Moderator :

Mr. Makoto Shiota  
Deputy Director General for Trade Policy  
Trade Policy Bureau  
APEC Senior Official  
Ministry of Economy, Trade and Industry

Program Director of the APEC Secretariat:  
Toni Widhiastono  
Director (Program)  
Email: [tw@apec.org](mailto:tw@apec.org)