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Progress in Ratification and Implementation of ASEAN Protocols and Agreements in the Philippine Transport Sector

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Philippine Institute for Development Studies
Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

Progress in Ratification
and Implementation of ASEAN Protocols
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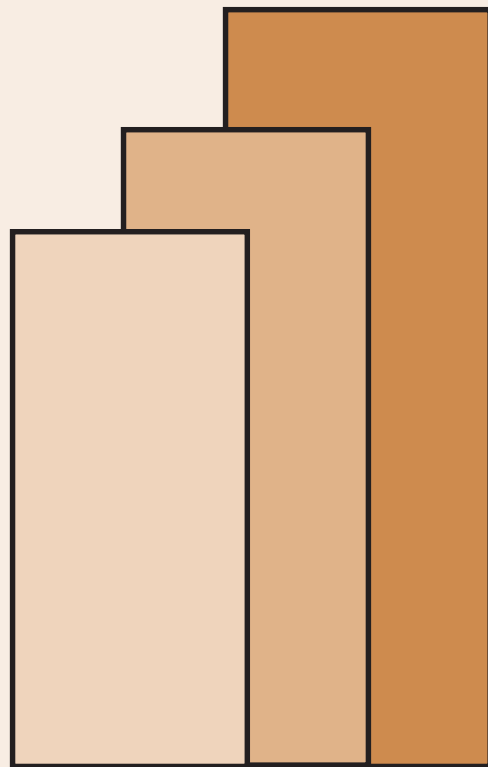
Gilberto M. Llanto

DISCUSSION PAPER SERIES NO. 2012-20

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Abstract

ASEAN transport cooperation is a key issue in the preparation for an ASEAN Economic Community in 2015. Transport cooperation requires member countries to ratify and sign protocols and agreements that will liberalize the transport sector in ASEAN. The transport sector in this study covers maritime and air transport. This paper examines the progress made by the Philippines in the ratification and implementation of protocols and agreements bearing on the transport sector, and discusses perceived barriers to ratification and implementation. There is a great need for policy maker's attention to the issue of airport infrastructure deficiencies and other limitations. The Philippines needs very badly an efficient air and maritime transport system in view of its archipelagic geographic condition, and its goal to have better, more efficient, and stronger linkages with regional and global markets. Investments to modernize the country's international ports and airports are obviously needed.

Key words: maritime transport, air transport, services liberalization, protocols and agreements on transport, ASEAN transport cooperation, MARINA, logistics, freight forwarders

PROGRESS IN RATIFICATION AND IMPLEMENTATION OF ASEAN PROTOCOLS AND AGREEMENTS IN THE PHILIPPINE TRANSPORT SECTOR

Gilberto M. Llanto¹

Introduction

The provision of efficient, reliable and affordable transport infrastructure and services contributes significantly to economic and social development as well as regional cooperation, integration and cohesion. The overall objective of transport policy is to ensure an economically efficient, environmentally friendly, socially acceptable and spatially equitable transport system for the benefit of all the peoples and businesses located within the jurisdiction of the policymaker (ESCAP 2011)². In this regard, ASEAN transport cooperation is a key issue in the preparation for an AEC in 2015.

Transport cooperation requires member countries to ratify and sign several measures, that is, protocols and agreements that will liberalize the transport sector in ASEAN and that will make more efficient the movement and exchange of goods and services in the region followed by investments and capital flows in regional areas, which present profit-making opportunities. Ratification and subsequent implementation of protocols and agreements demonstrate commitment and support to the formation of AEC but more importantly, the availability of more certain and predictable rules or regulations in the transport sector will pave the way for more rapid integration and cohesion in the putative Asean Economic community.

It is important to move quickly on the ratification and implementation of those protocols and agreements in the transport, which are expected to result in a freer flow of trade in goods and services, and investments in the future integrated ASEAN economic community but certain issues or challenges may constrain or delay the desired action from the government. This paper examines the progress made by the Philippines with respect to the ratification and implementation of protocols and agreements bearing on the transport sector, and discusses perceived barriers to ratification and implementation with a view to identify policy recommendations to address the identified constraints or barriers. The transport sector in this study covers maritime and air transport.

The paper is organized into four sections. After a brief introduction, Section 2 reviews the Philippine scorecard in liberalization in the transport sector. Section 3 reports the status of the ratification and implementation of protocols and agreements in the transport sector a year after the scorecard has been reported, and the barriers to the ratification and implementation of remaining protocols and agreements in the transport sector. The final section concludes by providing some policy recommendations to address those barriers.

¹ Senior Fellow, Philippine Institute for Development Studies. The author acknowledges the support of Economic Research Institute for ASEAN and East Asia (ERIA) in the conduct of the study. The paper is the output of a research study conducted by ERIA.

² ESCAP. 2011. "Emerging issues in transport: Inter-island shipping," Expert Group Meeting on Preparations for the Ministerial Conference on Transport, Bangkok, 14-15 July.

Philippine Scorecard in the Liberalization of the Transport Sector³

(i) An overview

The Philippines is a signatory to the ASEAN Free Trade Agreement on Services (AFAS). Looking at the regional perspective, Nikomborirak (2005) and Nikomborirak and Stephenson (2001) observed the slow liberalization of the services sector, including the transport sector based on the marginal commitments made by the member countries.

Just how important is the transport sector to the economy, which makes further liberalization imperative? It is an important segment of the services industry whose share in total value added was 54.6% in the last five years (2006-2010)⁴.

Table 1 shows data on the number of establishments, total employment, and sales of the transport and logistics industry for selected years⁵. There was a decline in the number of establishments and employment in the sea and coastal transport on the one hand, and growth in sales on the other. This contrasts with the decline in number of establishments, employment and sales in inland water transport.

Table 1 Transport and logistics industry (1996, 2006, 2008)

³ This section draws from Aldaba, R., E. Medalla, V. Ledda, G.M. Llanto, and B. Alano, Jr. 2011. "ERIA Phase Two Study: Toward a More Effective ASEAN Economic Community Scorecard Monitoring System and Mechanism: Philippines Summary Report," Study submitted to the Economic Research Institute for ASEAN and East Asia (ERIA); and Llanto, Gilberto M. and Adora Navarro, 2012 "The Impact of Trade Liberalization and Economic Integration on the Logistics Industry: Maritime Transport and Freight Forwarders," Study submitted to ERIA.

⁴ Source of basic data: ADB 2011. Key indicators for Asia and the Pacific 2011, page 166.

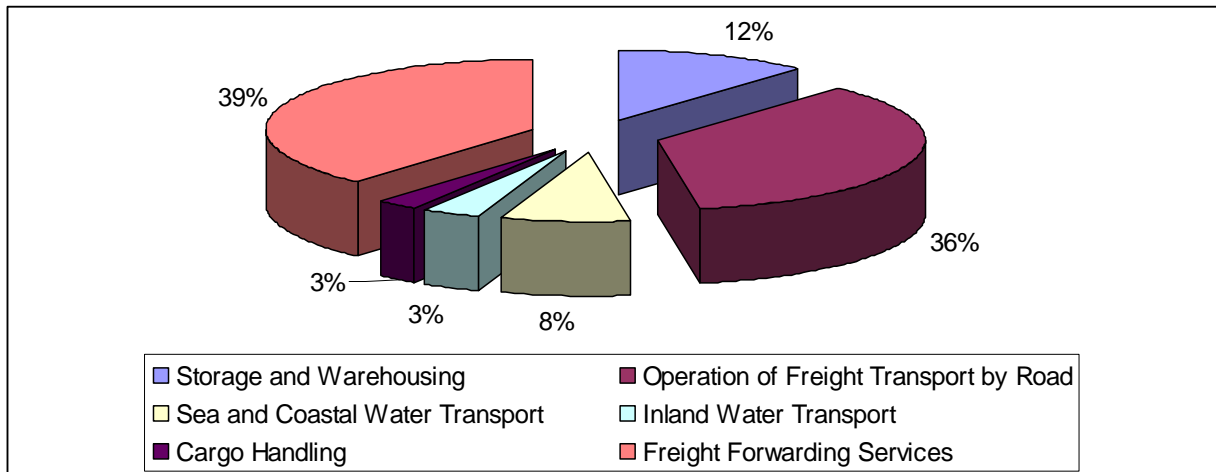
⁵ These data are the only available census and survey data on the industry.

	1999	2006	2008
Storage and Warehousing			
Number of Establishments	614	176	155
Total Employment	7,452	3,879	3,615
Sales	4,501,331	10,751,323	6,893,113
Sales/Employee	604.04	2,771.67	1,906.81
Cost	2,993,700	9,481,806	5,120,966
Sales:Cost	1.50	1.13	1.35
Gross Additions to Fixed Assets (GAFA)	293,138	157,112	376,824
GAFA/Establishment	477.42	892.68	2,431.12
Operation of Freight Transport by Road			
Number of Establishments	1,989	621	479
Total Employment	25,514	13,148	10,692
Sales	9,798,505	6,783,138	6,562,222
Sales/Employee	384.04	515.91	613.75
Cost	5,863,926	4,260,910	4,880,334
Sales:Cost	1.67	1.59	1.34
Gross Additions to Fixed Assets (GAFA)	534,671	179,737	215,505
GAFA/Establishment	268.81	289.43	449.91
Sea and Coastal Water Transport			
Number of Establishments	799	97	105
Total Employment	20,967	11,751	12,286
Sales	22,023,912	35,974,655	41,196,949
Sales/Employee	1,050.41	3,061.41	3,353.16
Cost	13,339,854	27,819,026	30,197,046
Sales:Cost	1.65	1.29	1.36
Gross Additions to Fixed Assets (GAFA)	841,775	1,055,186	5,159,285
GAFA/Establishment	1,053.54	10,878.21	49,136.05
Inland Water Transport			
Number of Establishments	399	n/a	46
Total Employment	2,505		418
Sales	1,206,840		164,843
Sales/Employee	481.77		394.36
Cost	976,187		106,595
Sales:Cost	1.24		1.55
Gross Additions to Fixed Assets (GAFA)	51,063		46
GAFA/Establishment	127.98		1.00
Cargo Handling			
Number of Establishments	88	n/a	34
Total Employment	1,535		785
Sales	872,440		694,744
Sales/Employee	568.36		885.02
Cost	574,008		474,949
Sales:Cost	1.52		1.46
Gross Additions to Fixed Assets (GAFA)	24,988		9,989
GAFA/Establishment	283.95		293.79
Freight Forwarding Services			
Number of Establishments	593	n/a	517
Total Employment	16,104		17,563
Sales	13,488,315		26,892,972
Sales/Employee	837.58		1,531.23
Cost	10,280,786		18,783,036
Sales:Cost	1.31		1.43
Gross Additions to Fixed Assets (GAFA)	439,309		533,792
GAFA/Establishment	740.82		1,032.48

Source: 2000 and 2006 Census of Philippine Business and Industry: Transport, Storage and Communication
2008 Annual Survey of Philippine Business and Industry: Transport, Storage and Communication

For the most recent year, 2008, **Figure 1** shows the share of the sub-sectors in terms of number of establishments in the transport and logistics industry. As of 2008, freight forwarding services have the most number of establishments, having 39% or 517 establishments of the total 1,336 establishments. The second biggest category in terms of number of establishments is the operation of freight transport by road, having 36% or 479 of the total.

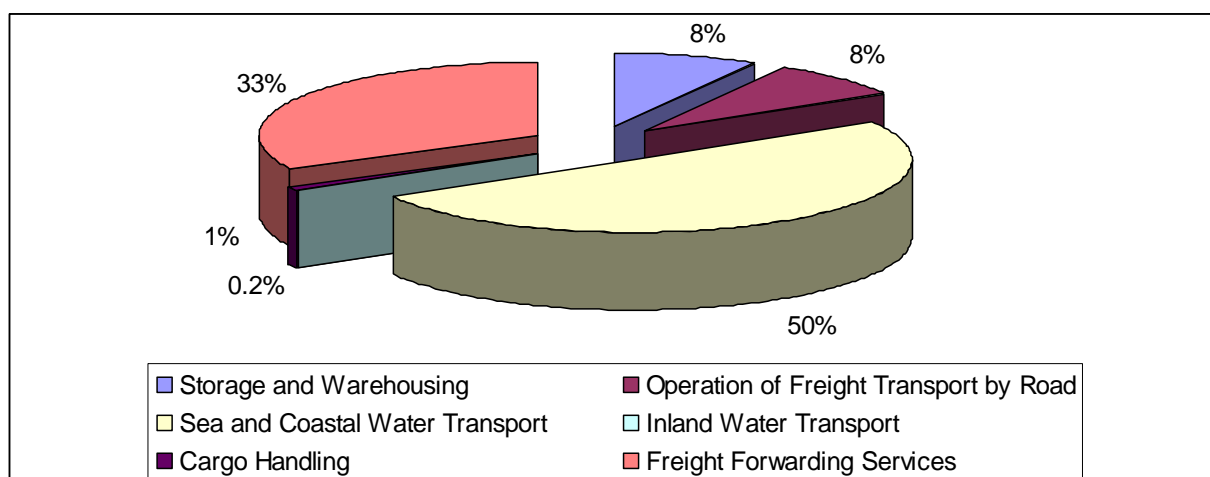
Figure 1 Shares of sub-sectors in terms of number of establishments in the transport and logistics industry, 2008



Source: 2008 Annual Survey of Philippine Business and Industry, National Statistics Office

On the other hand, **Figure 2** indicates the relative shares in sales in the transport and logistics industry in 2008. In terms of sales or revenues, sea and coastal water transport establishments and freight forwarding services establishments are the biggest players in the logistics market. In 2008, sea and coastal water transport earned 50% or 26.58 billion pesos out of the total 53.16 billion pesos logistics industry revenues, whereas freight forwarding services establishments earned 33% or 17.35 billion pesos out of the total earnings in the industry (values are in real terms using 2000 prices).

Figure 2 Shares of sub-sectors in terms of sales in the transport and logistics industry, 2008



Source: 2008 Annual Survey of Philippine Business and Industry, National Statistics Office

Available data on share in total commercial services indicates the relative importance of transportation services (Table 2). It has a 28% share of total exports of commercial services and 48% of total imports of commercial services.

Table 2 Contribution of transportation services to Philippine trade, 2003

2003 Exports (US Million)	
Total merchandise	37,026
Commercial services	3,299
Services as % of total	8%
Transportation services	935
% of total services	28%
2003 Imports (US Million)	
Total merchandise	39,502
Commercial services	4,841
Services as % of total	11%
Transportation services	2,316
% of total services	48%

Source: Table 2 in Thanh and Bartlett (2006).

The importance of the transport sector to the economy in generating value added, and employment, and in providing the economy a vital link to international trade underscore accentuates the need to make it more efficient and accessible to a diversity of local economic players taking part in the global and regional markets. The liberalization of trade in transportation services promises to provide greater opportunities for linking domestic with regional and global markets, which augur well for growth in output and employment.

With respect to maritime transport, the Philippines' archipelagic geographic configuration logically makes maritime transport a very significant means of moving people and goods, and of providing services within the country. Shipping facilitates 98% of domestic inter-island trade amounting to about 80 million tons of cargoes every year, including agri-fishery products. It also facilitates the movement of over 40 million Filipinos and foreign

tourists within the country (ADB 2010). In conjunction with logistics services, maritime transport provides producers, assemblers, processors, distributors a vital link to domestic and foreign markets.

Maritime transport significantly links the Philippines to international trade. Most of the maritime transport routes were highly monopolized before the 1990s. Given this structure, the development of many domestic shipping routes, especially the “missionary routes” or developmental routes, was slow and rates were highly regulated by the Maritime Industry Authority (MARINA) to prevent market power abuse. The objectives of pre-reform regulation were to regulate route entry, bring capacity and demand into balance and protect the investment of operators by preventing ruinous competition, and for shipping rates, to protect the public from indiscriminate charging by shipping companies (Austria 2003).

Consistent with the theme of liberalizing and deregulating industries that were considered monopolized or cartelized during the Marcos regime, the Aquino (Cory) administration started issuing rules aimed to liberalize and deregulate the industry. The succeeding administrations continued this effort, with the Ramos administration passing the most number of rules that significantly changed the market structure in the industry.

In response to calls for liberalization and deregulation, the Maritime Industry Authority (MARINA) and the executive branch of government issued several rules aimed to (i) liberalize route entry or exit and (ii) deregulate shipping rates. It was hoped that the liberalization and deregulation rules would foster a favorable climate for increased investments. Table 3 below details these rules.

The Domestic Shipping Development Act of 2004 (RA 9295) laid down the policy framework for domestic shipping, recognizing its vital importance to economic development. RA 9295 acknowledges that the Philippines needs a strong, competitive domestic merchant fleet that, among others, will:

- Bridge islands with safe, reliable, efficient, adequate and economic passenger and cargo service;
- Facilitate the dispersal of industry and economic activity towards regional communities through regular, reliable and efficient shipping services; and
- Ensure growth in exports by providing necessary, competitive and economical domestic sea linkages.

Table 3 Domestic Shipping Liberalization and Deregulation Rules

Route Entry/Exit Liberalization	Shipping Rates Deregulation
<p><u>MARINA Memorandum Circular (MC) No. 71</u> (22 October 1992)</p> <ul style="list-style-type: none"> • Entry of new/ additional operators in established routes/links allowed if <ul style="list-style-type: none"> - cost-effective, competitive or superior service is provided - improved quality of service and/ or innovative/ technologically advanced shipping service is introduced • No limit on vessel replacement capacities • Flexibility provided for cargo liner operation to alter frequencies, ports of call and swap/substitute vessels <p><u>MARINA MC No. 80</u> (08 November 1993)</p> <ul style="list-style-type: none"> • liberalized further the control of entry into and exit out of the industry by prescribing that <ul style="list-style-type: none"> - any route shall have a minimum of two operators in order to provide competition - all routes served by only one operator shall be open for entry by additional operator(s) - to encourage entry into developmental routes, an operator who pioneers in the provision of service in such route shall be authorized to charge market-accepted rates for five years, after which the continued authorization of such rates shall be evaluated by MARINA <p><u>Executive Order (EO) No. 185</u> (28 June 1994)</p> <ul style="list-style-type: none"> • reiterated the MC 80 policy of opening up all routes and encouraging entry to developmental routes • in addition to monopolized routes, cartelized routes are included in the category of routes that shall be open for entry by additional operators <p><u>MARINA MC No. 106</u> (06 April 1995)</p> <ul style="list-style-type: none"> • reiterated the policy of minimum two operators in any route and made easier the entry in routes served for at least five years • newly-acquired vessels granted flexibility of entry into any route, subject to certain conditions • entry into developmental routes encouraged by way of rates incentives • liberalized vessel rerouting, amendment of frequencies/schedules, vessel swapping/ substitution 	<p><u>MARINA MC No. 46</u> (19 May 1989)</p> <ul style="list-style-type: none"> • abolition of ad valorem rates / adoption of 3/10% valuation surcharge to cover insurance premiums • reclassification/upgrading of basic commodities class • deregulation of second class passage rates <p><u>MARINA MC No. 57</u> (25 October 1990)</p> <ul style="list-style-type: none"> • deregulation of reefer, transit and livestock rates • abolition of 3/10% valuation surcharge • adoption of fork tariff system, initially set at +/-5% <p><u>MARINA MC No. 67</u> (06 May 1992)</p> <ul style="list-style-type: none"> • institution of automatic fuel adjustment mechanism • widening of fork tariff range to +10% / -15% <p><u>EO No. 213</u> (28 November 1994)</p> <ul style="list-style-type: none"> • further deregulation of passage rates for all passenger-carrying vessels • exemption of vessels catering to tourism from the requirement of allocating 50% of passenger capacity for third class accommodation • deregulation of cargo shipping or freight <p><u>MARINA MC No. 117</u> (2 October 1996)</p> <ul style="list-style-type: none"> • deregulation of all commodities class except for non-containerized basic commodities • exempting Department of Tourism-accredited vessels from allocating 50% of their passenger capacities to 3rd class accommodations • deregulation of passage rates for DOT-accredited vessels serving tourist destinations <p><u>EO No. 170 (22 January 2003)</u></p> <ul style="list-style-type: none"> • reduced transport cost roll-on-roll-off (RORO) vessel transport through <ul style="list-style-type: none"> - elimination of cargo handling charges - elimination of wharfage fees - shift from commodity classification to lane meter in determining freight charges • defines a policy for RORO-road terminal integration system <p><u>Republic Act 9295, “Domestic Shipping Development Act” (May 2004)</u></p> <ul style="list-style-type: none"> • The law categorically stated what previous executive issuances instructed, that domestic ship operators are authorized to establish their own domestic shipping rates provided that effective competition is fostered and public interest is served.

Source: Llanto and Navarro (2012)

The reforms pursued under RA 9295 essentially promoted the deregulation of the shipping industry and encouraged competition, free enterprise and market driven rates. Ultimately, one of the envisioned outcomes – a healthy, competitive investment and operating environment in the shipping sector – is necessary for increased private sector investments in the sector. The efficiency of services, lower costs and widened service networks, in turn, are expected to have a positive impact on local industries' competitiveness and create a favorable environment for regional trade and investments. Efficient port infrastructure and shipping services are also necessary to enable local suppliers to access international markets. International demand has, in fact, increased pressure on the Philippine government to provide more integrated port infrastructure with reduced cost of services.

While the private sector has always been involved in the provision of shipping services, there are now even greater opportunities for the private sector to engage in the development of shipping, and ports development and management. Fiscal constraints faced by the government have driven the privatization of ports. However, the greater motivation is the felt need of developing and promoting the competitiveness of firms and industry, which is substantially anchored on the availability of adequate infrastructure. The ports and shipping infrastructure are critical for competitiveness and regional integration and cohesion. Thus, the country's main ports servicing international trade have to improve operational and management efficiencies. To achieve these goals, private sector effort and investment are necessary because without private participation it will be difficult to tackle the tough challenges posed by the lumpiness of port investments, and the complexity of ports and shipping development and management. Already the benchmark set by other successful regional ports, e.g., Port of Singapore, Port Klang in Malaysia in ports and shipping development and management present the Philippines with an important set of standards to emulate. These two regional ports are major destinations of foreign vessels and serve as critical trans-shipment hubs for the ASEAN region.

The airline industry of the Philippines was liberalized in 1995 under Executive Order 219, which reduced regulations on the entry into and exit from the airline industry as well as on tariffs and fares. Previous to the liberalization, the government's one-airline policy allowed only one local airline, Philippine Airlines (PAL) to operate domestic flights.

As many as six players were operating in competition after the industry liberalization took effect; however, the number has fluctuated due to consolidation. Southeast Asian Airlines (SEAir) entered the scheduled airline flights sector in 2003, joining PAL, Cebu Pacific, Air Philippines and Zest Air in vying for passengers on major, minor and short-distance routes.

While the adoption of open sky policy may be well on track, it is important to note that new entrants have to contend with the still uneven playing field in Philippine aviation market, which is largely dominated by the Philippine Airlines (PAL). PAL still receives the fiscal incentives and other unconditional guarantees it once enjoyed as a government corporation (Aldaba, 2008). Furthermore, terminal space and landing slots are dominated by PAL, which managed to secure sole ownership of an airport terminal originally intended to serve as the country's domestic terminal.

(ii) Philippine Scorecard for AFAFGIT, AFAFIST, AFAMT, MAFLAFS, MAAS, and MAFLPAS

The Philippines appears to have a relatively open policy with regards to the objectives of the ASEAN framework agreements on transport facilitation. The Philippines has ratified a number of important protocols, some are in the stage of implementation and others are in the preparation for ratification, especially by way of consultation.

The Philippines scored 47.2% for the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), 56.25% for the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), and 75% for THE ASEAN Framework Agreement on Multimodal Transport (AFAMT).

Among these three agreements, the Philippines scored highest for the ASEAN Framework Agreement on Multimodal Transport (AFAMT). The good result is mainly due to the completion of all the steps required for the ratification and relatively good progress made in the implementation of the AFAMT in the Philippines.

The implementation scores for other agreements, specifically for AFAFIST, will be enhanced with the modification of the existing laws that have a bearing on inter-state transport. The procedure to secure concurrence of six government agencies to achieve this end is on-going, with the approval already given by the Department of Public Works and Highways, the Department of Finance, the Department of Agriculture, and the Department of Transportation and Communication.

For air transport services, the Philippines scored 100% for the ASEAN Multilateral Agreement on the Full Liberalization of Air Freight Services (MAFLAFS), 66.4% for the ASEAN Multilateral Agreement on Air Services (MAAS), and 63% for the ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services (MAFLPAS).

Tables 4 to 9 respectively show the different scores.

Table 4 Summary of Philippine Scorecard for ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT)

ASEAN FRAMEWORK AGREEMENT ON THE FACILITATION OF GOODS IN TRANSIT		
100%		Protocol 1: Designation of Transit Transport Routes & Facilities
	100%	Ratification Deposited with ASEAN SG
<u>0%</u>	<u>0%</u>	Protocol 2: Designation of Frontier Posts (Not Yet Concluded)
50%		Protocol 3: Types & Quantity of Road Vehicles (Wef 1 st June 2010)
	50%	Draft Amendments of Domestic Regulation(s) under consultation
50%		Protocol 4: Technical Requirements of Vehicles (Wef 1 st June 2010)
	50%	Draft/Proposed Amendment/s of Domestic Law(s)/ Regulation(s) under consultation
50%		Protocol 5: ASEAN Scheme of Compulsory Motor Vehicle Insurance Wef 16 th October 2003)
	50%	Draft/Proposed Amendment/s of Domestic Law(s)/ Regulation(s) under consultation
<u>0%</u>	<u>0%</u>	Protocol 6: Railways Borders and Interchange Stations (Not Yet Concluded)
<u>0%</u>	<u>0%</u>	Protocol 7: Customs Transit System (Not Yet Concluded)
100%		Protocol 8: Sanitary and Phytosanitary Measures (Wef Sept 2010)
	100%	Each Member State to confirm if any changes in relevant SPS laws and regulations have been communicated and disseminated through the ASEAN Secretariat (Art 3.3)
<u>75%</u>		Protocol 9: Dangerous Goods (Two Member States still to Ratify)
		<u>Ratification Steps</u>

	100%	Ratification Deposited with ASEAN SG
		<u>Implementation Steps</u>
	50%	Draft Amendment/s of Domestic Regulation(s) under consultation
47.2%	Average Score for AFAFGIT	

Table 5 Summary of Philippine Scorecard for ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST)

ASEAN FRAMEWORK AGREEMENT ON THE FACILITATION OF INTER-STATE TRANSPORT (AFAFIST)		
		<u>Ratification Steps</u>
	25%	Ongoing
100%		Protocol 1: Designation of Transit Transport Routes & Facilities
	100%	Ratification Deposited with ASEAN SG
0%		Protocol 2: Designation of Frontier Posts
		<u>Implementation Steps for the Other Protocols</u>
50%		Protocol 3: Types & Quantity of Road Vehicles
	50%	Draft/Proposed Amendments of Domestic Law(s)/Regulation(s) under consultation
50%		Protocol 4: Technical Requirements of Vehicles
	50%	Draft/Proposed Amendment/s of Domestic Law(s)/Regulation(s) under consultation
50%		Protocol 5: ASEAN Scheme of Compulsory Motor Vehicle Insurance
	50%	Draft Amendment/s of Domestic Law(s)/Regulation under consultation
100%		Protocol 8: Sanitary and Phytosanitary Measures
	100%	Each Member State to confirm if any changes in relevant SPS laws and regulations have been communicated and disseminated through the ASEAN Secretariat (Art 3.3)
50%		<u>Protocol 9: Dangerous Goods</u>
	50%	Draft Amendment/s of Domestic Law(s)/Regulation under consultation
50%		<u>Implementation of Art 16- Temporary Admission of Road Vehicles</u>
	50%	Draft Amendment/s of Domestic Law(s)/Regulation under consultation
56.25%	Average Score for AFAFIST	

Table 6 Summary of Philippine Scorecard for ASEAN Framework Agreement on Multimodal Transport (AFAMT)

ASEAN FRAMEWORK AGREEMENT ON MULTIMODAL TRANSPORT (AFAMT)		
		<u>Ratification Steps</u>
100%	100%	Ratification Deposited with ASEAN SG
		<u>Implementation Steps</u>
50%	50%	Draft/Proposed Amendment/s of Domestic Law(s)/Regulation(s) under consultation
75%	Average Score for AFAMT	

Table 7 Summary of Philippine Scorecard for ASEAN Framework Agreement on the Full Liberalization of Air Freight Services

ASEAN MULTILATERAL AGREEMENT ON THE FULL LIBERALISATION OF AIR FREIGHT SERVICES		
50%	<u>0.50</u>	Protocol 1 on Unlimited Third, Fourth and Fifth Freedom Traffic Rights among Designated Points in ASEAN
	<u>(70%)</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>(30%)</u>	Implementation Steps
	100%	Member State designates as many Airlines to operate above Air Services and informs Depository (ASEAN SG) of such designation/s (Art 3.1)
50%	<u>0.50</u>	Protocol 2 on Unlimited Third, Fourth and Fifth Freedom Traffic Rights among All Points with International Airports in ASEAN
	<u>(70%)</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>(30%)</u>	Implementation Steps
	100%	Member State designates as many Airlines that apply to operate above Air Services and informs Depository (ASEAN SG) of such designation/s (Art 3.1)
100%	Average Score for ASEAN Multilateral Agreement on the Full Liberalization of Air Freight Services	

Table 8 Summary of Philippine Scorecard for ASEAN Multilateral Agreement on Air Services (MAAS)

ASEAN MULTILATERAL AGREEMENT ON AIR SERVICES(MAAS)		
16.6%	<u>0.166</u>	Protocol 1 on Unlimited Third and Fourth Freedom Traffic Rights within the ASEAN Sub-Region
	<u>70%</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>30%</u>	Implementation Steps
	100%	Member State designates as many Airlines that apply to operate above Air Services and informs Depository (ASEAN SG) of designation/s (Art 3.1)
16.6%	<u>0.166</u>	Protocol 2 on Fifth Freedom Traffic Rights within the ASEAN Sub-Region
	<u>70%</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>30%</u>	Implementation Steps
	100%	Member State designates as many Airlines that apply to operate above Air Services and informs Depository (ASEAN SG) of designation/s (Art 3.1)
16.6%	<u>0.166</u>	Prot 3 Unlimited 3 rd , 4 th Freedom Traffic Rights bet ASEAN Sub-Regions
	<u>70%</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>30%</u>	Implementation Steps
	100%	Member State designates as many Airlines that apply to operate above Air Services and informs Depository (ASEAN SG) of designation/s (Art 3.1)
16.6%	<u>0.166</u>	Prot 4 Unlimited Fifth Freedom Traffic Rights bet ASEAN Sub-Regions
	<u>70%</u>	Ratification Steps
	100%	Ratification Deposited with Depository (ASEAN SG)
	<u>30%</u>	Implementation Steps
	100%	Member State designates as many Airlines that apply to operate above Air Services and informs Depository (ASEAN SG) of designation/s (Art 3.1)
0%	<u>0.166</u>	Prot 5 Unlimited Third & Fourth Freedom Traffic Rights bet ASEAN Capital Cities
	<u>70%</u>	Ratification Steps
	0%	Not Started

	<u>30%</u>	Implementation Steps
	0%	Not Started
0%	<u>0.166</u>	Prot 6 Unlimited Fifth Freedom Traffic Rights bet ASEAN Capital Cities
	<u>70%</u>	Ratification Steps
	0%	Not Started
	<u>30%</u>	Implementation Steps
	0%	Not Started
66.4%	Average Score for MAAS	

Table 9 Summary of Philippine Scorecard for ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services (MAFLPAS)

ASEAN MULTILATERAL AGREEMENT ON THE FULL LIBERALISATION OF PASSENGER AIR SERVICES (MAFLPAS)		
31.5%	<u>0.50</u>	Protocol 1 on Unlimited Third & Fourth Freedom Traffic Rights between Any ASEAN Cities (by 30 Jun 10)
	<u>70%</u>	Ratification Steps
	90%	Internal Approval Granted
	<u>30%</u>	Implementation Steps
	0%	Not Started
31.5%	<u>0.50</u>	Protocol 2 on Unlimited Fifth Freedom Traffic Rights between Any ASEAN Cities (by 30 Jun '13)
	<u>70%</u>	Ratification Steps
	90%	Internal Approval Granted
	<u>30%</u>	Implementation Steps
	0%	Not Started
63%	Average Score for MAFLPAS	

Status of and Barriers to Ratification and Implementation of Protocols and Agreements

The ASEAN Framework Agreement on Multimodal Transport (AFAMT) was signed on November 17, 2005 in Vientiane, Laos to facilitate regional trade through the development of an efficient multi-modal transport system. However, only three countries, namely Cambodia, the Philippines and Thailand have ratified the agreement. On the other hand, the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST) was signed in Manila, Philippines on December 10, 2009. It seeks to facilitate inter-state transport of goods in support of the ASEAN Free Trade Area, to simplify and harmonize transport, trade and customs regulation, and to establish an effective, efficient, and integrated regional transport system. This framework agreement is still currently under discussion and has yet to be ratified by the ASEAN member countries.

The Philippines appears committed to the ratification and implementation of remaining protocols and agreements in the transport sector. This section reports on the status of remaining protocols and agreements in AFAFGIT, AFAIST, MAFLPAS, and MAAS. It identifies barriers to full ratification and implementation. **Table 10** provides a summary.

Table 10 Status of measures under transport facilitation: 2008-2009, 2010-2011

Measures for implementation: 2008-2009	Status
Protocol 2 (designation of frontier posts) AFAFGIT	Further consultation between AMS is needed in order to finalize Protocol 2.
Protocol 7 (customs transit system) AFAFGIT	BOC awaiting for authority to sign from the Office of the President
Protocol 5 (unlimited third and fourth freedom traffic rights between ASEAN capital cities) MAAS	Cannot be ratified due to airport infrastructure deficiency/limitations and aviation safety issues.
Measures for ratification: 2010-2011	Status
ASEAN Framework Agreement on Facilitation of Inter-State Transport (AFAIST)	Other concerned government agencies have concurred except for Department of Justice, once DOJ give its COC, DOTC will request DFA's concurrence and prepare the ratification request to the Office of the President.
ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services (MAFLPAS)	Ratified on March 28, 2012
Protocol 1 (unlimited third, fourth and fifth freedom traffic rights among designated points in ASEAN) of MAFPLAS	Ratified already including Protocol 2 of MAFPLAS on March 28, 2012.
Protocol 6 (unlimited fifth freedom traffic rights between ASEAN capital cities) MAAS	Cannot be ratified due to airport infrastructure deficiency/limitations and aviation safety issues.

Source: Department of Transportation and Communication.

On AFAIST, concerned government agencies, e.g., Department of Agriculture, have all given their respective certificates of concurrence except for the Department of Justice, which is the remaining agency to submit yet its concurrence.

The Instrument of Ratification of MAFPLAS was signed on March 28, 2012. Protocols 1 and 2 of MAFPLAS have also been signed. The Philippine score for MAFPLAS is now 100%. During the review of protocols and agreements done in 2011 as shown in Table 8 above, the Philippine score was established at 63%.

At present, the Civil Aviation Authority of the Philippines (CAAP) is working on the night rating of ten domestic airports, mostly located in various tourism areas of the country. Manila can absorb night time flights but most of the airport facilities outside Manila are inadequate and have to be improved.

Under Protocol 1 of MAFPLAS the designated airlines of each contracting party shall be allowed to operate the agreed services from any city with international airports in its territory to any city with international airports in the territory of the other Contracting Parties, and vice-versa with full third and fourth freedom traffic rights, provided that In no case shall the origin and destination points both be capital cities. There shall be no limitation on capacity, frequency and aircraft type with regard to air passenger services operation. The full third and fourth freedom traffic rights are applicable to air services to cities outside the capital cities.)

Under Protocol 2 of MAFPLAS the designated airline(s) of each Contracting Party shall be allowed to exercise fifth freedom rights for the agreed services between any cities with international airports in the territories of the Contracting Parties, provided that, in the exercise of fifth freedom traffic rights involving a capital city, one of the cities shall be other than a capital city airport.

The ratification and implementation of Protocols 5 and 6 of MAAS require that the capital airport's (NAIA) infrastructure facilities and systems have to be significantly improved in order to handle the expected increase in number of flights under this agreement. The government has to make critical investments in airport infrastructure facilities and systems.

The situation of the runway and terminal facilities has been brought to the attention of the government by several stakeholders. A report of the U.S. Foreign Commercial Services and U.S. Department of State referred to a statement attributed to the Foreign Chambers of Commerce of the Philippines that "the Ninoy Aquino International Airport (NAIA) is in need of improvements in runway safety and capacity, and upgrade of terminal facilities. The runway design is below standards for new generation aircraft. The runway requires heavy maintenance, which affects airline schedules and airport revenue. In terms of passenger terminals, the old domestic terminal is out of date, NAIA Terminal 1 is almost 30 years old, while NAIA Terminal 2 which has operated for a decade, is for the exclusive use of flag carrier, Philippine Airlines (PAL). With the current tourism growth rate of over 10%, the runway and passenger terminals' capacity (including the unopened NAIA 3) will reach its limits by 2010"⁶.

According to the U.S. Foreign Commercial Services and the U.S. Department of State, "another challenge in the Philippine aviation industry is air transportation safety. The Federal Aviation Administration (FAA) has recently revised the Philippines' aviation safety oversight category from Category 1 to Category 2. Category 2 indicates that the FAA has assessed the Government of the Philippines' Civil Aviation Authority as not being in compliance with International Civil Aviation Organization (ICAO) safety standards for the oversight of Philippine air carrier operations. While in Category 2, Philippine air carriers will be permitted to continue current operations to the United States, but will be under heightened FAA surveillance"⁷.

Box 1 provides information on some of the findings of an audit of the country's aviation industry undertaken by the U.S. Federal Aviation Authority (FAA) in 2012 and the International Civil Aviation Organization (ICAO) in 2009. U.S. FAA inspectors conducted a Pre-Assessment Audit on International Civil Aviation Organization (ICAO)'s Standards and Recommended Practices (SARP) on Jan. 23 to 27, 2012.

Box 1. Several deficiencies and limitations of the country's civil aviation system

The US Federal Aviation Authority (FAA) technical audit, which was conducted on January 2011, identified several deficiencies in the country's civil aviation systems. Deficiencies were noted in the following:

1. Level of compliance on critical aviation safety issues such as qualifications and training of CAAP technical personnel conducting aircraft worthiness checks and airline pilot skills tests,
2. Integrity of certificates being issued by CAAP units , e.g. operating or compliance certificates to air operators and airworthiness certificates to aircraft owners
3. Conduct of safety oversight functions
4. Qualifications and training of CAAP's inspectors and other critical technical personnel

⁶ Philippines: Country Commercial Guide 2008
<http://www.ipe11.org/uscomservice/docs/Philippines%20Country%20Commercial%20Guide.pdf>

⁷ Philippines: Country Commercial Guide 2008
<http://www.ipe11.org/uscomservice/docs/Philippines%20Country%20Commercial%20Guide.pdf>

5. Computerized records keeping system, such as a Civil Aviation Safety Reporting and Tracking System (CASORT)

In 2009, the International Civil Aviation (ICAO) raised significant safety concerns on the country's civil aviation system during an audit conducted under its Universal Oversight Audit Program.

Source: <http://www.abs-cbnnews.com/business/03/18/12/us-faa-finds-several-deficiencies-caap-systems>

The Manila International Airport Authority (MIAA) has implemented airport slotting in the third quarter of 2010 for safety operation to handle the increase in number of domestic and international flights. This means that air carriers land and take off at a specified time of the day. However, airport slotting arrangement is a temporary measure. The country has to firmly address the deficiency and limitations of the capital airport, e.g., inadequate equipment such as landing instrumentation, ageing navigational equipment, as well as deficiencies in the systems of the Civil Aviation Authority of the Philippines (CAAP).

Protocol 2 under AFAFGIT is still under discussion and consultation. There is progress with Protocol 7 (customs transit system) as the Bureau of Customs is waiting for the authority to sign from the Office of the President.

On AFAIST, concerned government agencies, e.g. Department of Agriculture, have all given their respective certificates of concurrence except for the Department of Justice, which is the remaining agency to submit yet its concurrence. That department is taking time to review AFAIST.

A major issue related to the liberalization of maritime transport services in the Philippines is cabotage. Cabotage is the principle embedded in a country's laws or regulations that reserves the privilege/right of inter-port navigating and trading within the national territory, only to domestic-owned vessels. Three sections of the Tariff and Customs Code of the Philippines cover the implementation of cabotage in the country. Currently, cabotage prevents foreign firms to compete with domestic shipping firms in providing shipping services because they are only allowed to directly transport passengers or cargo to designated international ports like Manila International Container Port, Manila South Harbor, Batangas, Limay and Davao.

There have been calls to lift the cabotage in the Philippines. Advocates invoke economic benefits as a result of lifting the country's cabotage. Businessmen from Mindanao and exporters from different parts of the country are among those who are calling for the lifting of the country's cabotage (Sio 2002). Through the lifting of the country's cabotage, foreign shipping vessels would be allowed to transport goods and passengers from non-international ports in the country to various destinations (local and foreign). This will create more competition in shipping services resulting in a decline in the cost of shipping. Because of the possibility of more new players and competition in the shipping industry, it is expected that the shipping costs would go down. Other benefits of the lifting of the country's cabotage include the possible benefits to domestic tourism, the increase in port revenues and the improvement of the cost-efficiency of exporters. The competition among domestic and foreign shipping firms is also seen to lead to a more efficient and better quality of the country's shipping industry.

Roads should complement ports and rail infrastructure to facilitate more efficient transport of goods and people. About 50 percent of Philippine roads are considered in good or fair condition, which compares rather poorly with other Asian countries. This has large

negative impacts on attempts to link producers to global markets. The poor quality of national roads linking domestic producers to international airports and international ports increases travel time and vehicle operating costs per kilometer, especially of freight forwarders. The Department of Public Works and Highways found that average vehicle operating costs doubled between 1999 and 2003. This translates to even higher transaction costs for domestic producers exporting to global markets.

The World Bank estimated that a 1% improvement in the international roughness index (IRI) for national roads would yield a 4% reduction in vehicle operating costs, translating to 13 billion pesos a year (based on 1999 estimates).

Road transport regulation has the same conflict of interest situation and a fragmented regulatory approach as that in ports and shipping, which lead to inefficiency. For example, the Department of Transportation and Communications is both the regulator and operator of Metro Manila Light Rail Transit 3. On the other hand, the Light Rail Transit Authority is both regulator and operator of Light Rail Transit 1 in Manila. Public land transportation routes and rates are regulated by the LTFRB while the LTO ensures safety of land transport users and commuters. Overlaps in operation, ownership and regulation give rise to higher transaction costs and low quality service for commuters, shippers and freight forwarders.

Conclusion and Recommendations

The ratification of the ASEAN MAFPLAS together with its Protocols 1 and 2 has paved the way for greater liberalization and the introduction of greater efficiencies in air transport services. However, the other important protocols (Protocols 5 and 6) of MAAS cannot be ratified due to airport infrastructure deficiencies and other limitations. There is a great need for policy maker attention to this issue. The Philippines very badly needs an efficient air and maritime transport system in view of its archipelagic geographic condition and its goal to have better, more efficient, and stronger linkages with regional and global markets. Investments to modernize international ports and airports are obviously needed.

The current physical limitations of the country's international airports, particularly the Ninoy Aquino International Airport (NAIA), do not allow for additional traffic. The problems related to slotting, leading to airport congestion, are being addressed by an inter-agency committee. Recommendations to enhance runway capacity and to move general aviation to the Diosdado Macapagal International Airport in Clark have been proposed and studied. However, no timeline can be provided for the resolution of the issues.

Although the relevant Philippine laws and policies are in place, the offer of "open skies" to secondary gateways may be hampered by accessibility issues. The government still needs to improve multi-modal transport connectivity, for example, rail or fast train connecting Clark to Metro Manila. Increasing the number of skilled personnel to perform customs, immigration and quarantine functions is also an important issue to be addressed, especially in the smaller international airports.

Investments to improve port facilities and management are in order because port congestion, long queue of trucks, unavailability of containers, insufficient container depot in addition to the problems with the road condition and metropolitan traffic undermine the competitiveness of Philippine exports. Almost all exports have to pass through or have to be flown or shipped from Manila. There are some ports that are in good and even excellent condition but have been underutilized or even not used at all. A very good example is the

Subic Bay Port. Firms situated both in the Subic Bay Freeport Zone (SBFZ) and the Clark Freeport Zone (CFZ) strongly suggests that the Subic Bay Port be utilized so that they would have an alternative to the Manila North Harbor.

For the ratification and implementation of Protocol 2 of AFAFGIT, the government has to work, among others, on the standardization of documentation requirements, introduction of automation, and the consolidation of the application and approval processes under a national single window conversant with the ASEAN single window. For those offices that already use the automated or online documentation processes, the problem is the lack of synchronization of the systems of concerned agencies/offices (i.e., BOC and CDC in Clark). There is also need for a clear and common understanding of guidelines and policies, a simplification and reduction of export documentation requirements in addition to the automation of processes that will bring down transaction costs.

The Department of Justice has to give priority to the review of AFAIST because it is the only remaining agency yet to give its concurrence to the proposed agreement.

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