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## ASEAN Economic Community 2015: Labor Mobility and Mutual Recognition Arrangements on Professional Services

*Rafaelita M. Aldaba*

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## Abstract

The paper aims to identify the facilitating and deterring factors affecting the implementation of the ASEAN Mutual Recognition Arrangements (MRAs) in engineering, nursing, architecture, surveying, medical, dental practice, and accountancy. On the overall, the progress of MRA implementation in the Philippines has been slow. For all professions, the issue of enacting new rules and/or regulations has been difficult due to the Constitutional and other restrictions. Clear procedures and guidelines should be formulated for the implementation of the reciprocity provision. For temporary special permits, the law needs to be revised to allow complete borderless practice.

Interviews and survey results on the facilitating factors affecting MRA implementation include the following: making MRA implementation a vital component of the national government agenda, awareness programs, close coordination between professional bodies and government, and projects to facilitate improvements in the quality of practice and address sector issues. The important deterring factors affecting MRA implementation include absence of a comprehensive program to implement the MRAs; lack of comprehensive databases, research studies on best practices and review of foreign reciprocity; and absence of a coordinating body.

Both the Professional Regulatory Commission (PRC) and the Department of Labor and Employment (DOLE) are currently in the process of putting policy measures in place to facilitate MRA implementation in the country. To move the implementation of the MRAs forward, the paper highlights the need to continue efforts to improve the process and create clear criteria for the labor market test and the skill shortage list. The paper also suggests the formulation of clear rules and guidelines in implementing the foreign reciprocity provision; strengthening the capacity of PRC as the central body coordinating the different MRA activities; and crafting of a comprehensive and strategic framework on MRA implementation.

**Keywords:** ASEAN Mutual Recognition Arrangements in Professional Services, Philippines

**ASEAN Economic Community (AEC) 2015  
Labor Mobility and MRAs on Professional Services  
Rafaelita M. Aldaba<sup>1</sup>**

**I. Introduction**

Since 1997, ASEAN has emphasized the need to liberalize services trade through the adoption of the ASEAN Framework on The Trade in Services (AFAS). The AFAS aims to substantially eliminate trade restrictions in services among member countries and promote efficiency and competitiveness of ASEAN service suppliers. Aside from the main obligations of market access and national treatment, AFAS establishes general guidelines for mutual recognition, denial of benefits, dispute settlement, institutional mechanism and other areas of cooperation in the services sector.

Similar to the General Agreement on Trade in Services (GATS), the AFAS adopts a “positive list or bottom-up” approach in service trade liberalization such that only those sectors which they are ready to liberalize are listed by Member Countries. For each sector or sub-sector on the positive list, commitments are made for market access and national treatment across each of the four modes of supply. Services are traded through the following modes of supply (distinctions are made based on whether the service supplier, the consumer, or neither, moves from one country to another for the transaction to be effected:

- Mode 1: supply of a service from the territory of one member into that of another member, i.e. supplier and consumer interact across distance (cross-border trade). Examples are correspondence courses, freight transport services, and telediagnosis.
- Mode 2: consumption of a service by consumers of one member who have moved into the territory of the supplying member (consumption abroad). Examples are tourist activities such as visits to museums and theatres, medical treatment of non-resident persons, language courses taken abroad, or ship repair abroad.
- Mode 3: services are provided by foreign suppliers that are commercially established in the territory of another member (commercial presence).

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Examples are medical services provided by a foreign-owned hospital, courses in a foreign-owned school, and services supplied by a domestic branch or subsidiary of a foreign bank.

- Mode 4: services are supplied by foreign natural persons, either employed or self-employed, who currently stay in the territory of another member (presence of natural persons). Examples are short-term employment of foreign doctors or teachers, intra-corporate staff transfers and, more generally, short-term employment of foreign staff in foreign affiliates, short-term employment of construction workers or paid domestic helpers.

Under the AFAS, ASEAN Member States (AMS) may recognize the education or experience obtained, requirements met, and licenses or certifications granted in other AMS, for the purpose of licensing or certification of services suppliers.

Mutual Recognition Arrangement (MRA) is one of the more recent developments in ASEAN cooperation on trade in services. MRAs enable the qualifications of professional services suppliers to be mutually recognized by signatory Member States; hence facilitating the movement of professional services providers in the ASEAN region. Currently, the Philippines has signed seven Mutual Recognition Agreements in the following professional services concluded under the ASEAN:

- Engineering services (9 December 2005)
- Nursing Services (08 December 2006)
- Architecture (19 November 2007)
- Land Surveying (19 November 2007)
- Medical Practice (26 February 2009)
- Dental Practice (26 February 2009)
- Accountancy (26 Feb 2009)

There are many challenges facing the MRA implementation in the country. Domestic laws and regulations need to be changed in order to align and support the specific MRAs. The lack of budgetary support by lead stakeholders and inadequate collaboration among the public and private sectors have also been cited as another constraint. Some professional organizations like the accountants have commenced bilateral negotiations with counterpart bodies, taking into account the various differences in educational system, legal framework, institutional mechanism and socio-economic conditions. Both the Professional Regulatory Commission (PRC) and the Department of Labor and Employment (DOLE) are also in the process of putting policy measures in place to facilitate MRA implementation in the country.

The paper focuses on the movement of natural persons, particularly professional services, which is one of the four modes (Mode 4) indicated above. It aims to identify the facilitating and deterring factors affecting the implementation of MRAs. A survey was initially conducted among the seven professional bodies along with a focus group discussion in cooperation with members of the PRC and DOLE. After the introduction, Part II discusses the legal framework on the practice of professions in the Philippines. Part III reviews the current status of MRA implementation in the five professions namely engineering, nursing, architecture, medical practice, and dental practice. Part IV presents the results of the survey and Part V summarizes the main findings and recommendations.

## **II. Regulatory Environment**

The Philippine Constitution and other legislations restrict the practice of professions to Filipino nationals. Article XII, Sec. 14 of the Constitution states that the practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law. Republic Act 5181 requires permanent residence (at least three years) and reciprocity<sup>2</sup> to qualify for any examination or registration for the practice of any profession in the Philippines; provided that the practice of said professions is not limited by law to Filipino citizens.

Republic Act 7041 (Foreign Investment Act of 1991 as amended by RA 8179) restricts the following professions to Filipino citizens: engineering, medicine and allied professions, accountancy, architecture, criminology, chemistry, customs brokerage, environmental planning, forestry, geology, interior design, landscape architecture, and law.

Professionals are regulated and screened by the Professional Regulatory Commission (PRC). Republic Act 8981 (PRC Modernization Act of 2000) allows exceptions by allowing foreign professionals to work in the Philippines pursuant to foreign reciprocity provisions. Section 7J of RA 8981 states that upon recommendation of the concerned Professional Regulatory Board (PRB), the PRC may approve registration

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<sup>2</sup> For foreigners, the country of which he is a subject or citizen permits Filipinos to practice their respective professions within its territories.

of and authorize issuance of certificate of registration/ license and professional identification card with or without examination to a foreigner who is registered under the laws of his state/country and whose certificate of registration issued therein has not been suspended/ revoked: provided,

- a) Requirements for registration/ licensing in said foreign state/ country are substantially the same as those required/ contemplated by laws of the Philippines and that the laws of such foreign state/country allow citizens of the Philippines to practice the profession on the same basis and grant the same privileges as those enjoyed by subjects or citizens of such foreign country/state;
- b) That the Commission may, upon recommendation of the Board concerned, authorise the issuance of a certification/ license or special temporary permit to:
  - Foreign professionals who desire to practice their professions in the country under reciprocity and other international agreements.
  - Consultants in foreign funded, joint-venture or foreign assisted projects of the government
  - Employees of Philippine/ foreign private firms/ institutions pursuant to law, or health professionals engaged in humanitarian mission for a limited period of time
- c) Agencies/organisations/ individuals whether public or private, who secure the services of a foreign professional for reasons aforementioned shall be responsible for securing a special permit from the PRC.

Currently, the Professional Regulation Commission is in the process of preparing the guidelines for the exceptions.

Apart from RA 8981, the practice of profession is governed by Article 40 of the Labor Code, as amended. The latter states that “non-resident aliens may be admitted to the Philippines for the supply of service after a determination of non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired”. As stipulated in Article 40 of the Labor Code, the labor market test (LMT) is a prerequisite for legitimate alien employment in the country. Through this, the Department of Labor and Employment regulates the inflow of foreign workers in the country. The DOLE is in charge of alien employment registration and certification. In an interview with a DOLE official, it was

pointed out that in practice, the LMT is liberally implemented. After the DOLE announces the application for Alien Employment Certification<sup>3</sup> in newspapers of general circulation and there are no contestations, the alien is granted a permit to work. Around 12,000 permits are granted each year and mostly, these are for managerial positions.

Since 2001, the DOLE has been implementing measures for the simplification of requirements and procedures in the issuance of alien employment permits (AEPs). With the issuance of DOLE Department Order No. 12, series of 2001, rigid requirements like the understudy training program and endorsements from other government agencies were removed from the requirements and process cycle time was reduced to 7 working days. On 29 February 2012, Department Order No. 120-12 was issued, amending Department Order No 97-09, to further remove rigidities in the application for AEP, i.e. ocular and verification inspections were removed in the guidelines, copy of AEP as a requirement in the application for renewal was deleted, derogatory record as basis for denial and cancellation of AEP was changed to conviction of a criminal offense or fugitive from justice, notarization of application form is not anymore required, among others. Process cycle time was further reduced to one day in case of renewal and three days for new application. Documentary requirements were reduced to only four, namely: 1. application form, 2. Contract of employment or Appointment or Corporate Secretary's certificate of election, whichever is applicable, 3. Mayor's permit, and 4. Copy of passport with visa.

For all professions, the issue of enacting new rules and/or regulations has been difficult due to the Constitutional and other restrictions earlier discussed. To help facilitate our commitment under the ASEAN MRAs. the Department of Labor and Employment is currently in the process of preparing a positive list and identifying skills shortages. The positive list will contain a list of occupations that are hard to fill; this implies that there are no available or only a few applicants for the said position. The DOLE indicated that the positive list may include two professions from each of the priority areas of the ASEAN and serve as signal for those occupations/sectors where labor market test will not apply. The proposed positive list is based on the studies and

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<sup>3</sup> The Alien Employment Permit (AEP) is a permit issued to a non-resident alien or foreign national seeking admission to the Philippines for employment purposes after a determination of the non-availability of Filipino citizen who is competent, able and willing at the time of application to perform the services for which the alien is desired.



consultations conducted by DOLE such as the 2010 Project JobsFit<sup>4</sup>. The list of occupations with the qualification standards will be finalized after a consultation with the stakeholders within the year.

### **III. MRA Implementation Status<sup>5</sup>**

It is important to note that the ASEAN MRA for each professional service has its own characteristics and uniqueness. The seven professional services can be grouped into three main categories based on patterns and mechanisms of MRA implementation. The first group consists of architecture and engineering services; the second group covers accounting and surveying; while the third group comprises of medical, dental, and nursing services. Given these differences in features and characteristics, the professional services have different MRA implementation mechanisms.

MRA implementation for the first group is more transparent with the registration mechanism handled by both the country of origin and the host country. The approval process to become an ASEAN Architect/Engineer is determined by an ASEAN level Council. For the second group, the approval has only passed in the MRA framework and another stage is still required to come up with an agreement, both for the bilateral and multilateral ones. For the third group, the MRA implementation mechanism (a registration mechanism) is relatively less systematic than the first group due to the absence of an approval process set by an ASEAN level Council and which eventually hinders the progress of its MRA implementation.

Table 1 summarizes the scores measuring the progress of MRA implementation for each of the five professions covered by the survey. The scores are weighted based on the stages of MRA implementation in the country including the preparation of MRA implementation institutions and regulatory environment. The scoring system does not include accounting and surveying because the agreement of both services is limited to the

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<sup>4</sup> Project JobsFit: The DOLE 2020 Vision is a nationwide research study that involved environmental scanning, information gathering, consultation, and ‘signaling’ activities aimed at identifying local and global industries that would drive employment growth, including the corresponding skills requirements, for the next ten years.

<sup>5</sup> Based on the MRA Scoring System and MRA Survey Questionnaire used for the ASEAN MRA Scorecard: Philippines, a project of the ERIA in 2011.

Framework of the MRA. Appendix 1 contains an outline of the major areas covered by the survey.

**Table 1: Philippine Scorecard for MRAs on Architecture, Engineering, Medical, Dental, and Nursing Professions**

Architecture	Score	Weight	Weighted Score
MRA Implementation ASEAN Member State Level	0.55	0.4	0.22
Regulatory Environment	0.5	0.4	0.20
<b>Overall National</b>			<b>0.42</b>
Engineering	Score	Weight	Weighted Score
MRA Implementation ASEAN Member State Level	0.55	0.4	0.22
Regulatory Environment	0.1	0.4	0.04
<b>Overall National</b>			<b>0.26</b>
Medical	Score	Weight	Weighted Score
Regulatory Environment	0.45	0.5	0.225
<b>Overall National</b>			<b>0.225</b>
Dental	Score	Weight	Weighted Score
Regulatory Environment	0.4	0.5	0.2
<b>Overall National</b>			<b>0.2</b>
Nursing	Score	Weight	Weighted Score
Regulatory Environment	0.5	0.5	0.25
<b>Overall National</b>			<b>0.25</b>

Overall, the implementation of Mutual Recognition Agreements (MRAs) in the country has been rather slow. Architecture and engineering are at the same level with both having complied with the submission of official notification of participation. Some slight differences are noted in terms of the progress of setting-up a Monitoring Committee (MC). In engineering, the MC has already been set-up, however, in architecture, the process is still ongoing. In terms of the Assessment Statement preparation, submission and approval; in architecture, the Assessment Statement has already been submitted and waiting for approval. In engineering, the Assessment Statement is still being prepared.

In terms of regulatory environment preparation, the professions are almost at the same stage, except in engineering which has been lagging relative to the rest. For all professions, the issue of enacting new rules and/or regulations has been difficult due to the Constitutional and other restrictions. Most have collected and reviewed rules and regulations, carried out public information dissemination activities, translated domestic regulations in English and developed websites for MRA related information. In

engineering, only the translation of domestic regulations in English has been implemented so far.

#### **IV. Facilitating and Deterring Factors Affecting MRA Implementation**

##### **A. Engineering**

There are separate legislations for each engineering field in the country. These consist of the Philippine Agricultural Engineering Act of 1998; Republic Act No. 544 (as amended by R.A. 1582) An Act to Regulate the Practice of Civil Engineering in the Philippines; Presidential Decree No. 1570 Regulating the Practice of Aeronautical Engineering in the Philippines; Republic Act No. 318 An Act to Regulate the Practice of Chemical Engineering in the Philippines, and for other purposes; Republic Act No. 7920 (New Electrical Engineering Law) An Act Providing for a More Responsive and Comprehensive Regulation for the Practice, Licensing, and Registration of Electrical Engineers and Electricians; Republic Act No. 8495 An Act Regulating the Practice of Mechanical Engineering in the Philippines; Presidential Decree No. 1536 Metallurgical Engineering Law; Republic Act No. 4565 An Act to Regulate the Practice of Naval Architecture and Marine Engineering in the Philippines; and Republic Act No. 1364 An Act to Regulate the Practice of Sanitary Engineering in the Philippines.

**Table 2: Engineering**

	Facilitating	Deterring
Regulatory environment at national level	-The Philippines has different fields of engineering specialization and each has its own regulations; more focus in each field	-Each field of engineering trade has its own distinct and separate interests, however this sometimes lead to conflicts & overlaps in practices
Implementation process at national level	Same as above	Same as above
Implementation process at regional level		-Clear guidelines necessary to come up with a seamless process, system & mechanism at regional level

Table 2 discusses the facilitating and deterring factors affecting implementation rates in engineering. The survey results indicated that while the above mentioned specialized regulations for each engineering field provide more focus and efficient

implementation, they have also acted as a deterring factor due to the many conflicting interests in each field arising from overlapping scope of services defined in different regulations. Given the difficulties of arriving at a common interpretation process, court cases are sometimes filed to resolve the issue and interpret the regulatory laws in question. Hence, this leads to slowdown the process of MRA implementation. Unless clear guidelines are defined and formulated at the domestic level, it would be difficult to implement the MRA and link it with the process at the regional level.

## **B. Architecture**

At the national level, the law allows the issuance of a temporary special permit to foreign architects to practice in the Philippines is seen as a facilitating factor in MRA implementation. This is consistent with regulations in other ASEAN Member States where a foreign architect is also required to work in collaboration with a locally registered architect. The deterring factors identified include the absence of a comprehensive program that is needed to implement the MRA; absence of procedures and guidelines in reciprocity; and though a temporary special permit is allowed, the law still needs to be revised to enable complete borderless practice by foreign architects.

In terms of implementation at the national level, one facilitating factor identified is the submission of the Assessment Statement; although it still needs to be revised (Table 3). A deterring factor is some problems concerning the composition of the Monitoring Committee. With respect to the implementation process at the regional level, one facilitating factor is the gathering of information on licensing and registration requirements in each ASEAN Member country. Several deterring factors have been identified such as the different levels of competencies among the ASEAN Member countries due to differences in curriculum; different requirements for licensure examination; and language barrier especially in Thailand, Cambodia, and Lao PDR where English is not the medium of instruction and where drawings use the vernacular text.

**Table 3: Architecture**

	Facilitating	Deterring
Regulatory environment at national level	-Temporary Special Permit to foreign architects which is consistent with other AMSs; all foreign architects must work in collaboration with a local registered architect	-comprehensive program needed to address MRA implementation -Reciprocity: absence of procedures/guidelines -Temporary special permit: law needs to be revised for complete borderless practice
Implementation process at national level	-Assessment Statement: submitted but needs to be revised	-problems in the composition of the Monitoring Committee
Implementation process at regional level	-Surveys conducted to compare licensing & registration requirements in each AMS	-Different levels of competencies among AMSs -Different requirements for licensures -Language is biggest barrier

### **C. Accountancy**

The practice of accountancy in the Philippines is covered under Republic Act 9298, also known as the Philippine Accountancy Act of 2004. The Act contains a provision on foreign reciprocity allowing citizens of foreign countries to practice accountancy in the Philippines in accordance with the provisions of existing laws, international treaty obligations including mutual recognition agreement entered into by the Philippine government with other countries. The Act limits the practice of accountancy to Filipino citizens and shall not allow a person who is not a citizen of the Philippines unless he/she can prove that specific provision of law in the country of which he/she is a citizen admits citizens of the Philippines to the practice of the same profession without restriction. A special or temporary permit may be issued by the Professional Regulatory Board of Accountancy subject to the approval of the Professional Regulation Commission to the following persons:

- A foreign certified public accountant called for consultation or for specific purpose which, in the judgment of the Board, is essential for the development of the country: Provided, That his/her practice shall be limited only for the particular work that he/she is being engaged: Provided, further, That there is no Filipino certified public accountant qualified for such consultation or specific purposes;

- A foreign certified public accountant engaged as professor, lecturer or critic in fields essential to accountancy education in the Philippines and his/her engagement is confined to teaching only; and
- A foreign certified public accountant who is an internationally recognized expert or with specialization in any branch of accountancy and his/her service is essential for the advancement of accountancy in the Philippines.

As indicated in the provisions above, the law allows reciprocity but at the same time limits the practice to Filipino citizens only; as such, the Philippine Accountancy Act of 2004 is seen both as facilitating and deterring factor.

Another deterring factor identified is the piecemeal approach of national government agencies that leads to the absence of a comprehensive framework and operational direction (Table 4). Other factors cited include the disconnect between national government agencies involved in negotiations and professional regulatory bodies and weak coordination among national government agencies in policy making, information gathering, dissemination and advocacy efforts. On the part of professional groups, there is no initiative to include MRAs as a priority area among professional organizations. One facilitating factor at the national level identified is the inclusion of MRA implementation in the national government agenda.

At the regional level, the limited opportunities for professional regulatory boards to interact with foreign counterparts are mentioned as one deterring factor affecting implementation rate. Lack of information and insufficient knowledge about the progress of MRA implementation in other countries tend to slow down the process. More networking activities can help promote knowledge sharing among the different countries in the region.

**Table 4: Accountancy**

	Facilitating	Deterring
Regulatory environment at national level	-Foreign Reciprocity provision in the Philippine Accountancy Act of 2004 (Republic Act 9298)	-Limitations in the practice of profession of persons who are not citizens of the Philippines as provided for in the Foreign Reciprocity section of the Accountancy Act -Piece-meal approach of national government agencies leading the establishment of national systems & mechanism

		<ul style="list-style-type: none"> <li>-Disconnect between national government agencies involved in negotiations &amp; professional regulatory bodies in charge of the technical attributes of the profession</li> <li>-Disconnect among national government agencies themselves in policy making, information gathering, dissemination, &amp; advocacy efforts</li> <li>-Top management laden policies in national government agencies</li> </ul>
Implementation process at national level	-Inclusion in the national government agenda or thrust	-Lack of initiatives among professional groups, MRA not a priority of professional sectors
Implementation process at regional level		-Limited opportunities for professional regulatory boards & professional organizations & associations to interact with foreign counterparts

#### **D. Surveying**

In the Philippines, surveying is under the practice of geodetic engineering. One deterring factor identified in terms of regulatory environment at the national level is the current Philippine legislation that limits the exercise of profession to Filipino citizens. This is embodied under the 1987 Constitution as well as Republic Act 8560 (An Act Regulating the Practice of Geodetic Engineering in the Philippines) as amended. RA 8560 governs the practice of geodetic engineering profession. It also provides foreign reciprocity but only to a country that also allows Filipino geodetic engineers to practice within its territory. RA 8560 (Section 26, Article V) states: “No foreign Geodetic Engineer shall be issued a temporary license to practice the Geodetic Engineering profession or consultancy thereof or be entitled to any of the rights and privileges under this Act unless the country of which he is a subject or citizen specifically permits Filipino Geodetic Engineers to practice within its territorial limits on the same basis as the subjects or citizens of such foreign state or country”.

In terms of deterring factors affecting the implementation process at the national level, the survey results cited differences in curriculum and training among the AMSs and only the Indonesian system is similar to the Philippine system (Table 5). This implies that only Indonesian geodetic engineers maybe recognized on the ground of reciprocity as provided for in RA 8560 as amended.

**Table 5: Surveying Qualifications**

	Facilitating	Deterring
Regulatory environment at national level		-Existing Philippine laws limit the exercise of profession to Filipino citizens: 1987 Constitution; RA 8560 as amended
Implementation process at national level		-Differences in curriculum and training, Indonesian system is the only one similar to the Philippines

**E. Medical**

At the national level, one facilitating factor identified in the survey is the presence of pending bills at the House of Representatives and the Senate to amend the Medical Act of 1959 which covers the practice of medical profession in the Philippines. The Board of Medicine has proposed the inclusion of a provision that would allow foreign citizens to practice in the Philippines for as long as there is an MRA entered into by the Philippines and the country of origin. However, a deterring factor is the very long process of the deliberations at the House and the Senate. The bills have been pending since year 2000.

**Table 6: Medical**

	Facilitating	Deterring
Regulatory environment at national level	-Bills pending at the House & Senate to amend the Medical Act of 1959	-Bills have been pending since 2000
Implementation process at national level	-National Regulatory Body & medical organizations make implementation orderly	-Absence of a coordinating body that would provide information on what the MRA is, objectives, mechanics, implications
Implementation process at regional level		-Currently, no existing mechanism aimed at MRA implementation -Lack of knowledge on the part of practicing medical doctors

In terms of implementation at the national level, the survey indicates one facilitating factor in the presence of the National Regulatory Body and medical organizations that make implementation process more orderly. However, one deterring factor is the absence of a coordinating body that would provide the necessary information



on what the MRA is, what are its objectives, mechanics involved and its implications not only to the sector but to the economy and the country in general.

In terms of implementation at the regional level, some deterring factors cited include the absence of an existing mechanism aimed at the implementation of the MRA and lack of knowledge among medical practitioners on the MRA which may delay its implementation.

## F. Dental

One facilitating factor in terms of regulatory environment at the national level is the submission of requirements such as qualifications, domestic laws and regulations, core competencies, and list of recognized training institutions were already submitted. A deterring factor identified is the need to revise existing regulations for full conformity with the regional agreement and this may take quite some time to accomplish.

**Table 7: Dental**

	Facilitating	Deterring
Regulatory environment at national level	- Requirements for the preparation process of regulations submitted	-Regulations must be revised for full conformity with the regional agreement & this may take some time
Implementation process at national level	-Awareness programs, -Meetings on MRA conducted by government	-AJCCD Secretariat not yet set up -MRA mechanisms & procedures not yet discussed -Meetings on MRA not done regularly -Representatives AJCCD change every year -Inadequate funding
Implementation process at regional level	-Criteria on roadmap for implementation of ASEAN MRA on healthcare MRAs	-No updates on ASEAN MRA -AJCCD Secretariat not yet set up -mechanism & procedure not yet discussed -AJCCD meeting on September 2011 cancelled

In terms of implementation at the national level, the conduct of awareness programs to disseminate information, lectures, and seminars along with MRA meetings with government agencies was cited as facilitating factor. Some deterring factors mentioned include the following: ASEAN Joint Coordinating Committee on Dental

Practitioners (AJCCD) Secretariat has not yet been set-up, website has not yet been created; MRA mechanisms and procedures have not yet been discussed; MRA meetings are not done on a regular basis; AJCCD representatives change every year; and inadequate funding for MRA activities.

In terms of implementation at the regional level, one facilitating factor is the preparation of the criteria on roadmap for implementation of ASEAN MRA on healthcare MRAs. Deterring factors identified are the following: absence of regular updates on the ASEAN MRA coming from the ASEAN Secretariat as well as from the AJCCD Chairman; AJCCD Secretariat at the regional level has not been established yet; and MRA mechanism and procedure to mutually recognize and accept foreign dentists have not yet been discussed.

### **G. Nursing**

In terms of regulatory environment at national level, facilitating factors include support provided by government agencies like the Professional Regulation Commission (PRC), Department of Labor and Employment (DOLE) and Department of Health (DOH) to facilitate understanding and dissemination of MRA information and the construction of the Board of Nursing website linked to the ASEAN Secretariat containing all the necessary information such as domestic laws and processes. Deterring factors include absence of a comprehensive nursing database and research studies on best practices on nursing education and service as well as on review of reciprocity agreements; limited funds for conducting capacity building of personnel and research studies.

**Table 8: Nursing**

	Facilitating	Deterring
Regulatory environment at national level	-Support from government: PRC, DOLE, DOH to facilitate understanding & dissemination of the MRA -Website linked to ASEAN Secretariat provides all necessary information	-Lack of comprehensive nursing database, research studies on best practices & review of reciprocity agreements -Limited funds for capacity building of personnel & carrying out of research studies
Implementation process at national level	-Board of Nursing carrying out various projects to facilitate improvement in the quality of	-Issues concerning nursing standards in education & services: declining performance in licensure

	nursing practice	examination, hiring of nurses based on contractual & job order scheme, decline in enrollment due to limited job opportunities, proliferation of nursing schools
Implementation process at regional level	<ul style="list-style-type: none"> <li>-Willingness of some AMSs like Philippines to share best practices</li> <li>-Mechanisms in place for coordination among the AMSs in the AJCCN</li> <li>-Many AMSs have identified permanent representatives to AJCCN</li> </ul>	<ul style="list-style-type: none"> <li>-Slow response &amp; lack of commitment of some AMSs to AJCCN agreements</li> <li>-Limited resources for capacity building &amp; study tours</li> <li>-Differences in basic nursing programs &amp; competencies</li> <li>-Weak regulatory process to maintain or enforce standards as agreed in the AJCCN</li> </ul>

In terms of implementation process at the national level, one facilitating factor cited is the carrying out of various projects by the Board of Nursing to facilitate improvements in the quality of nursing practice. These projects include activities to ensure quality, integrity and credibility of the Nurse Licensure examination; revision of the Philippine Nursing Law incorporating provisions to facilitate the implementation of the MRA; revision of the nursing core competency standards; continuing professional education for nurses fully functional and operational; and the Nursing Profession Roadmap. Meanwhile, deterring factors include issues affecting nursing standards in education and services such as declining performance in licensure examination, hiring of nurses based on contractual and job order scheme, decline in enrollment due to limited job opportunities and proliferation of nursing schools.

In terms of implementation process at the regional level, facilitating factors include willingness of some AMSs like the Philippines to share best practices; mechanisms in place for coordination among the AMSs in the ASEAN Joint Coordinating Committee on Nursing (AJCCN); and many AMSs have identified permanent representatives to the AJCCN. Deterring factors are the slow response and lack of commitment of some AMSs to AJCCN agreements, limited resources for capacity

building, differences in basic nursing programs and competencies, and weak regulatory process to maintain or enforce standards as agreed in the AJCCN.

## **V. Recommendations**

The Philippines has signed seven Mutual Recognition Agreements (MRAs) in engineering, nursing, architecture, surveying, medical, dental practice, and accountancy. Due to the fundamental legal constraints in the Philippine Constitution, the practice of professions is restricted to Filipino nationals. However, exceptions are allowed in cases of foreign reciprocity. But despite this, for all professions, the issue of enacting new rules and/or regulations has been difficult due to the Constitutional and other restrictions. In terms of reciprocity provision, there are no clear procedures and guidelines in place and in the case of temporary special permits, the law still needs to be revised to allow complete borderless practice. The initial ERIA survey under the AEC Scorecard Project showed the slow progress of MRA implementation in the Philippines.

The present survey further examines the facilitating and deterring factors affecting the implementation rate. At the national level, facilitating factors cited include MRA implementation as part of the national government agenda, awareness programs, close coordination with the government, and projects to facilitate improvements in the quality of practice and address sector issues. Deterring factors include absence of a comprehensive program to implement the MRA, absence of comprehensive databases, research studies on best practices and review of foreign reciprocity, absence of a coordinating body that would provide the necessary information on what the MRA is, its objectives and mechanics involved as well as its implications, weak coordination between national government agencies involved in negotiations and professional regulatory bodies and among national government agencies in policy making, information gathering, dissemination and advocacy efforts.

At the regional level, facilitating factors include willingness to share best practices among the AMSs and the presence of mechanisms for coordination among AMSs. Several deterring factors have been identified such as the different levels of competencies among the ASEAN Member countries due to differences in curriculum;

different requirements for licensure examination; and language barrier, limited resources for capacity building, and weak regulatory process to maintain or enforce agreed standards.

To move the implementation of the MRAs forward, the following measures are recommended:

- Continue to implement measures to improve the process and create clear criteria for the LMT and the skill shortage list or positive list of occupations that are difficult to fill. The positive list is important because it provides not only information on skill shortages to help the government in its education and training policy; but also the list of occupational shortages can serve as input to policy discussion in AFAS (C. Stahl 2011)<sup>6</sup>.
- At the regional level, pursue the development of a common list of occupations and/or sectors where LMTs can be abandoned.
- Formulate clear rules and guidelines in implementing the foreign reciprocity provision.
- Address sectoral concerns particularly the conflicting regulations in engineering and standards and quality issues in nursing.
- Strengthen the capacity of PRC as the central body coordinating the different MRA activities to enable it to effectively perform its policy making, information gathering, dissemination and advocacy efforts.
- Formulate a comprehensive and strategic framework on MRA implementation containing in depth analyses of the impact of MRA implementation by sector (cost and benefit analyses); package of policy reforms and programs to facilitate the MRA implementation process; strategy for information dissemination, constituency building, networking and advocacy; adjustment alternatives and capacity building initiatives in the transition period; and strategy for resource mobilization to finance adjustments during the transition.
- Conduct more research impact studies on the implications of the MRA implementation.

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<sup>6</sup> A Cross Country Study of Labour Market Tests and Similar Regulatory Measures: Implications for Labour Market Test Policy in the Philippines”. A paper prepared for the Department of Labor and Employment, Philippines.

- Conduct more information dissemination and awareness campaigns on MRAs.
- Conduct more capacity building and trainings both for the government and sector representatives.
- Increase funding for capacity building, coordination and networking and grants for conducting studies and generating consistent and readily available statistics for the government and the private sector.
- Encourage sustained sharing of best practices in basic education, core competency development, and implementation of code of ethics through collaborative conferences, research and exchange visits.
- At the regional level, it is important to develop a common formula for determining competencies and credentials among ASEAN Member States and adoption of the same by the AMS.

## **Appendix I: MRA Implementation Process in ASEAN**

<b>Architectural</b>
<p>A. MRA Implementation Process in ASEAN Member States (40%)</p> <ol style="list-style-type: none"> <li>1 Submit official notification of participation</li> <li>2 Set up the Monitoring Committee (MC)</li> <li>3 Prepare, submit, and get approval for the Member State's Assessment Statement to the AAC</li> <li>4 Screen the domestic applicants (by MC) for submission to the AAC</li> <li>5 Obtain approval for the Member State's applicants by the AAC</li> <li>6 Establish the system to authorise foreign ASEAN Architects as Registered Foreign Architects (RFAs) by Professional Regulatory Authority (PRA)</li> </ol> <p>Regulatory Environment (40%)</p> <ol style="list-style-type: none"> <li>1 Prepare rules and regulation to enable the implementation of MRA <ol style="list-style-type: none"> <li>a. Collect rules and regulations that are related directly and/or indirectly to the architectural services</li> <li>b. Review and revise rules and regulations to make sure that they comply with and/or do not contradict regional arrangement</li> <li>c. Enact new rules and/or regulations</li> </ol> </li> <li>2 Undertake roadshows and/or other forms of public outreach activities to disseminate information on the MRA</li> <li>3 Translate domestic regulations into the English language for public outreach purpose</li> <li>4 Develop national websites for dissemination of MRA-related information</li> </ol>
<b>Engineering</b>
<p>A. MRA Implementation Process in ASEAN Member States (40%)</p> <ol style="list-style-type: none"> <li>1 Submit official notification of participation</li> <li>2 Set up the Monitoring Committee (MC)</li> </ol>

- 3 Prepare, submit, and get approval for the Member State's Assessment Statement to the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC)
- 4 Screen the domestic applicants (by MC) for submission to the ACPECC
- 5 Obtain approval for the Member State's applicants by the ACPECC
- 6 Establish the system to authorise foreign ASEAN Chartered Professional Engineer (ACPE) as Registered Foreign Chartered Professional Engineers (RFCPEs) by Professional Regulatory Authority (PRA)

#### Regulatory Environment (40%)

- 1 Prepare rules and regulation to enable the implementation of MRA
  - a. Collect rules and regulations that are related directly and/or indirectly to the architectural services
  - b. Review and revise rules and regulations to make sure that they comply with and/or do not contradict regional arrangement
  - c. Enact new rules and/or regulations
- 2 Undertake roadshows and/or other forms of public outreach activities to disseminate information on the MRA
- 3 Translate domestic regulations into the English language for public outreach purpose
- 4 Develop national websites for dissemination of MRA related information

#### Medical Practitioners

##### Regulatory Environment (50%)

- 1 Prepare rules and regulation to enable the implementation of MRA
  - a. Collect rules and regulations that are related directly and/or indirectly to the architectural services
  - b. Review and revise rules and regulations to make sure that they comply with and/or do not contradict regional arrangement
  - c. Enact new rules and/or regulations
- 2 Undertake roadshows and/or other forms of public outreach activities to disseminate information on the MRA
- 3 Translate domestic regulations into the English language for public outreach purpose
- 4 Develop national websites for dissemination of MRA-related information

#### Dental

##### Regulatory Environment (50%)

- 1 Prepare rules and regulation to enable the implementation of MRA
  - a. Collect rules and regulations that are related directly and/or indirectly to the architectural services
  - b. Review and revise rules and regulations to make sure that they comply with and/or do not contradict regional arrangement
  - c. Enact new rules and/or regulations
- 2 Undertake roadshows and/or other forms of public outreach activities to disseminate information on the MRA
- 3 Translate domestic regulations into the English language for public outreach purpose
- 4 Develop national websites for dissemination of MRA-related information

## Nursing

### Regulatory Environment (50%)

1 Prepare rules and regulation to enable the implementation of MRA

a. Collect rules and regulations that are related directly and/or indirectly to the architectural services

b. Review and revise rules and regulations to make sure that they comply with and/or do not contradict regional arrangement

c. Enact new rules and/or regulations

2 Undertake roadshows and/or other forms of public outreach activities to disseminate information on the MRA

3 Translate domestic regulations into the English language for public outreach purpose

4 Develop national websites for dissemination of MRA-related information

Note: Numbers in parentheses are weights.