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The ASEAN Economic Community and the Philippines: Implementation, Outcomes, Impacts, and Ways Forward (Integrative Report)

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

The ASEAN Economic Community
and the Philippines: Implementation,
Outcomes, Impacts, and Ways Forward
(Integrative Report)

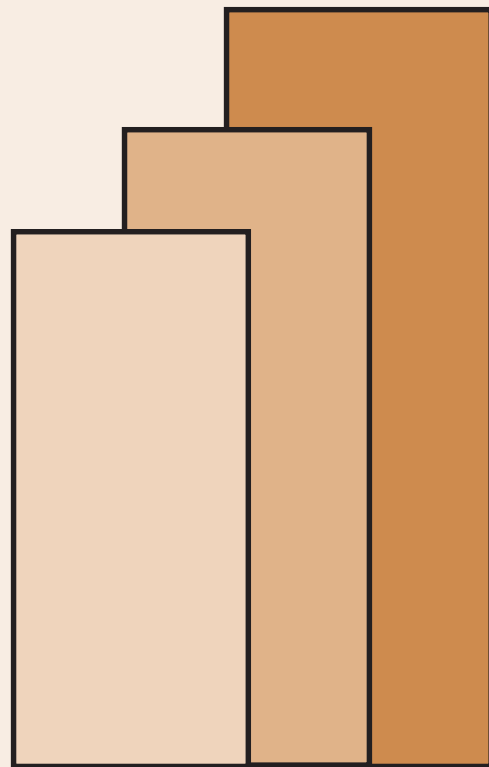
Melanie S. Milo

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**ERIA Research Project:
ASEAN Economic Community (AEC) Blueprint
Mid-Term Review**

Philippines Country Study:

***“The ASEAN Economic Community and the Philippines:
Implementation, Outcomes, Impacts, and Ways Forward”***

Integrative Report¹

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6 June 2012



¹ For a full discussion of the results, issues and recommendations, and full citations, please refer to the complete Philippines Country Study published as PIDS DP 2013-01).

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I. Introduction

A milestone in ASEAN economic cooperation is the adoption of the ASEAN Economic Community (AEC) Blueprint at the 13th ASEAN Summit held in November 2007 in Singapore, to serve as the master plan to guide the establishment of the AEC by 2015. In particular, the AEC Blueprint identified the key characteristics and elements of the envisioned AEC, as well as the action plans and strategic schedules to achieve them. The end goal of economic integration by 2015 is to be accomplished in 4 stages: 2008-2009, 2010-2011, 2012-2013, and 2014-2015. Thus, this midterm review (MTR) of the AEC Blueprint, which is being spearheaded by the Economic Research Institute for ASEAN and East Asia (ERIA), to assess where the ASEAN Member States are in terms of moving toward the AEC is very timely.

This Integrative Report summarizes and synthesizes the key results and analyses contained in the AEC Blueprint MTR for the Philippines (Aldaba et al. 2012), which also incorporates key results of earlier ERIA studies on how to further improve the AEC Scorecard (Aldaba et al. 2010; Medalla et al. 2011). It has three main sections corresponding to the key characteristics of the AEC Blueprint, which in turn discuss their respective elements. Under Single Market and Production Base, trade liberalization and facilitation; services liberalization; investment liberalization and facilitation; labor mobility and MRAs on professional services; and agriculture are discussed in the next section. The third section discusses key three elements of a Competitive Economic Region – competition policy, IPR, and transport cooperation. The fourth section then discusses SME development in the Philippines, which is under Equitable Economic Development. In particular, the discussion of the main elements includes a short discussion of the key policies and the role of the AEC measures; the results of the private sector survey and/or questionnaires administered to government officials; and the ways forward in terms of managing ASEAN economic integration in the Philippines. The fifth and final section then presents some concluding remarks and specific recommendations on how to increase the implementation rate of AEC measures in the Philippines.

Private sector perspective. Although the private sector dominates the Philippine economy, it is deemed not to have lived up to its potential in terms of leading the country into economic development. This has been attributed to structural and institutional factors extraneous to the private sector, including: (i) tight fiscal situation; (ii) inadequate infrastructure, particularly in electricity and transportation; (iii) weak investor confidence due to governance concerns, in particular corruption and political instability; and (iv) inability to address market failures leading to a small and narrow industrial base. But the private sector's overall lack of a "culture of competition" has also been identified as a critical factor. These factors, which have constrained private-sector response to the opportunities provided by greater openness in the Philippines, would also prevent the private sector from participating fully in the AEC and hence limit the benefits to the country.

Thus, an important issue is whether the AEC Blueprint has been able to help address some of the problems. In fact, a survey of private sector firms in early 2011 (ERIA Survey of Core Measures 2011), which was undertaken to seek their views on which measures stipulated in the AEC Blueprint are considered as critical in order for the private sector to benefit well from the realization of the AEC by 2015, indicated that measures that specifically addressed **complex, inefficient and ineffective administrative processes, procedures and arrangements, and lack of effective competition in key sectors of the economy were deemed as beneficial and urgent.** This is also highlighted in the discussion of the key results and recommendations for the main elements of the AEC Blueprint in the following sections.

II. Single Market and Production Base

A. Trade Liberalization and Facilitation³

At the core of ASEAN integration is free flow of trade in goods. Thus, an essential part of this MTR is an assessment of progress in the area of trade liberalization and facilitation.

(i) Trade liberalization

In the Philippines, trade reforms to open up the economy were primarily undertaken unilaterally in the 1980s and 1980s. However, unilateral tariff reform stalled in the early 2000s, with tariff rollback being undertaken for a number of selected products. On the other hand, the country's commitments under ASEAN ensured that the country remained on the reform path. In particular, the ASEAN Free Trade Agreement (AFTA) is the primary trade agreement for the Philippines. Philippine engagement in preferential agreement has mainly been as member of ASEAN, with Japan as its lone bilateral FTA partner. Thus, **being part of ASEAN has helped keep the country open**, especially when the tendency to waver became intense following the 1997 Asian financial crisis, and due to politically influential lobby groups in key economic sectors. In particular, Executive Order No. 850 was passed in December 2009 to deliver on its AFTA commitment to bring down tariffs on imports from ASEAN (except for a short sensitive list) to 0 percent in 2010.

Core NTMs (in some form of quantitative restrictions) are also down to a few commodities, covering mainly weapons and arms and a few 'sensitive' goods (e.g. rice and sugar). As in the case of most countries, there are non-tariff measures imposed for health and safety (including environmental protection) reasons, which are deemed to be WTO consistent. These NTMs are mainly in the form of TBTs and SPS requirements. Thus, in the case of NTMs, the crucial areas for reforms would be in trade facilitation measures. In particular, these measures should address transparency, standardization and harmonization, and electronic processing.

(ii) Trade facilitation: Customs procedures

Reduction in nominal tariffs would have minimal impact if customs procedures pose serious impediments to trade. Again, the Philippines unilaterally embarked on various customs reforms, computerization, and modernization programs beginning in the 1970s and especially in the 1990s. Thus, in last year's ERIA Phase 2 study on the AEC Scorecard monitoring system, the Philippines scored high at 88 percent in customs modernization and integration (Medalla et al. 2011). However, efforts to harmonize and simplify customs procedures were difficult to sustain partly because of the absence of a holistic framework that could serve both as a legally binding guidepost and framework for action to harmonize Philippine customs procedures with the rest of the world.

In this respect, ASEAN again played an especially significant role. In particular, the mandate of a National Single Window (NSW) emanated from ASEAN Agreements including: the *Agreement to Establish and Implement the ASEAN Single Window* (ASW) signed by ASEAN Trade Ministers in December 2005; the *Protocol to Establish and Implement ASW* signed by the Finance Ministers in December 2006; and the *ASEAN Economic Community Blueprint* signed in November 2007. The Philippines, as part of ASEAN-6, committed to operationalize

³ This section extracts from the drafts prepared by Dr Erlinda Medalla (trade liberalization and facilitation); Ms Veredigna Ledda (standards and conformance); and Ms Maureen Rosellon and Dr Erlinda Medalla (automotive sector).

its NSW by 2008. To implement the NSW in the Philippines, then President Arroyo issued Executive Order No. 482 in December 2005, which created the National Single Window Task Force for Cargo Clearance. The aim was to ensure coherent and effective formulation, coordination, implementation and monitoring of NSW. Although the Philippines reported launching her NSW only in May 2010, it is still a significant achievement in terms of mobilizing the country's bureaucracy and sustaining its efforts to undertake the reforms.

The Philippines also scored well with regards to the Philippine NSW at 82 percent in last year's ERIA study (Medalla et al. 2011). Phase 1 of the NSW has been completed, including NSW system implementation for core government agencies featuring: electronic submission of application form, status of application viewable in the dashboard, notification via email of application status, and final approval via electronic means. Planned activities include: ASW integration including manifest processing, declaration processing, and rationalization, simplification and harmonization. Important remaining issues include what would be the relationship between the BOC, NSW and the Value Added Service Providers (VASPs), and how to link them together. Lack of progress in this area is the main factor that reduces the NSW scorecard for the Philippines.

This midterm review in the area of trade facilitation took another (and updated) look at government processes involved and sought feedback from the firms themselves. Toward this end, two sets of surveys were undertaken for the study: (i) an MTR Questionnaire for Government Officials; and (ii) MTR Firm Survey on Import/Export and Customs Clearance. The questionnaire for government officials aimed to gather information on aspects of ASEAN customs development and integration and the implementation of NSW and ASW. The survey of firms provided the view from users by getting their experience on customs clearance and permit release process in other government agencies.

Government perspective. Responses of Bureau of Customs officials to the questionnaire on customs modernization revealed that the Philippines has implemented electronic transactions in most key customs processes. The exceptions are in electronic export declarations and electronic certificate of origin. Electronic transactions in these processes are expected to be ready within the year. The responses also indicated that BOC has implemented e-customs for all the major seaports and airports, and targets coverage of all by 2015. Around 80 percent of its basic customs operation is now electronic, covering around 95 percent of imports, at least 25 percent of exports, and 75 percent of firms. Full coverage is targeted by 2015.

In the case of NSW implementation, based on BOC response, there are currently 26 government agencies in the NSW implementing electronic licenses, permits and certificates. They are connected to the NSW portal where people can submit applications and necessary papers, verify status online on the NSW dashboard, and get decisions regarding their transaction.

According to BOC, the NSW portal is now implemented in the major seaports and airports and coverage for all is targeted by 2015. Currently, there are 38 OGAs linked to the NSW. A total of 50 OGAs are envisioned by BOC to be linked to the NSW by 2015. Registration is a requirement to lodge customs declaration (whether manual or electronic). Of around 10,000 registered, around 25 percent use the NSW portal.

Customs reforms are in line with achieving the ASEAN target of 30 minute turnaround time in customs processing. The BOC responses are verified in the parallel firm survey done. Firm survey responses indicate improvements in the degree of automation of procedures,

especially in import declaration as lodgment of import entries are now done electronically, and similarly for payments of taxes and duties. However, there are still large gaps in many important areas, notably, in export declaration, support documentations (Packing List, Bill of Lading, Manifest, Airway Bill, Invoice), and inspection and release of goods. These were also indicated gaps in the BOC responses.

Private sector perspective. To help assess the progress made in trade facilitation efforts of the government, the MTR also included a survey of private sector firms to determine if they have perceived improvements in customs procedures and processes. A total of 34 responses were collected, which represented 16 large firms and 18 micro, small and medium sized firms. Twenty of the respondent firms are fully domestic owned; 9 are fully owned multinationals; 2 are fully foreign owned; and 3 are joint venture firms. All the firms in the survey have dealings with customs, either as exporter/importer, or brokerage/forwarder. Majority of the firms across size have trade with ASEAN. Overall, customs reforms were validated by the results of the survey, which can be summarized as follows:

- Perception of customs procedures becoming fully automated rose by more than 50 percent for all customs procedures in 2011 compared with the previous year for main customs processes. The highest perception is in payments of taxes and duties (22 out of 28 who answered), followed by import declarations (16 out of 34). Highest perception of non-automation is in support documentations (14 out of 33 who answered), followed by export declarations (13 out of 25 who answered). These responses are consistent with the findings from the questionnaires for government officials which indicated the same areas of limitations. **It is also interesting to note that while the perception of improvements in automation rose for all firms, the perceived improvement in automation is higher for small and medium sized firms. It appears that the more recent customs modernization and automation reforms have even larger significance to SMEs.**
- On the other hand, with respect to firms' perception of automation of certificates, permits and licenses from other government agencies (OGAs) in 2011, the results indicated lack of progress for the procedures in OGAs. This reflects the problem encountered in efforts to link the BOC and OGAs to the NSW. This could also be a lack of information dissemination. Trainings are being held in the use of the NSW portals, but the efforts may not be enough.
- On firms' perception of degree of improvement in procedures, 14 firms reported substantial improvement in submission of forms for clearance in 2011 compared to 2009. Most of the firms reported minor improvements in other procedures.
- Majority of respondents rated specified features (e. g. ability to track and trace customs clearance electronically, electronic payment, ability to download forms, etc) in local import and customs systems or National Single Window to be very important if not critical. The results also indicated a significant increase in the availability of these features in 2011 compared to 2010. This is especially remarkable in 'electronic payment on customs duties/taxes,' where the yes/no response greatly improved from 9/19 in 2010 to 29/2 in 2011.
- There is also some degree of satisfaction in most imports and customs services. However, most dissatisfaction is registered in 'inspection and release of goods,' 'customs valuation' and 'tariff classification,' which are key elements of customs and imports services.

Overall, the survey results indicated that there are positive developments in trade facilitation. That being said, there is still a lot of room for improvements.

Ways forward. The ideal scenario is for customs and related processes and stages to be fully automated. After the lodgment of import or export entry, several processes are involved (including verification of manifest, valuation, and processing of permit or certificate requirements), after which payment of duties can be made. Then, customs clearance is sent to port operator/contractor and port authority, and cargo is finally released.

As noted above, there are still large gaps in many important areas, notably, in export declaration, support documentations, and inspection and release of goods. In bridging this gap, there is a key role for an efficient risk management system. Such a system would spare legitimate exporters and importers from undue procedures and potential harassment. An improved system of selection process for inspection would have large impact on speeding up the process, limiting corruption and limiting transactions costs in general. A major requirement in establishing such a system would be access to necessary information. This means that key offices of the BOC (e. g. the assessment and operations office, and the IT department) should coordinate, provide the necessary inputs to the risk management system. It is important for the risk management department to develop not just the software but good data warehouse, directly linked with key departments of the BOC, particularly its Assessment and Operation and IT departments. This office should also be directly under the Commissioner's office, for transparency and accountability.

Even in the most advanced systems, certain segments (including technical difficulties) could still require some interruption in automation. This could arise especially in problems related to classification, valuation, and inspection procedures. Again, an efficient risk management system integrated in e-customs and NSW would help minimize such interruption.

Finally, on the preparedness of the Philippines for ASEAN Customs and ASEAN Single Window (ASW), the Philippine BOC appears close to setting up the necessary elements for consistency with an ASW. In particular, further steps are needed for (1) manifest processing, (2) declaration processing, and (3) simplification and harmonization, all of which are expected to be in place this year. The Philippines is still not able to exchange data with another ASEAN country but there is on-going preparation for a pilot test. It hopes to establish the exchange within the year.

The remaining preparatory tasks for ASEAN customs integration require joint action from all member countries dealing with outward and inward processing, and AEO Mutual Recognition. Another area for cooperation is in Electronic Certificate of Origin (e-CO). AFTA preferential trade is predicated on the compliance with a certificate of origin. With all countries making improvements toward electronic certificate of origin, a logical next step, even before the ASW is implemented, is to build a coordinated system where e-COs are issued and received, checked and verified electronically among member countries.

Decisive factors that have been identified in the success of early BOC reforms included strong political will; sustained operational leadership, and ownership of the reform by the head of customs; and private sector involvement and support, generic customs software, and analysis and selectivity. Stronger commitments on the part of OGAs, BOC and NSW are necessary. Phasing in the Value Added Service Providers (VASPs) into the system would also need to be resolved.

Given the critical role of trade facilitation, the Philippines needs to address the AEC measures related to customs integration that are due for implementation but have not been fully implemented by July 2011. In particular, measures for customs integration include the establishment of pre-clearance arrival for customs clearance and cargo release, development

of advance ruling systems for tariff classification and value assessment, implementation of ASEAN Customs Declaration Document, implementation of cargo processing model, and finalization and implementation of Protocols 2 and 7 under the ASEAN Framework on the Facilitation of Goods in Transit. This is supported by the results of the ERIA Survey of Core Measures (2011), which indicated that greater use of ICT in import/customs procedures and the linking of customs clearance systems in ASEAN were considered as urgent and beneficial in facilitating the flow of goods within the region by around 80 percent of the firms surveyed.

Furthermore, in the same survey of firms, differing technical regulations and product standards in AMS were considered as posing serious problems to business and restrict intra-ASEAN trade by almost all firms. Thus, there is also an urgent need to harmonize product standards and technical regulations under the AEC, as well as with international standards to further enhance product competitiveness in global trade.

(iii) Trade facilitation: Standards and conformance

Overall, the Philippines is making good progress in the ASEAN standards and conformance roadmap defined for the eight Priority Investment Sectors, namely automotive, cosmetics, electrical and electronic equipment, medical devices, pharmaceutical products, prepared foodstuff, rubber-based products, and traditional medicine and health supplements. The results of the Standards and Conformance scorecard in the ERIA Phase 2 study on the AEC Scorecard monitoring system generally show a high degree of conformance of national standards with international benchmarks across the surveyed sectors and openness to conformity assessment procedures and harmonized technical regulations.

In particular, all eight sectors obtained high scores for National Obligations for Standards. The processes of review and revision of national standards or technical requirements to ensure alignment with agreed international standards and benchmarks identified for harmonization at the regional level are either ongoing or have been completed for all sectors. The cosmetics and electrical and electronic equipment led all sectors in obtaining high scores for the equivalence of national with international standards. The Philippines has fully adopted the ASEAN Cosmetic Directive (ACD) implemented in 2008, while the national standards for electrical and electronic equipment (EEE) are 98 percent compliant with the identified international benchmarks.

The Philippines has a mixed scorecard for National Obligations for Conformity Assessment Procedures. The pharmaceutical and electrical and electronic equipment sectors led all others in the ratification of the relevant MRAs, the transposition of MRA provisions into applicable national laws and regulations, and the identification and implementation of capacity building programs to enhance the capability of ASEAN Conformity Assessment Bodies (CABs) to meet the requirements under the MRA. The automotive, medical prepared foodstuff and traditional medicine and health supplements sectors need to have key processes in place to cover national obligations for conformity assessment procedures.

Finally, scores again varied widely among sectors in the Philippine scorecard measuring National Obligations for Technical Regulations. Cosmetics and pharmaceutical products led all sectors in obtaining high scores with the processes of ratification of the regional agreement and the transposition of regional agreement provisions into applicable national laws among others, already in place. Implementation scores remain very low for the prepared foodstuff and traditional medicine and health supplements sectors.

For the MTR, questionnaires on the status of implementation of ACD and of the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment (ASEAN EE MRA) were administered to industry representatives and regulators.

ASEAN Cosmetic Directive. The responses indicated that the Philippines is progressing well in the implementation of ACD. Participating firms showed high awareness and understanding of the entry into force of the ACD and the process of notification of cosmetic products. The harmonized technical requirements are readily available to the industry and both manufacturers and distributors appear to register high compliance with the essential requirements for product safety and quality. The technical infrastructure, consisting of accredited conformity assessment bodies, is acknowledged by the surveyed firms who source test reports for notified cosmetic products from both local and foreign CABs recognized by the regulatory authority. In addition, post market surveillance is being executed through the availability of the Production Information File to the FDA. There is a system in place that includes routine audits, technical courses held in cooperation with industry associations and a feedback mechanism on corrective actions in case of non-compliance. Lastly, technical assistance from the regulator appears adequate as surveyed firms reported a thorough understanding of the ACD's provisions and the availability of support mechanisms including training sessions and guidelines for understanding technical documents available on the FDA website.

Nonetheless, there is room for improvement. Addressing the unavailability of online notification of cosmetic products and augmenting the technical expertise of the regulator are the main suggestions offered by the surveyed firms to facilitate the faster and smoother implementation of the ACD. Some survey respondents would welcome greater technical expertise from the regulator in the area of post-market surveillance in order to make Philippine cosmetic products more competitive. From the point of view of the regulator, information dissemination regarding technical requirements can still be enhanced. Some product recalls in the local market still happen mainly due to non-notified release of products, rather than defects in product quality, labeling or packaging. These can be addressed by information campaigns.

The reorganization of the Food and Drug Administration will be the key to addressing many of the concerns expressed by respondents. This important milestone for the regulator will be discussed in the last section of this report.

ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment. The implementation of the ASEAN EE MRA in the Philippines is on track. There are three private laboratories listed under the ASEAN EE MRA with the regulator's own testing laboratory expecting accreditation within the year. The preparations are in place for the implementation of the acceptance of certification also this year. Industry associations appear to work closely with the regulator in the dissemination of relevant information. Survey respondents have a favorable view of the ASEAN EE MRA citing the advantages of faster time to market. They particularly refer to the cost advantages enjoyed by EE importers in possession of a testing report and certification compliant with the standards and regulatory requirements. Doing away with re-testing and re-certifying in the Philippines, importers can cut storage costs as goods do not need to stay in warehouses while products wait in line to be tested. This also means quicker response time to market conditions, for example, restocking is faster as shipment of goods is facilitated.

Room for improvement for the EE industry in the Philippines lies in taking advantage of the ASEAN EE MRA to export to ASEAN member states through the globally accepted testing and certification process. However, at present locally-produced EE are not competitive in terms of price. These products fulfill the technical standards given the adequate information on standards provided by the regulator and the availability of local testing laboratories listed under the ASEAN EE MRA. However, high manufacturing costs associated with electricity and labor continue to prevent domestic firms from embarking on a sustained, outbound initiative.

The regulator will also benefit greatly from increased resources to adequately fulfill its role in implementing the ASEAN EE MRA. Currently the BPS implements and monitors compliance for 50 of the 133 standards harmonized under the ASEAN EE MRA. To increase coverage and implementation of the remaining standards would require fiscal support. A full complement of personnel would ensure documents of EE firms are processed faster, translating to lower costs for firms and faster entry into the market. Adequate equipment to test new kinds of products would also be attainable given a bigger budget allotment and a mechanism for the BPS to retain its income.

Ways forward. The standards and conformance initiatives of the ASEAN have influenced and continue to drive change in the policies on standards in the Philippines. A number of national standards across sectors were already equivalent to international standards, but the commitment of the Philippines to the ASEAN standards and conformance initiatives has served to further focus the efforts of the competent regulatory bodies to work at harmonizing standards with international benchmarks. The initiatives for alignment by the Philippines have extended to the amendment of some relevant laws and regulations. An administrative order was signed by the Secretary of the Department of Health to implement the ASEAN Cosmetic Directive. This move has enabled the standards of the cosmetics sector of the Philippines to be 100 percent compliant with international benchmarks. For the pharmaceutical products sector, the approval of Administrative Order (A.O.) 43 also by the Secretary of the Department of Health completed the legal basis for the implementation of the ASEAN Common Technical Dossier (ACTD) in the Philippines. ASEAN initiatives in standards and conformance are also instrumental in creating new regulation. This is the case for the traditional medicine and health supplements sector.

The way forward for standards and conformance in the Philippines lies in **capacity building and institution development**. The signing into law of the Food and Drugs Administration Act in 2009 (RA 9711) and the ensuing, ongoing reorganization at the Department of Health is a positive step in obtaining adequate support and recognition for regulatory bodies. It is significant that apart from protecting and promoting the right to health of the Filipino people, the other, stated objective of the reorganization is to establish and maintain an effective health products regulatory system.

RA 9711 confers two important powers on FDA: expanded quasi-judicial power with regulatory functions over food, drugs, medical devices, cosmetics, household hazardous substances and radiation devices and facilities; and the power to retain and use its income to support operations, expand personnel complement, and upgrade and augment laboratory facilities and equipment. The FDA Act of 2009 mandates the creation of four separate centers within the FDA focused on major product categories: Center for Food Regulation and Research, Center for Drug Regulation and Research, Center for Cosmetics Regulation and Research, and the Center for Device Regulation, Radiation Health and Research. The focus on product will mean greater efficiency in processes and areas of specialization that should

translate to faster transaction time and cost benefits for firms. It can be noted that the product categories are closely aligned to key Priority Investment Sectors of the ASEAN.

The Bureau of Product Standards would do well to have a similar arrangement. Income retention appears to be the key to addressing concerns regarding the lack of personnel and testing facilities for electrical and electronic equipment. This would require a change in legislation similar to the creation of the new FDA. However, there appears to be no movement in this direction at the Department of Trade and Industry at the present time.

Finding solutions for strengthening the technical infrastructure and increasing the technical expertise of the country's regulatory agencies will facilitate the compliance of the Philippines with its standards and conformance obligations on the regional level. Domestic firms engaged in manufacturing, trade and distribution as well as foreign companies seeking to enter the local market will benefit from administrative and procedural efficiencies in terms of lower costs and faster speed to market. Last but not least, fully equipped and well-functioning regulatory agencies will raise public awareness of the importance of product safety and quality, and generate greater appreciation and understanding of the importance of standards in daily living and the practical utility of the standards and conformance initiatives of the ASEAN.

(iv) Case study: Automotive sector

The case study on the automotive industry in the Philippines aimed to examine how AFTA has affected the industry. The automotive sector in the Philippines is relatively small in terms of number of players and vehicle sales, especially when compared to its ASEAN neighbors such as Thailand, Malaysia and Indonesia. The sector contributes only around 4 percent to gross value added in manufacturing, and accounts for 1 percent of total employment in the manufacturing sector. Exports of machinery and transport equipment comprise around 4 percent of total Philippine exports.

Despite the relatively small size, the automotive industry has received continued support from government through policies that aim to increase the size and improve the competitiveness of the industry. With the sector's potential for deep forward and backward linkages, it is envisioned by government to provide a strong industrial base for the Philippines.

In addition, the automotive industry is part of the production network not only in ASEAN but also the East Asia region, as well as trade linkages with some parts of Europe and America. In this regard, aside from policies to improve competitiveness, trade facilitation initiatives and strategies are significant in policy making. Trade facilitation measures have been implemented in the Philippines not only as part of the national development plan but also as part of its commitment to ASEAN economic community building.

The automotive sector is also one of the priority integration sectors under the AEC Blueprint. Member countries of the ASEAN have therefore been implementing measures to strengthen their own competitiveness and to improve facilitation of trade. Improvements in customs computerization, one-stop shop export documentation centers, and NSW have been implemented in the aim of facilitating trade. However, some glitches in the implementation of these initiatives in the Philippines confront the stakeholders, such as exporters, importers, other private sector (e.g. customs brokers, forwarders), and government.

Trade facilitation and other issues. Trade facilitation and other issues faced by the automotive industry include FTA utilization, rules of origin (ROO), customs procedures, logistics, and lack of domestic suppliers for inputs.

Previous studies that looked at AFTA utilization of ASEAN firms found that the Philippines has relatively low usage (from 15 to 20 percent). For most firms, reasons for low utilization or non-usage of AFTA, aside from low margin of preference, are related to costs and delays associated with customs and origin administration. But a study has shown that AFTA utilization rate in the transport sector is relatively higher compared to other sectors. The high margin of preference (5-43 percent) in transport products, and successful implementation of the ASEAN Industrial Cooperation (AICO) scheme are said to be the key factors leading to high AFTA utilization in the transport sector.

ROOs accompany FTAs, such that compliance to such rules is required to avail of preferential tariff rates within the free trade area. An area of concern is the arbitrary classification of origins, which comes from differences in tariff classification among countries caused by slow adoption of harmonized tariff classification. When this happens, then origin and duty determination would be in question. Thus, harmonizing and liberalizing ROOs, for instance in ASEAN+1 FTAs, would be ideal to facilitate trade in the region. Multiple FTAs also mean multiple ROO regimes. In an interview of automotive firms, while firms already knew what certificate of origin (CO) form to use depending on the FTA, they also noted that harmonization of CO forms would be easier for them.

Until now, costs and delays related to administrative procedures are one of the issues faced most especially by exporting firms, and even more so by small firms. Although trade facilitation measures such as electronic filing of selected documents have been introduced, frequent system breakdowns that are not immediately addressed have been one of many challenges to customs administration according to an interview of automotive firms. Such lapses in the system or in customs procedures in general cause delay in the release of important documents that are required in shipping goods in time; hence, affecting export/import operations and ultimately hampering trade.

A smooth movement of goods – transshipped or in-transit – is one goal of trade facilitation. In the Philippines, the administrators of economic zones facilitate the receiving or transport of goods especially when these goods enter the zone. But outside the zone, there have been cases of hi-jacking of delivery trucks in highways as goods are transported between the seaport/airport and the economic zone or where the manufacturing plant is located. Though these cases do not happen on a daily basis, security of goods in transit should be of great concern to the local government and the police force in cooperation with the economic zone administrator or the appropriate government authority. Delivery of goods has also been affected by the congestion in the ports. Thus, the port system and infrastructure, and the rate of improvement in the ports have been deemed as not meeting the demands of the automotive industry.

Finally, the Philippines is lacking in local suppliers of inputs both in terms of numbers and quality that is acceptable to customers. Past government policies for the automotive sector were not able to encourage establishment of a good number of vehicle assemblers and suppliers (parts manufacturers) in the country, in comparison with neighbors such as Thailand which currently has a large supply base. Car development programs in the Philippines that started and evolved since the 1970s seemed to have only encouraged the entry of MNCs to establish assembling facilities in the country and have missed out on developing a strong base

of domestic suppliers. Thus, producing cars in the Philippines is more expensive partly because of higher costs of imported inputs.

For the Philippines, the challenge is to how emulate the success of Thailand, which has managed to find a niche in global automotive production and develop industrial clusters and auxiliary local supply system. The advantage of Thailand (and Indonesia) is the larger domestic market. Nonetheless, the Philippines would have its own advantages (e. g. a highly trainable supply of labor) and appropriate measures and reforms are continually being sought. And most certainly, part of government's policy measures and initiatives in this sector is toward trade facilitation. Moreover, the industry likewise has to work on strengthening its competitiveness especially because imports will be relatively cheaper with the reduction/elimination of intra-regional tariffs. The Philippines is characterized by weak local supply base in the automotive sector, but if local suppliers will be strengthened, then this could help support the industry.

B. Services Liberalization⁴

The Philippine economy's output structure is characterized by a relatively large services sector, which accounted for 48 percent of GDP on average in the 2000s and 52 percent of employment in 2010. Wholesale and retail trade constituted the bulk of the services sector, followed by transportation, communication and storage, and private services sub-sectors. With respect to trade in services, exports of travel related services and other business services accounted for 38 percent and 34 percent of total services exports, respectively, in 2006-2010. Business process outsourcing, an important source of services export receipts, is under other business services. The dominance of the services sector highlights the importance of ensuring that it is competitive and efficient in order to maximize its contribution to the country's economic growth and development. An efficient services sector also has indirect consequences for economic growth through the efficiency of other sectors in the economy, since other sectors such as manufacturing utilize services as inputs. Thus, the country embarked on various liberalization and other reforms in the services sector.

In the Philippines, the first wave of unilateral reforms in the services sector took place in 1987 with the opening up of generation under the power sector. Another wave of reforms occurred in the early 1990s with the liberalization of the telecommunications industry, which had been dominated by a private monopoly for more than half a century. The shipping industry was also liberalized with the deregulation of first and second class passage rates. Subsequently, surcharges for insurance premiums were abolished while freight rates for cargoes were deregulated. In the mid-1990s, the air transport industry was also deregulated, thus challenging the supremacy of the country's only designated flag carrier, Philippine Airlines. In the late 1990s, the water sector was privatized through competitive bidding, which was won by two firms who were granted concessions to bill and collect water and sewerage services in two separate areas for 25 years.

In the mid-1990s, Republic Act 7721 (1994 Foreign Bank Liberalization) allowed the establishment of ten new foreign banks in the Philippines. With the legislation of Republic Act 8791 (General Banking Law) in 2000, a seven-year window was provided allowing foreign banks to own up to 100 percent of one locally-incorporated commercial or thrift bank (with no obligation to divest later).

⁴ This section extracts from the drafts prepared by Dr Rafaelita Aldaba and Dr Melanie Milo (services liberalization); and Dr Gilberto Llanto and Dr Adoracion Navarro (logistics).

In March 2000, Republic Act 8762 (Retail Trade Liberalization Law) allowed foreign investors to enter the retail business and 100 percent ownership as long as they put up a minimum of US\$7.5 million equity. A lower minimum capitalization threshold of US\$250,000 is allowed to foreigners seeking full ownership of firms engaged in high-end or luxury products. R.A. 8762 also allowed foreign companies to engage in rice and corn trade.

In 2003, the Strong Republic Nautical Highway (SRNH) program was inaugurated through Executive Order (EO) 170 which aimed to improve existing ports to facilitate a road-roll-on, roll-off (Ro-Ro) terminal system (RRTS).

In general, these reforms were crucial in introducing competition in these key sectors as well as in disciplining incumbent monopolies. But in sectors such as telecommunications, power, ports, and shipping, the absence of clear rules and appropriate regulatory framework, as well as efficient regulators have limited the impact of reforms on competition. Moreover, while the country's liberalization experience has highlighted the importance of unilateral reform initiatives in promoting domestic policies that foster domestic efficiency, the country still remains protective of the services sector. Discriminatory and market access barriers still characterize services in general. Remaining restrictions include foreign equity limitations of 40 percent; economic needs tests; and domestic regulations affecting business operations.

The country's unilateral reform initiatives are also seen as necessary in preparation for the country's participation in regional and multilateral agreements. As it participates in regional economic integration, there are many challenges confronting the country. These include not only improving industry competitiveness and attracting investment flows, but also addressing binding constraints to services trade and investment, as well as pursuing large infrastructure investments to promote an efficient transportation network and telecommunications systems and reduce utilities cost particularly power.

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 GATS, 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 AMS. For each sector or sub-sector on the positive list, commitments are made for market access and national treatment across each of the 4 modes of supply. Trade in services liberalization under AFAS is directed towards achieving commitments beyond AMS' commitments under GATS.

Presently, ASEAN has concluded eight Packages of Commitments. In particular, there has been an expansion in the services sectors covered particularly from 2006 to 2009 for the Philippines. With only two sectors covered in its maiden package in 1997 i.e. business services and tourism, the Philippines has expanded its offered sectors starting with the second package in 1998 to include air transport, maritime transport, construction, financial services and telecommunications. It further widened sector coverage in the fifth package of 2006, which included all transport and auxiliary services, computer services, distribution, rental and leasing, environmental, health related and social services. The sixth package added research and development, real estate, services related to energy and power generation, audiovisual services, recreational, cultural and sporting services. The seventh package of 2009 added

more sub-sectors plus religious services. However, upon examining the seventh package, many of the sub-sectors are still unbound in terms of modes 3 (commercial presence) and 4 (movement of natural persons). Furthermore, there are limitations on market access and national treatment for many of the sub-sectors especially for modes 3 and 4.

Earlier AFAS assessment studies concluded that the various rounds of negotiations that took place so far have not produced substantive preferential liberalization as the Philippines' AFAS commitments rarely go beyond what the Philippines bound in its GATS Schedule of Specific Commitments at the end of the Uruguay Round. Comparing the Philippine commitments under the GATS and AFAS, the coverage and depth of the two frameworks are substantially similar, with AFAS only minimally going beyond what the Philippines bound at the multilateral framework.

Trade in services is an important component of the country's development strategy and to transform the sector as a major source of growth, a lot would depend on a more competitive and efficient services sector. **Introducing competition through services liberalization under the AEC Blueprint could serve as a catalyst to foster the sector's competitiveness.** Especially given the nature of the private sector in the Philippines, which has long been dominated by monopolies, cartels and family groups, there could be a more significant role for competition coming from outside the country.

As the empirical literature on the linkages between services liberalization and economic growth shows, policy reforms that increase competition and improve regulatory oversight result in improved performance of the sector concerned. As earlier pointed out, an efficient services sector has indirect consequences for economic growth. For instance, a competitive and efficient services market would result in a more competitive and efficient manufacturing sector. Moreover, high-quality services could also result in increasing the attractiveness of a location for foreign direct investment. To realize these, a sustained process of domestic policy reforms and changes in the regulatory environment aligned with our regional and multilateral liberalization commitments would be crucial. **Again, the country's ASEAN services commitments could serve to keep the Philippines on the reform path.**

The ERIA Survey of Core Measures (2011) also asked the respondent firms how serious were the current restrictions imposed on trade in services among ASEAN countries, to which around 85 percent of firms replied they were serious barriers. In the 2012 MTR survey of services firms, the most number of respondent firms identified ensuring effective regulation to deal with market failures (efficiency) (67 percent) and enhancing competition/contestability of markets (60 percent) as the very important desirable goals of reforming trade in services. Addressing these goals through market access negotiations (through the conclusion of trade agreements) and regulatory cooperation were considered to be the most appropriate mechanisms for more than 70 percent of the firms surveyed. Finally, the top three activities identified by the respondent firms as very important activities that should be undertaken under regional cooperation were: (i) develop appropriate standards for professional services; (ii) establish a framework for the recognition of licenses and professional/educational qualifications; and (iii) organize forum to bring together officials, regulators and service providers to discuss ways of addressing political economy constraints that impede trade in services.

The challenges facing the services sector, which include not only improving industry competitiveness and attracting investment flows, but also addressing binding constraints to

services trade and investment, as well as pursuing large infrastructure investments, are clearly demonstrated in the logistics case study.

(i) Case study: Logistics

The case study on the Philippines' automotive industry highlighted the importance of logistics. The country's port system and infrastructure, and the rate of improvement in the ports have also been deemed as not meeting the demands of the automotive industry.

In addition to the respondent firms' response that current restrictions on trade in services among AMS are serious barriers, 27 out of the 33 firms surveyed indicated that liberalized logistics services is a beneficial measure, and 25 firms said it is an urgent measure for the private sector to benefit well from the realization of the AEC by 2015 (ERIA Survey of Core Measures 2011). Allowing the entry of ASEAN shippers in local waters is also considered a beneficial and urgent measure according to 26 and 22 firms, respectively. For logistics services, the target under the AEC Blueprint is to be achieved by 2013. This means that by 2015, there should be substantially no restriction to ASEAN services suppliers in providing services and in establishing companies across national borders within the region, subject to domestic regulations.

The concern about how trade liberalization and economic integration affect the logistics industry is well-founded. **Logistics services are an important infrastructure of efficient global and regional trade of goods and services.** It is now well known that efficient logistics matter to efforts directed at tapping into global markets for increased trade and growth. An economy characterized by logistics excellence has a tremendous edge in an increasingly competitive world. Liberalizing logistics services markets, for example, can encourage local service providers to increase quality and price competitively. This is particularly important in sectors such as trucking and customs brokerage that are considered essential to efficient service delivery by international forwarders. On the other hand, **inefficiencies in the transport and logistics service industry contribute to the high cost of doing business.**

The case study on logistics looked at the impact of services liberalization and economic integration on logistics services industry performance in the Philippines. In particular, it examined how the logistics services industry has responded to a liberalized logistics market, and identified the barriers to services liberalization and economic integration in maritime transport and freight forwarders. These two are the biggest in terms of sales, and are critical components of logistics services especially in archipelagic economies such as the Philippines.

The envisaged ASEAN Economic Community in the near future (2015) will witness an ever growing role of maritime transport and freight forwarding businesses in regional and global trade, and strong competition but also possibly collaboration among logistics service providers as they realize the advantages of economies of scale and scope, and of tapping into common resources and organizational and technical skills to provide competitively-priced services. This underscores the importance of examining how they have responded to trade liberalization and economic integration. The removal of barriers to competition, elimination of discrimination against foreign service providers, and fostering various modes of service delivery, e.g., commercial presence in other ASEAN countries other than one's own country will work for more efficient regional logistics services.

Maritime transport. The ASEAN Framework Agreement on Multimodal Transport (AFAMT) was signed on November 17, 2005 in Vientiane 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 in December 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 States.

Despite the slow progress in the ratification of agreements, and in crafting and implementing the necessary rules, regulations and performance standards affecting transport and logistics, the Philippines already has a history of liberalization and deregulation in transport logistics, including maritime transport since the 1990s. In particular, Republic Act 9295 provides the policy framework for the domestic shipping industry. It provides incentives to domestic shipping operators such as exemption from value-added tax on importation and local purchase of passenger and/or cargo vessels and equipment relating to safety and security of passengers and crew. For investments in overseas shipping, Republic Act 7471 (An act to promote the development of Philippine overseas shipping) provides exemption from import duties and taxes imposed on importation of ocean going vessels. More recently, the government issued Executive Order 170 (series of 2003) to lay down the policy for roll-on roll-off (RORO) shipping. Executive Order 170 eliminated the payment of cargo handling charges and wharfage dues by users of RORO vessels.

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. Modernization policies were also implemented together with liberalization policies, which would have a positive impact on safety and standards.

On the other hand, the issue on lifting cabotage still remains. The debate about whether or not to lift the cabotage rule has brought to the surface various issues such as alleged cut throat competition, the survival of domestic shipping firms that would be unable to muster enough financial muscle to stay in business, and the specter of mass unemployment arising from closure or weakening of domestic shipping and allied business activities. What seems to be ignored is that lifting the cabotage rule would create incentives for domestic shipping companies to become more competitive, which would bring down the cost of doing business in the country, generate more business activities and lead to more employment. Lifting that rule will also create downward pressure on shipping rates, benefiting businesses and improving the level of general welfare.

Despite fears that foreign shipping vessels will dominate the local shipping market, this may not necessarily happen because foreign shipping firms will have to contend with limitations of market size, lack of familiarity with domestic markets, and a host of other physical and institutional limitations, and thus, may not necessarily be engaged in all of the regular coast-wise trade, at least initially. Meanwhile this buys time for domestic shipping companies to make more investments and become more competitive. On the other hand, the liberalization of shipping routes will make the market contestable, which puts pressure on domestic shipping firms to become more efficient and to offer more competitively-priced services.

It is noted that the domestic shipping industry has been dominated by a few, large firms, some of which are politically well-connected. **The concentration of the industry in the hands of a few players with weak incentives to modernize and become competitive has been one of the factors responsible for the failure of the domestic shipping industry to modernize and meet the standards and quality required of 21st century ocean-going vessels.** Philippine experience shows how hard it is to introduce policy reforms in an industry that is dominated by a few firms, which exhibit oligarchic behavior, and where there are institutional weaknesses, e.g., weak or captured regulator. **However, the political commitment of the Philippine government to liberalize trade in services as ASEAN countries move in tandem toward greater liberalization as a preparation for the AEC in 2015 is an important step toward the development of a competitive domestic shipping industry.**

Freight forwarders. With respect to freight forwarding, the issue is not high regulation or monopoly but barriers to achieving effective competition. There seems to be no need to liberalize entry to and exit from the freight forwarding business because of the absence of regulatory barriers and the lack of natural monopoly elements in this type of business. Nevertheless, it seems that the ease of entry and exit has not resulted in a proliferation of freight forwarding companies. This may be due to the fact that setting up a freight forwarding business requires (i) substantial resources, (ii) specialized skills, which may not be easily obtained except through professional training, and previous exposure to and familiarity with the different components of the business, e.g., dealing with requirements of ports and customs, and (iii) a network of contacts with different users of logistics services.

The MTR survey of services firms included four freight forwarders, which are all fully domestic owned and mostly medium sized firms. Two firms provide service delivery to other AMS directly from the Philippines but can also operate through an agent. The other two provide service only through a subsidiary, sister company or agent.

Without setting up a local operation in other ASEAN countries, the freight forwarders identified the following barriers in delivering services as very important: (i) finding and engaging the appropriate local agent; (ii) need to meet specific financial criteria; and (iii) need to address discriminatory taxes on services delivered across the border.

When queried about setting up local operation in other ASEAN countries, all freight forwarders identified the following as very important barriers: (a) need to obtain license from a professional body, (b) need to meet minimum capital requirements, (c) need to adhere to administrative and legal regulations in setting up a partnership, and (d) need to meet restrictive local labor employment regulations.

The next set of barriers is those encountered in selling services once operation has been established in other ASEAN countries. The very important ones for all four firms were: (i) need to account for differences in commercial practices; (ii) need to adhere to restrictive legal systems and contracting procedures; (iii) need to manage lack of transparency, inconsistencies and/or confusion in regulations; and (iv) need to manage delays in payment, e.g., banking practices and regulations. Not surprisingly, all four firms also identified ensuring effective regulation to deal with market failures (efficiency) as a very important goal for reforming trade in services, which should be addressed through market access negotiations (through the conclusion of trade agreements).

On which areas of focus under regional cooperation should be considered as very important, the respondent firms were unanimous in identifying the following: (i) review of national and regional policies, their impacts, and appropriate strategies for reform; and (ii) improvement of

the efficiency and competitiveness of ASEAN services. Finally, (i) the development of appropriate standards for professional services; and (ii) the organization of forums to bring together officials, regulators and service providers to discuss ways of addressing political economy constraints that impede trade in services were identified as very important activities to be undertaken under regional cooperation.

Ways forward. Liberalization and deregulation efforts in the Philippine maritime transport industry are already heading into the direction of greater participation in ASEAN economic integration even though the AEC measures have not yet been formally sanctioned by all members. The concrete steps taken by the Philippines in this regard are remarkable given that the Philippine maritime transport industry has a history of monopoly in maritime routes, strong lobby by pressure groups, and highly regulated shipping rates behind it. Since the late 1980s the government has seen the need to give domestic consumers better and safe maritime transport services by introducing competition, that is, by liberalizing shipping route entry and exit and letting the market determine passenger and freight rates. However, it is noted that the modernization of the domestic shipping fleet has been slow in coming, while the implementation of safety standards on ageing ships has to be strengthened and properly executed. A key factor in failure to accelerate the development of a more competitive and modern domestic shipping industry is the continuing dominance of a few large firms. This is largely explained by the lack of effective competition from other potential providers. The cabotage principle has only served as a protectionist instrument to support an industry that exhibits oligarchic behavior.

The way forward involves continuing the market-oriented reforms especially liberalization of trade in services, while ensuring a healthy balancing of domestic industry interests with the requirements of economic regional integration. In the case of the issue of lifting cabotage, for example, no definitive study has yet established that the enforcement of cabotage in the Philippines is constraining the competitiveness of the domestic maritime transport industry and raises the cost of doing business in the country. A study of this kind may soften the stance of industry players who oppose the lifting of the cabotage rule. The enforcement of safety and high standards of performance are key issues for the modernization and competitiveness of the maritime transport industry. Policymakers have to solve a seeming puzzle presented by this industry. Despite the array of investment incentives provided by the 2004 Domestic Shipping Development Act, and the availability of long-term financing with government financial institutions, the domestic shipping industry has not kept pace with the demands of modernization. Part of the solution may lie in greater political commitment to the AEC requirement of more liberalization and deregulation in this sector, which will compel domestic action.

C. Investment Liberalization and Facilitation⁵

(i) Investment liberalization

One major initiative of the AEC Blueprint is the enhancement of the existing ASEAN Investment Area (AIA) into a more thorough and improved ASEAN Comprehensive Investment Agreement (ACIA) that will take into account international best practices and will be based on the following four pillars of the AIA: (i) progressive **liberalization** of member countries' investment regimes to achieve free and open investment by 2015; (ii) enhanced **protection** to all investors and their investments; (iii) **facilitation**, or a more transparent,

⁵ This section extracts from the draft prepared by Dr Rafaelita Aldaba.

consistent and predictable investment rules, regulations, policies and procedures and promotion; and (iv) **promotion** of investment into and within ASEAN, including those that promote the development of production networks and SMEs. ACIA was only recently ratified in March 2012.

But it has also been argued that ACIA by itself does not guarantee that FDI would flow automatically to the region. Individual ASEAN Member States (AMS) are facing the huge challenge of improving their competitiveness. For the AEC implementation to be successful, it has to be accompanied by complementary policies and programs especially at the national level. AMS should continue to implement their investment and trade reforms in line with the ACIA and improve their domestic business environment, including economic regulations, corporate governance, and labor laws. AMS should also develop their logistics infrastructure and stable legal and economic systems to increase FDI inflows. AMS need to come up with, unilaterally and collectively, structural adjustment and reform assistance and capacity building measures to help those that would be adversely affected by the reforms.

In the Philippines, foreign direct investment policy changed considerably from a restrictive and complicated regulatory system towards a more open one in the 1990s, as part of the overall move towards market-oriented reforms. In June 1991, the country accelerated the FDI liberalization process through the legislation of Republic Act 7042 or the Foreign Investment Act (FIA). FIA considerably liberalized existing regulations by allowing foreign equity participation up to 100 percent in all areas not specified in the Foreign Investment Negative List (FINL). Prior to this, 100 percent eligibility for foreign investment was subject to the approval of the Board of Investments (BOI). FIA was expected to provide transparency by disclosing in advance, through the FINL, the areas where foreign investment is allowed or restricted. It also reduced the bureaucratic discretion arising from the need to obtain prior government approval whenever foreign participation exceeded 40 percent.

Over time, the negative list has been reduced significantly. While substantial progress has been made in liberalizing the country's FDI policy, certain significant barriers to FDI entry still remain. In particular, the sectors with foreign ownership restriction include no foreign equity in mass media; and foreign equity restriction of 40 percent with respect to land ownership, natural resources, firms that supply to government-owned corporations or agencies, public utilities, and Build-Operate-Transfer (BOT) projects. Constitutional change is necessary to remove these barriers.

A study on FDI restrictiveness showed that, while the Philippines is generally relatively open, there are FDI restrictions on market access and national treatment. Barriers are particularly high in the services sector consisting of professional, scientific and technical activities, transportation and storage, real estate activities, public administration and defense, compulsory social security, and education. Some barriers are also present in agriculture, forestry and fishing, mining and quarrying, as well as in administrative and support activities. The study also found restrictions on board of directors and management composition as rather severe for the Philippines. The study also indicated the imposition of performance requirements to receive incentives.

While the investment policy reforms and opening up of more sectors to foreign investors in the past decade resulted in improvements in FDI inflows to the country, overall, FDI inflows to the Philippines have been limited; hence the country's performance has lagged behind its neighbors in Southeast Asia. For instance, a comparison of FDI inflows as a percent of GDP

in ASEAN from 1995-2010 showed that the Philippines and Indonesia received the lowest average FDI inflows of only 1.5 percent and 1.75 percent, respectively.

(ii) Investment promotion and facilitation

As the Philippines shifted its orientation from import-substitution towards export promotion, the country implemented trade and investment liberalization and pursued changes in its overall investment and investment incentive policies. Incentives along with simplified registration procedures have become the centerpiece of the country's investment promotion strategy. Fiscal and non-fiscal incentives have been conferred to preferred activities under the Omnibus Investments Code (OIC) and export-oriented enterprises in economic zones. The Board of Investments (BOI) is the country's lead agency tasked with investment promotion, and administers the incentives under the OIC. The major economic zones are supervised by the Philippine Economic Zone Authority (PEZA), Subic Bay Metropolitan Authority (SBMA), and Clark Development Authority (CDA).

In terms of major incentives provided by the different investment incentive-giving bodies, BOI-registered enterprises are allowed income tax holiday (ITH) up to eight years, tax and duty free importation of spare parts, and tax credit on raw materials. After the lapse of the income tax holiday, the regular corporate tax rate of 30 percent would apply to BOI enterprises. PEZA grants the most generous incentives covering income tax holiday, basic income tax rate of 5 percent of gross income, and tax and duty free importation of capital equipment, spare parts, and raw material inputs. Except for the income tax holiday, Clark and Subic enterprises enjoy the same incentives available to PEZA enterprises.

Total approved foreign investments increased to P214 billion in 2007 from P174 billion in 2004. In 2008 and 2009, the total dropped to P183 billion and 122 billion, respectively. This went up to P196.1 billion in 2010. On average from 2000-2010, PEZA accounted for the bulk of the total approved FDI with a share of 54 percent. Next was BOI with a share of 34 percent, while SBMA and CDA registered almost equal shares of 6 percent each. With the apparent success of PEZA, SBMA and CDA in attracting foreign direct investment flows, the government has become more aggressive in its creation of more economic zones.

The current investment promotion regime is characterized by different investment regimes administered by different government bodies. The various laws governing investment promotion and administration of investment incentives have led to a complex system and, in the absence of a central body coordinating and monitoring the different investment promotion agencies, there seems to be a lack of a coherent and integrated approach in the administration and monitoring of investment incentives. The absence of a single uniform legislation on the granting of investment incentives have resulted in legal issues affecting the certainty of investments in the country. To address this issue, several legislative bills have been filed in recent years to create a single body that would coordinate the activities of IPAs, but none has been enacted to date.

In November 2009, the Department of Trade and Industry formed a steering committee consisting of DTI and eleven (11) IPAs to formulate the first Philippine Investments Promotions Plan (PIPP). The PIPP would serve as guide to harmonize policy-making, planning and promotional strategies, programs and projects of the various IPAs. Among the steps that have been identified is the creation of a comprehensive investment portal that will integrate information on all IPAs in the country. This would combine the websites of all IPAs and list of their registered companies allowing data sharing among IPAs. Another important

measure is the plan to create an interagency body to oversee the implementation and monitoring of investment programs, activities and projects. A list of target sources of investments have also been drafted along with measures to benchmark with competing countries in providing investment facilitation services.

(iii) Private sector perspective

The ERIA Survey of Core Measures (2011), on which measures stipulated in the AEC Blueprint are considered as critical for them to benefit well from the realization of the AEC by 2015, indicated that: (i) most firms (around 65 percent) agreed that allowing at least 70 percent foreign equity in all industries except for a minimal number of areas deemed as highly sensitive in ASEAN Member States (AMS) is a beneficial and urgent measure; and (ii) more firms (around 70-75 percent of firms) indicated that treating foreign investors no less favorably than domestic investors in AMS is an urgent and beneficial measure. However, when they were asked which are the important measures that should be operational by 2015, “allowing at least 70 percent foreign equity in industries except for very limited number of sensitive industries” was not among those identified by the respondent firms. This could indicate that: for domestic owned firms, there is still resistance to liberalizing foreign entry into key sectors of the economy; or for foreign-owned or joint venture firms, there are other more important factors relating to foreign investment.

In the same survey, investment promotion and facilitation measures in AMS were considered as beneficial by around 81 percent of firms on average, and urgent by around 78 percent of firms on average. The measures included: (i) adopting and implementing international best practices to attract, retain and add value to investment flowing into the region; (ii) compiling and disseminating timely and relevant information on investment policies, regulations and statistics to facilitate prospective investors’ decision making process; and (iii) organizing joint investment events regularly to brief prospective investors on opportunities arising from the region’s integration process.

Based on the MTR survey of firms, investment incentives, low tax rates, and time/cost of starting a business are the critical factors affecting the firms’ decision to invest in the Philippines. The results also showed that compared to 2 year ago, there is no change in their perception of the different factors affecting their decision to invest. However, the respondents noted significant improvements in political stability and level of corruption in the Philippines, two problematic factors which always dragged down the country’s image in international surveys such as the World Bank’s Cost of Doing Business. The election of a popular President and his continued reforms to reduce corruption and strengthen institutions bode well for the country’s efforts to increase investment flows and to expand the investments of those who are already operating in the country. As the survey showed, a great majority of the firms indicate that they would expand their operations. Similarly, a great majority of the firms viewed the ASEAN market as a significant factor in their investment decision.

In terms of the firms’ assessment of government agencies’ investment facilitation and promotion, overall results indicated that firms were generally satisfied with: (i) paper processing and approval/permit process implemented by various government agencies, with improvements noted in computerization and streamlining of government procedures and addressing investor queries; (ii) information on investment laws, policies, regulations, rules and procedures, including those relating to setting up business; (iii) information provided by IPAs to the public and investors, and their response to queries; and (iv) notification and consultation of stakeholders whenever there are changes in investment rules, regulations, and policies. With

respect to the administration of registration, authorization, and permit formalities by the government and its agencies, around two-thirds of respondents found them to be transparent and uniform/impartial, but the same number of firms said they were not speedy enough.

From the perspective of firms, the most problematic issues indicated are bureaucracy and too much red tape and delayed and slow processing of permits. The firms pointed out the lack of transparency in guidelines and procedures, corruption, and the non-uniformity of investment incentives given by the four IPAs.

In operating a business in the country, the firms cited high cost and unpredictability of power supply, high cost of other utilities and domestic shipping, high taxes, confusing government charges, lengthy and non-transparent process in labor disputes, lack of highly skilled workers, and absence of support in the parts and components sectors. Problems in the regulatory environment were also indicated such as policy inconsistency, lack of streamlining of interrelated government procedures handled by different agencies, and ineffective dissemination of policy changes. The lack of comprehensive effort in government to promote the country was also cited.

It is important to note that amid these problems and weaknesses in the system, PEZA was an exception. In particular, PEZA has adopted good practices, which the other IPAs would do well to emulate.

To improve the country's investment facilitation environment and overall investment climate, the respondents suggested the following:

- Elimination of bureaucratic red tape and corruption in government;
- Strengthen tax rules applicable to all locations;
- Clear, consistent and investor-friendly laws that would not be repealed for at least 15 years, except if amendment would benefit the investors;
- Improvement of infrastructure (road and traffic conditions) within and outside special economic zones;
- Allow foreigners to own land and buildings for commercial and industrial use;
- Develop support industries to electronics and semiconductor industry to improve the competitiveness of the country in this sector; and
- Improve security and peace and order condition in the country.

(iv) Ways forward

In view of the deepening regional economic integration via the implementation of country's commitments to the AEC Blueprint, the paper puts forward policy recommendations which are necessary in order to reduce the gap between policy and implementation, improve the investment climate, and boost the country's competitiveness to enable us to catch up with our neighbors and take advantage of the opportunities offered by the AEC. Building on the recommendations highlighted not only in the present survey but also in the other investment surveys covering both IPAs and firms, the following recommendations are proposed:

- 1) Unify and centralize the investment promotion and facilitation efforts by all IPAs under one agency with strong leadership. The IPAs were created by different legislations administered by different government bodies without an overall coherent and integrated investment promotion and facilitation strategy that would guide IPA activities. Each IPA individually coordinates with national agencies and LGUs. In the absence of standard procedures and processes for all IPAs, different arrangements emerged with some IPAs

facing more difficulties than others. It is important to establish a single mechanism to coordinate the business registration and investment promotion and facilitation policies with the national and local governments including standard procedures for granting of tax incentives and exemptions to investors. The case of Singapore's Economic Development Board (EDB) shows how a one-stop and lead agency for investment promotion has played a crucial role in Singapore's continued economic success. The crafting and passing of a legislation to centralize investment promotion and facilitation activities under a single agency should therefore be prioritized.

- 2) Strengthen the current efforts of the PIPP inter-agency committee to coordinate the various IPAs' actions and plans. This may be viewed as a transitional arrangement while a lead agency for investment promotion and facilitation is yet to be created. IPAs should synchronize their efforts in promoting the country, image-building activities, providing after sales service to investors and implementing the country's investment plan. They should update information regularly and make these easily available on-line. To be effective, IPAs should have sufficient resources.
- 3) Other IPAs in the country should learn and adopt the "PEZA way" in dealing with operational issues such as slow processing of permits and other clearances required by national agencies and local government units. Studies have shown that PEZA has successfully combined regulation and promotion. Its one-stop shop is very efficient and effective and has reduced the cost of doing business leading to increased competitiveness of firms.
- 4) To improve the operational environment and investment climate, IPAs should closely collaborate with national agencies and local government units particularly in the following areas:
 - Automation of business procedures in national government agencies, procedures and guidelines should be transparent
 - Streamlining interrelated procedures handled by different national government agencies
 - Implementing clear and consistent policies, any policy changes should be communicated effectively
 - Providing assistance to prospective investors as well as in promoting the country.
- 5) To review the existing investment incentives towards a more comprehensive and harmonized set of incentives governing all the IPAs. IPAs cannot and should not compete on the basis of fiscal incentives, but rather differentiate themselves in terms of facilities, services, and most importantly through streamlined procedures (FIAS 2008). As the survey results showed, most of the firms used IPAs primarily to get fiscal incentives. Currently, investment incentives have also widely differed from each other. PEZA offers income tax holiday (ITH) and a 5% income tax rate after; BOI has ITH but no 5% tax rate while both Subic and Clark have only a 5% tax rate but no ITH.

As the survey results showed, AEC 2015 is seen by most firms as offering both challenges and opportunities. To take advantage of the opportunities, the above suggested reforms must be accompanied by the following:

- 6) Increase infrastructure investment in physical infrastructure, power and logistics in particular, to reduce the cost of doing business in the country. Modern and efficient air, land, and sea infrastructure should be built fast enough.

- 7) Review the Constitutional limitations on foreign equity particularly the 60-40 rule. While limitations on foreign equity in these sectors cannot still be directly addressed, the government has to continue implementing measures to promote competition and strengthening institutional and regulatory framework particularly in public utilities. The Philippines is already considered as relatively open vis-à-vis its ASEAN neighbors. Foreign entry remains restricted in a substantial number of important economic sectors.
- 8) Improve institutional infrastructure by addressing corruption, which together with poor infrastructure, has severely weakened our competitiveness.

On the overall, **one important lesson that can be drawn from Philippine experience is that market-oriented economic reforms need to be accompanied by good infrastructure and efficient institutions to support the new economic environment.**

D. Labor Mobility and MRAs on Professional Services⁶

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, nursing, architecture, surveying, medical, dental practice, and accountancy.

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. There are also some professional organizations that are quite reluctant to implement the MRAs as they are still unfamiliar with the MRAs and the liberalization of trade in services as envisioned in the ASEAN Economic Community. The lack of budgetary support by lead stakeholders and inadequate collaboration among the public and private sectors have also been cited as constraints. Some professional organizations, however, 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.

An MTR questionnaire was administered to officials of the respective Boards of the Philippine Regulation Commission on the facilitating and deterring factors affecting the implementation rate of MRAs in the Philippines. At the national level, facilitating factors cited included 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 included absence of a comprehensive program to implement the MRA; absence of comprehensive databases and 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; and weak coordination between national government agencies involved in negotiations and professional regulatory bodies and among

⁶ This section extracts from the draft prepared by Dr Rafaelita Aldaba.

national government agencies in policy making, information gathering, dissemination and advocacy efforts.

At the regional level, facilitating factors included willingness to share best practices among the AMS and the presence of mechanisms for coordination among AMS. Several deterring factors have been identified such as the different levels of competencies among AMS due to differences in curriculum and 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:

- Formulate clear criteria for LMT and create a 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). At the regional level, the development of a common list of occupations and/or sectors where LMTs can be abandoned must also be pursued.
- 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 coordination among PRC, DOLE, and other government agencies involved in trade negotiations in the implementation of the MRAs.
- Designate a central body that would coordinate the different MRA activities such as 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.
- 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.

E. Agriculture⁷

In the agriculture sector, among the priorities foci for integration are enhancement of trade among ASEAN member countries, and long-term competitiveness of their food and agriculture products. By harmonizing their standards and quality and by standardizing their trade certifications, their agricultural products are expected to become more competitive in the global market.

ASEAN is moving towards standardizing practices and food safety systems such as adoption of Good Agriculture Practices (GAP), Good Aquaculture Practices (GAqP), Good Animal Husbandry Practices (GAHP), Good Hygiene Practices (GHP), Good Manufacturing Practices (GMP), and Hazard Analysis Critical Control Point (HACCP)-based systems. Another set of standards relates to Maximum Residue Limits (MRLs). ASEAN has also identified Guidelines on the Risk Assessment of Agriculture-related Genetically Modified Organisms (GMOs), as well as establishment of an ASEAN Genetically Modified Food Testing Network.

The AEC Blueprint also aims at joint approaches and technology transfer among AMS. These involve, among others: collaborative research; strategic alliances with the private sector; combating illegal logging and fishing; and strengthening and networking of agricultural cooperatives to enhance market access, together with establishment of business linkages. Agricultural research in the Philippines under the DA is within the purview of the Bureau of Agricultural Research (DA-BAR); the body overseeing the national agricultural research system is the Philippine Council for Agriculture, Aquatic, and Natural Resources Research and Development (PCARRD), under the Department of Science and Technology (DOST). In charge of registration, regulation, and support for cooperatives in the Philippines is the Cooperatives Development Authority (CDA), under the Department of Finance.

The implementation of harmonization measures for agricultural products is under the regulation of various government agencies. The DA is the principal agency that implements food safety and quarantine of agricultural products that are fresh, live and semi-processed. On the other, the Department of Health-Bureau of Food and Drugs (DOH-BFAR) is tasked with ensuring that processed food and agricultural products are safe for human consumption. The Bureau of Agriculture and Fisheries Product Standards (DA-BAFPS) is tasked by the Agriculture and Fisheries Modernization Act (AFMA) to formulate as well as enforce standards for fresh, primary and secondary processed agricultural products. DA-BAFPS is the national inquiry point for Codex Alimentarius and other food safety regulatory bodies. It is the lead agency for ASEAN harmonization of standards on horticultural produce and other food crops, as well as for food safety management and certification systems. DA-BAFPS is also chairperson of GAP certification, as well as co-chair and secretariat for GAHP. Certification is harmonized throughout ASEAN for GAP and GAHP; harmonization is in process for GAqP, which has likewise been developed for the Philippines based on HACCP.

Under BAFPS oversight are frontline regulatory agencies of DA. The Bureau of Fisheries and Aquatic Resources (BFAR) regulates the fisheries industry and is responsible for issuing HACCP certification as well as food safety regulation for fish processing plants, as well as imports and exports of fish. The Bureau of Plant Industry (DA-BPI) is tasked to prevent entry and spread of plant pests and enforce phytosanitary measures on plant and product exports. The Bureau of Animal Industry (DA-BAI) regulates animal feeds; prevents and control

⁷ This section extracts from the draft prepared by Dr Roehlano Briones, Dr Danilo Israel, and Ms Ivory Myka Galang.

infectious animal disease; and controls the movement of animals and animal products, via certification, quarantine clearances, and permits. The National Meat Inspection Service (NMIS), under RA 9296 or the Meat Inspection Code, serves as the sole national controlling authority to implement policies, programs, guidelines, and rules and regulations pertaining to meat inspection and meat hygiene to ensure meat safety and quality from farm to table.

A number of issues have been raised about implementation of commodity and production and processing/distribution standards. One problem is the overlapping of functions and tasks of the concerned agencies, particularly between BAFPS, BPI, BAI, and BFAR. Another is the sequencing of import clearance: the Bureau of Customs (BOC) typically undertakes initial clearance, with quarantine procedures following. Tariffs and duties are already collected *prior* to inspection for SPS measures implemented by DA, which may raise problems for some importers; furthermore traders who seek to evade customs duties (smugglers) would perform also evade quarantine.

(i) Interview of key officials

Meanwhile, key informants are drawn from heads of the relevant line bureau and agencies concerned with implementing the AEC Blueprint for agriculture, mainly from the Department of Agriculture (DA) and related agencies (DA-BAFPS, DA-BPI, DA-BFAR, DA-BAI, DA-BAR), as well as CDA.

Interviews of key officials from the relevant line bureaus and agencies concerned with implementing the AEC Blueprint for agriculture (i.e., DA, BAFPS, BFAR, BPI, BAI, BAR, and CDA) were conducted according to a structured questionnaire on food and agriculture sector prepared by ERIA. The questionnaire covers intra- and extra- ASEAN trade, the long-term competitiveness of ASEAN's food and agriculture commodities, and assessment of the implementation of HACCP-based systems. It also looks into the harmonization of quarantine and inspection procedures, MRLs, issues related to GAP, GAHP, GHP, and GMP. It also focused on the cooperation in R&D, technology transfer, among agricultural cooperatives, and the private sector. A summary of the survey results are presented below.

For fisheries the survey results may be summarized as follows:

- HACCP-based systems have been implemented, validated and verified. Generally, however, in is only in the processing area that this is happening. Furthermore, only the large processing firms can comply because the needed investment to do so is high.
- The quality and safety management systems generally have not been adopted among SMEs in the fisheries sector because they a) cater largely to the domestic market; b) perceived costs of adoption is high; and c) perceived returns from adoption is low.
- The quarantine and inspection/sampling procedures have been harmonized with ASEAN or international standards/guidelines but there are reports that some shipments enter through the backdoor and just bypass quarantine and inspection.
- The harmonization of Maximum residue limits (MRLs) of commonly used pesticides for widely traded fish products in accordance with international standards/guidelines is in progress. Since pesticides are poisonous and/or carcinogenic, consumers benefit. But meeting the MRLs is costly to producers.
- Good Aquaculture Practices (GAqP) is yet to be finalized at the ASEAN level.

- The establishment/adoption/implementation of good aquaculture and fisheries practices for products with significant trade/trade potential is continuing. Implementation is hindered by perceptions that the practices are not pro-poor but only intended for those commercial operators who are engaged in the export trade.
- The use of chemical in aquaculture and measures to eliminate the use of harmful chemical been harmonized in accordance with international standards/guidelines.
- Collaborative research and technology transfer with other ASEAN member countries in fisheries have been undertaken, such as through (SEAFDEC AQD) and NACA.
- The strengthening of efforts to combat illegal fishing in continuing but with limited progress so far.
- The strengthening of linkages with regional networks of fisheries research and development in ASEAN and East Asia Countries is continuing.
- Linkages with private sector is at a fair stage of development; however, strategic alliances and business linkages between local fisheries cooperatives and those in other ASEAN countries have not been strengthened.

For crops and livestock the survey results may be summarized as follows:

- In the case of crops and livestock, the trade-related requirements (quarantine, GAP, GAHP, MRL) have all been harmonized, although implementation gaps with respect to quarantine may be noted owing to inadequate laboratory facilities, materials, and staff.
- The impact of trade harmonization measures ranges from Substantial to Much; similarly costs lie within the same range. Nevertheless gains for competitiveness are generally rated as Much.
- Cooperation in the area of technology transfer, R&D, private sector linkages, and cooperative linkages, are much more mixed.
- In the case of the private sector for instance, one major constraint is lack of interest as the private sector prefers its own networking. Private sector cooperation provides substantial benefits but commensurate cost – which may account for low levels of participation of private sector players.
- Technical cooperation and R&D, participation is limited. With respect to technology transfer and R&D, engagement with other ASEAN member countries is on a multilateral basis, rather than through ASEAN or bilateral arrangements.
- For cooperatives, participation is limited to NEDAC (Network for the Development of Agricultural Cooperatives), whose membership goes beyond ASEAN. Networking however has not matured to the level of international business linkages among or between cooperatives. Cooperatives benefited Very much from their participation, particularly in terms of information and building capacity through observing good governance practices in other successful organizations. Costs are minimal especially with government support.

(ii) Gaps in AEC Blueprint implementation

The widest gaps in AEC blueprint implementation appear to be in cooperation areas related to private sector linkages, agricultural cooperatives, R&D, and technology transfer. For the private sector, a key factor accounting for the gap is preference for own networking and business arrangement. Where government is offering support, say for market access, the

private sector is engaged only if they have a direct interest and if there are few or no viable alternatives, as in the case of HACCP certification that is required by developed country markets. Similarly for R&D and technology transfer, AMS are already pursuing wider regional and global networks, hence specific Southeast Asian or bilateral ties are seen as less necessary for mainstreaming. Meanwhile development of producer cooperatives is at a nascent phase within each country, let alone participation in international commercial linkages. There is nonetheless an active international alliance (though membership is not specifically confined to ASEAN).

As for trade-related harmonization, considerable progress has been made in GAP, GAHP, GHP, and GMP. In general harmonization is most advanced where foreign markets have imposed stringent standards, i.e. the case of HACCP. The other aspects have not been as mandatory hence interest in these is lower. For some key markets the Philippines has worked out bilateral arrangements, e.g. mangoes for Japan and the US, with standards specifically tailored for these markets. Conversely there is less interest for market access for developing countries and ASEAN itself, given lack of mandatory requirement, and relatively low levels of trade integration with these markets.

While the Philippines is monitoring aquaculture activities intensively, work on ASEAN GAqP is yet to be concluded. This is certainly one area where ASEAN work should be expedited.

Another major gap is implementation of HACCP for small enterprises. The costs for small enterprises are simply too high, and few are expected to export; hence there is no reason for small enterprises to invest in certification. In general, aside from HACCP, quality and safety standards are expected to tighten in the medium to long term. This raises concerns about exacerbating the dual development structure of agricultural production in developing countries. One mechanism to open up market access is to engage cooperatives and other collective arrangements among small producers in the trade harmonization. Such a prospect appears to not have been mentioned in the cooperatives and related sections of the AEC blueprint.

(iii) Ways forward

The recommendations are fairly straightforward based on the aforementioned gaps:

1. Re-examine objectives and targets for cooperation with the private sector, agriculture cooperatives, R&D, and technology transfer. To avoid unnecessarily raising expectations, objectives and targets for these areas of cooperation should be specific, and based on rationale for collective action across member countries. Note that trade standard harmonization is easily justified given that acceptance by outside importers of ASEAN standards *ipso facto* carries over to domestic certification. However the collective rationale for cooperation in the other areas need to be better articulated.
2. Within trade standard harmonization, a couple of action items are:
 - 2.1. Expedite completion of the ASEAN GAqP.
 - 2.2. **Highlight the issue of small producer inclusion. ASEAN-wide mechanisms towards inclusion of small producers hold a long-term potential for uplifting livelihoods of millions of small farmers and fishers in Southeast Asia through improved market access and value addition.** Such inclusion cannot follow the same modality as standards certification for large exporting companies. To this

end, the blueprint targets and objectives for cooperatives, including other types of producer associations, should be re-formulated towards collective modalities of approval and certification.

Other recommendations for the Philippines and ASEAN include:

3. Stakeholders in the Philippines have generally pursued agricultural competitiveness for independent commercial, social, or environmental reasons, rather than pursuing a collective approach to standard-setting, governance, and enforcement. Both the Philippines and ASEAN should promote the AEC blueprint for agriculture more aggressively, with well-articulated reasons why a collective approach may improve over the status quo.
4. The ASEAN should assist its member countries develop cheaper technologies and facilities that will allow them to meet it harmonized international food quality and safety standards at lower costs.
5. The ASEAN should strengthen ASEAN-wide fisheries research and development as well as technology transfer by providing more funding support to regional agencies doing the task. National level funding alone would not be enough particularly for some countries in fiscal deficits so that ASEAN assistance would be direly necessary.
6. The ASEAN should promote (on voluntary basis) organic farming practices, for crops, livestock, and aquaculture, together with mandatory ban on use of chemicals in aquaculture. It should move to effectively curtail IUU fisheries within and between its member countries and strongly discourage fish caught in this manner from being traded in ASEAN and other foreign markets.
7. The Philippines, together with other ASEAN member countries, should assist SMEs to become active participants in international trade by enabling them to effectively meet international food quality and safety standards through technology, financial, marketing and other necessary forms of assistance.
8. The Philippines should strengthen cooperatives and other producer associations in the Philippines by addressing is multifarious financial, organizational and other problems so that they can become a real player in the promotion of better food quality and safety, and good farming, handling, and processing practices.

III. Competitive Economic Region

A. Competition policy⁸

The Philippines does not have a comprehensive and developed anti-trust legislation implemented by a central government agency. In June 2011, however, the government issued Executive Order Number 45 designating the Department of Justice as the country's competition body. During President Aquino's inaugural address in 2010, he announced competition law as one of his priority bills. Currently, there are two different competition bills being deliberated at the House and Senate. One major difference between the two is in the organization of the competition body: the House Consolidated Bill proposes to create a new separate competition body while the Senate Consolidated Bill proposes to lodge it in the Department of Justice.

It is important to note that while the Philippines does not have a comprehensive anti-trust law, it has numerous competition legislations and regulations that deal with monopolies, combinations in restraint of trade, price control measures and consumer protection. These are widely fragmented and implemented by many different government institutions. The Philippine Constitution prohibits and regulates monopolies, combinations in restraint of trade and other unfair competition practices. The Revised Penal Code defines and penalizes anticompetitive behavior that is criminal in nature. The Civil Code of the Philippines allows the collection of damages arising from unfair competition as well as abuse of dominant position by a monopolist. The Act to Prohibit Monopolies and Combinations in Restraint of Trade allows treble damages for civil liability arising from anticompetitive behavior.

There are also special legislations such the Anti-dumping Act, Intellectual Property Code, Revised Securities Act, and consumer protection laws such as the Price Act and the Consumer Act. There are also sectoral legislations pertaining to industry regulation and competition such as those in the downstream oil industry and electric power industry. In these sectors, various government agencies are tasked with both the regulation and promotion of competition; for instance, the National Telecommunications Commission for telecommunications, the Energy Regulatory Board for power, Philippine Ports Authority for ports, and the Civil Aeronautics Board for air commerce. Note, however, that in the case of the Corporation Code of the Philippines which covers the rules on mergers, consolidations, and acquisitions; competition issues such as the possible abuse of dominant position arising from mergers and acquisitions are not taken into account in their merger analysis.

There is general agreement that despite their considerable number and varied nature, these laws have been ineffective in addressing anticompetitive behavior mainly due to lack of enforcement. The laws have been hardly used or implemented as may be seen in the lack of cases litigated in court. Since the laws are penal in nature, guilt must be proven without reasonable doubt and hence, the amount of evidence required so that the case may prosper is tremendous. The fines are also insufficient to prevent would-be criminals.

There have been numerous previous attempts to legislate new competition laws since the 11th Congress (covering the period from 1998 to 2001). Up to the 13th Congress (2004-2007), none of the bills was acted upon; most had pending status and never went beyond first reading. Note that the lawmaking process requires three readings. This inaction seemed to indicate the lack of appreciation and political will to pass a comprehensive framework for competition law in the country by previous administrations.

⁸ This section extracts from the draft prepared by Dr Rafaelita Aldaba.

It has been noted that the Philippines is among the AMS that have not implemented a comprehensive national competition law. A well-drafted competition law is an important legal measure that the Aquino government has committed to prioritize. While this is still being debated at the House and the Senate, the Office for Competition Office created under the Department of Justice has been mandated to investigate all cases violating competition law and prosecute violators; enforce competition policy and competition law; and supervise competition. Barely a year old, the young competition office is in the process of formulating its organizational and administrative plans along with its enforcement agenda. It should continue its advocacy and awareness-raising campaigns and organize and conduct competition trainings and capacity building activities for lawyers, judges, members of academe, journalists, and government agencies. It should also maintain close coordination with other government sectoral regulators as it attempts to craft a mechanism for cooperation in promoting competition and addressing the competition-regulation interface issues.

Both Senate and House bills have the major components of a modern competition law including abuse of dominant position, bid rigging, price fixing, horizontal, and vertical agreements along with mergers. The administration of President Aquino should continue to push for competition law as one of its priority legislations. We should take advantage of this opportunity and craft an effective competition law taking into account our institutional capacity and other resource constraints. The need for an independent Commission cannot be overemphasized, this would require strong appointments in order to build the credibility of the Commission and ensure that the law is effectively implemented. The emphasis should be on economic efficiency rather than on size or market structure alone. The policy focus should be on business conduct, market power and keeping markets competitive and disciplining, whenever necessary, exercises of market power that reduce output or increase prices.

The Philippines needs a competition law to complement the previous and ongoing market-oriented reforms. In the absence of competition laws, there is a risk that market reforms like liberalization may not be sufficient to foster effective competition and without competition law, it would be difficult to control possible abuses of dominant positions by large firms.

B. Intellectual Property Rights⁹

One of the key results of the ERIA Survey of Core Measures (2011) was that most of the respondent firms in the Philippines (around 80 percent) identified strengthening and implementing effective intellectual property rights (IPR) rules and regulations as both beneficial and urgent measures for the private sector to benefit well from the realization of the AEC by 2015.

In the Philippines, Intellectual Property Rights (IPR) is administered by the Intellectual Property Office of the Philippines (IPOPHL) by virtue of Republic Act (R.A.) No. 8293 that took effect in January 1998, otherwise known as the Intellectual Property Code of the Philippines. In particular, IPOPHIL is a separate, independent, and quasi-judicial organization under the Department of Trade and Industry (DTI), and is the lead agency responsible for handling the registration and conflict resolution of IPR. The office is composed of six bureaus: Bureau of Patents; Bureau of Trademarks; Bureau of Legal Affairs; Documentation, Information and Technology Transfer Bureau; Management Information System and EDP Bureau; and Administrative, Financial and Personnel Services Bureau. Previously, the IP

⁹ This section extracts from the draft prepared by Dr Melanie Milo and Mr Reinier de Guzman.

system in the Philippines was directly administered by DTI through its Bureau of Trademarks, Patents and Technology Transfer.

The establishment of IPOPHL as a separate, independent agency was a strong recognition of the importance of an effective and efficient IP system in the country's push for economic development. During its early years, IPOPHL sought to modernize the administration of intellectual property in the Philippines particularly through computerization. From 2005, IPO endeavored to play a more active role in promoting the IP system of the country by undertaking a developmental approach to intellectual property. And it has accomplished much in terms of demystifying, and promoting appreciation and utilization of the country's IP system over the past 10 years particularly through its various information dissemination campaigns. This is supported by recent trends in trademark applications and registrations in particular, as well as the results of the MTR survey on IPR.

In the Philippines, trademarks applications have significantly increased during the 2000s, from 9,661 in 2001 to 17,162 in 2011. Local applications accounted for over half of trademark applications in 2011. Of the total foreign trademark applications, only around 5-8 percent came from other ASEAN Member States. Singapore, Malaysia, Thailand, and Indonesia filed the most number of trademark applications in the Philippines, in that order.

For the MTR, the 2012 Survey on Intellectual Property Rights (SIPR) was undertaken by the National Statistics Office, with a total of 30 respondent firms and a focus on trademarks. The results of the survey can be summarized as follows:

- On the average length of time it took from the filing of their recent trademark application to trademark registration, or from filing of trademark application to initial notice of rejection/objection/opposition to the application, the most number of respondent firms (8) reported that the whole process took them an average of 7-9 months, with more firms (11) reporting longer periods of up to two years or more.
- Regarding firms' perception on the improvement of IP system administration in the Philippines in 2011 compared to 4-7 years ago, more than 80 percent of firms reported significant improvement in turnaround time (from filing to registration) and access to IPR related information, which likely account for the dramatic increase in their trademark registrations in recent years.
- That said, almost all firms still considered smooth registration as a very or most important aspect of IPR policies that should be prioritized, followed by smooth enforcement.

The move to full automate the country's IP system will further enhance its effectiveness and efficiency, and hopefully make it more user-friendly particularly among SMEs. At the moment, there are no special procedures for SMEs and the only concession they receive is a 50 percent reduction in application fees. According to several firms approached by NSO for the survey, they have outsourced the activity of securing trademarks, patents, and other IP-related procedures to law firms. This could indicate that the Philippines' IP system may not yet be very user-friendly despite recent improvements. This also has important implications for SMEs' use of the country's IP system.

The key challenges facing IPOPHL are basic and internal: (i) how to increase public awareness of the importance of creating and protecting intellectual property, and consequently build up the country's IP capacity; and (ii) building up IPOPHL's human resources and institutional capacity in order to further speed up the processing of applications and cases of IP violations.

That said, IPOPHL also actively participates in regional initiatives on IPR in ASEAN and APEC. IPOPHL has also partnered with the European Patent Office and the United States Patent and Trademark Office (USPTO) to facilitate the exchange of information and technology that can be used to enhance the protection of IP rights and enforcement of IP laws.

In particular, IPOPHL identifies the need to streamline the different legal frameworks governing IPR in ASEAN as an important area for cooperation. A key change in direction in terms of trademarks in ASEAN is the decision to shift from an ASEAN Trademark System to accession to the Madrid Protocol. This is cognizant of the fact that most foreign trademark applications come from outside the region, including in the Philippines. Accession to the Madrid Protocol will also enable IPOPHL to track Philippine applications for trademarks in other countries, which it currently does not undertake. It is also likely that Philippine foreign applications for trademarks are mostly outside of the ASEAN region. Overall, accession to the Madrid Protocol will already address the issue of a unified framework for simplification, harmonization, registration and protection of trademarks within ASEAN. A regional trademark system may only duplicate this effort, and may not be warranted considering that trademark applications from within the region is fairly small. Instead, ASEAN should focus on accession to other global treaties related to IPR.

But information dissemination campaigns would not be as effective if there is a perception that the country is still weak in terms of protecting and enforcing IPR. The Philippines remains on the US piracy watch list in 2012, marking its seventh year on the list. Indonesia and Thailand are also on the priority watch list of the US. Since piracy and counterfeiting cross borders in the region, this makes cooperation in IPR protection highly relevant in ASEAN.

C. Transport Facilitation¹⁰

Another key result of the ERIA Survey of Core Measures (2011) is that around 75 percent of firms surveyed indicated that inadequate infrastructure and border barriers to movement of transport across countries in AMS are serious barriers to ASEAN's efforts in establishing AEC by 2015. Thus, (i) operationalizing the ASEAN framework agreements to facilitate the movement of goods in transit, inter-state and multimodal transport; (ii) implementing the ASEAN open skies agreements to liberalizing air freight services and passenger air services to facilitate the movement of people and cargoes within the region; and (iii) allowing entry of ASEAN shippers in local waters are deemed as beneficial and urgent measures for the private sector to benefit well from the realization of the AEC by 2015. Furthermore, while the respondent firms were generally neutral with respect to prioritization of integration areas and measure, they expressed strongest support (around 40 percent of firms) for liberalizing air freight and passenger services within ASEAN, and allowing entry of ASEAN shippers in domestic waters.

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. In this regard, ASEAN transport cooperation is a key issue in the preparation for an AEC in 2015.

¹⁰ This section extracts from the draft prepared by Dr Gilberto Llanto.

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.

Maritime transport¹¹. 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 percent 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. Maritime transport also significantly links the Philippines to international trade.

Most of the maritime transport routes were highly monopolized before the 1990s. 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. The Domestic Shipping Development Act of 2004 (RA 9295) laid down the policy framework for domestic shipping, recognizing its vital importance to economic development. The reforms pursued under RA 9295 essentially promoted the deregulation of the shipping industry and encouraged competition, free enterprise and market driven rates. 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.

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

¹¹ This sector is also discussed in the logistics case study on pp. 13-17 of this Report.

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, and allow foreign shipping vessels 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.

Air transport. 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 PAL. Furthermore, it has been noted that PAL still receives the fiscal incentives and other unconditional guarantees it once enjoyed as a government corporation. Terminal space and landing slots are also dominated by PAL, which managed to secure sole ownership of an airport terminal originally intended to serve as the country's domestic terminal.

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. In terms of implementation on the ground, results from Phase 2 of the ERIA study on the AEC Scorecard indicate the following on transport cooperation:

- The Philippines scored 47.2 percent for the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT), 56.3 percent for the ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIST), and 75 percent for the ASEAN Framework Agreement on Multimodal Transport (AFAMT).
- Among these three agreements, the Philippines scored highest 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 percent for the ASEAN Multilateral Agreement on the Full Liberalization of Air Freight Services (MAFLAFS), 66.4 percent for the ASEAN Multilateral Agreement on Air Services (MAAS), and 63 percent for the ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services (MAFLPAS).

The table below shows the status of and update on remaining protocols and agreements in AFAFGIT, AFAIST, MAFLPAS, and MAAS that should have been implemented in the first two stages of the AEC Scorecard. It also identifies barriers to full ratification and implementation.

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

Measures for implementation: 2008-2009	Status
Protocol 2 (designation of frontier posts) AFAFGIT	Not yet concluded; still under discussion
Protocol 7 (customs transit system) AFAFGIT	Not yet concluded; still under discussion
Protocol 5 (unlimited third and fourth freedom traffic rights between ASEAN capital cities) MAAS	Cannot be ratified due to airport infrastructure deficiency/limitations
Measures for ratification: 2010-2011	Status
ASEAN Framework Agreement on Inter-State Transport (AFAIST)	Concerned government agencies have concurred except for Department of Justice
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 December 10, 2010
Protocol 6 (unlimited fifth freedom traffic rights between ASEAN capital cities) MAAS	Cannot be ratified due to airport infrastructure deficiency/limitations

Source: Department of Transportation and Communication.

In particular, 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 percent.

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.

The ratification and implementation of Protocols 5 and 6 of MAAS require that the capital airport's (NAIA) infrastructure facilities and air navigation 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 air navigation systems**, which have been deemed as below international standards.

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 CAAP.

Protocols 2 and 7 under AFAFGIT are still under discussion and not yet concluded. According to the Department of Transportation and Communication, the lead government agency for Protocol 2 (designation of frontier posts) and Protocol 7 (customs transit system) is the Bureau of Customs (BOC). This bureau (BOC) is currently under reorganization for greater efficiency and transparency and for improving its capacity to collect revenues for the government. It appears that attending to the requirements of Protocols 2 and 7 have temporarily taken a back seat.

For the ratification and implementation of Protocols 2 and 7 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.

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

In addition to direct infrastructure requirements in maritime and air transport, 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.

Road transport regulation has the same conflict of interest situation and a fragmented regulatory approach as that in ports and shipping. For example, the Department of Transportation and Communications is both the regulator and operator of Metro Manila Light Rail Transit 3; 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.

Ways forward. 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 policymakers to attend to this issue. The Philippines very badly needs an efficient air and marine 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.

The ratification and implementation of Protocols 2 and 7 of AFAFGIT, and the Department of Justice's concurrence on AFAIST also need to be prioritized.

IV. Equitable Economic Development: SME Development¹²

The Philippines has two operational definitions of small and medium enterprises. Based on employment which is the most commonly used definition in the country, the different size categories are classified as follows: Micro enterprises: 1-9 employees; Small enterprises: 10-99 employees; Medium: 100-199 employees; and Large: 200 or more employees. In terms of the assets, small and medium enterprises (SMEs) are defined as: Micro enterprises: P3 million or less; Small enterprises: P3-15 million; Medium: P15-100 million; and Large: P100 or more.

This section evaluates the implementation of the 2010-2015 ASEAN Strategic Action Plan for SME Development and the 2004-2009 ASEAN Policy Blueprint for SME Development. A survey of both SMEs and government member of the Technical Working Group was conducted to gather insights on the status of the implementation of the ASEAN Strategic Action Plan and the Blueprint for SME Development. It briefly reviews government policies and programs on small and medium enterprises; economic performance of SMEs; ASEAN SME initiatives; the MTR survey results; and ways forward.

(i) SME policies and programs

Following the overall shift in economic policy, SME policies and programs also evolved from inward-looking toward a more external-oriented approach. In the 1990s, government policy on SMEs concentrated on improving market access, export expansion, and increasing competitiveness. In 1991, RA 6977 or the Magna Carta for Small Enterprises was passed to consolidate all government programs for the promotion and development of SMEs into a unified framework. It is highlighted by the following provisions: (i) creation of the Small and Medium Enterprise Development (SMED) Council to consolidate incentives available for SMEs; (ii) creation of the Small Business Guarantee and Finance Corporation (SBGFC) to address SME financing needs; and (iii) allocation of credit resources to SMEs by mandating all lending institutions to set aside 8 percent of their total loan portfolio to SMEs (6 percent for small and 2 percent for medium enterprises). RA 6977 was amended by RA 8289 in 1997, and further amended by RA 9501 in 2008 to further strengthen the promotion and development of and assistance to micro, small and medium enterprises (MSMEs).

In 2001, the SBGFC was merged with the Guarantee Fund for Small and Medium Enterprises (GFSME) through EO 28 and became known as the Small Business Corporation (SBC). SBC is considered as the National Government's largest provider of SME financing, with a lending portfolio of over P3 billion. It has more than 3,000 clients and 71 partner financial institutions serving 57 (out of 75) provinces in the country.

The Micro, Small, and Medium Enterprise (MSME) Development Plan for 2010-2016 aims to improve the business and investment enabling environment for MSMEs, increase their access to finance, allow them to penetrate new markets and maintain and expand existing ones and raise their level of productivity and efficiency. The Plan identified poor business conditions, access to finance, inability to penetrate export markets, and low level of productivity as the critical constraints to the growth and development of the MSME sector.

The Department of Trade and Industry (DTI) is responsible for the development and regulation of all Philippine enterprises, including MSMEs. In particular, there are various DTI-attached agencies set up with 14 offices and 20 line bureaus mandated to support SMEs

¹² This section extracts from the draft prepared by Dr Rafaelita Aldaba.

and SME exporters. The Small and Medium Enterprise Development (SMED) Council formulates SME promotion policies and provides guidance and direction in implementing SME programs. The Bureau of Micro, Small and Medium Enterprises Development (BMSMED) leads DTI's SME Core Group and coordinates SME policies, programs and projects. It acts as a "one-stop-shop" to guide SMEs to specialized support agencies. The BMSMED is also the secretariat to the SMED Council tasked to review policies and strategies for SME development. The other member agencies of the SME Core Group are the following: SBGFC responsible for finance services; Philippine Trade Training Center (PTTC) for development and implementation of SME training and learning activities; Product Development and Design Center (PDDC) for product development initiatives and design programs; and Cottage Industry Technology Center for technologies. Other DTI agencies that support SMEs include the Center for International Trade Expositions and Missions (CITEM), Bureau of Export Trade Promotion (BETP), Board of Investments (BOI), and Philippine International Trading Corporation (PITC).

(ii) Performance

In terms of number of establishments, micro, small, and medium enterprises (MSMEs) dominate the economy and account for almost 99.6 percent of the total number of establishments in 2006. However, micro enterprises accounted for the bulk, with a share or 91.6 percent. The share of medium enterprises has remained miniscule at 0.4 percent while that of small enterprises was around 7.7 percent. Thus, the country's industry structure is often characterized by a missing or hollowed middle.

In terms of employment contribution, MSMEs accounted for 61.2 percent of the country's total employment in 2008. Again, small and medium enterprises accounted for modest shares of 23.7 and 7.5 percent, respectively, while micro enterprises' share was 30 percent. But a different picture emerges in terms of value-added in 2006 – micro enterprises only accounted for 4.9 percent; small enterprises, 20.5 percent; and medium enterprises, 10.3 percent. Finally, in terms of labor productivity measured by value added per worker in 2006, micro enterprises registered the lowest as expected with their labor productivity being only about 10 percent of the labor productivity of large enterprises. The labor productivity of small enterprises was 52 percent of large enterprises' labor productivity, while it was about 82 percent for medium enterprises.

Overall, SMEs have not substantially generated sufficient value added and employment to increase competition, improve industrial structure and increase the country's overall manufacturing growth. The weak performance of SMEs has been largely attributed to the large number of barriers that SMEs must face particularly access to finance, technology, and skills as well as information gaps and difficulties with product quality and marketing. Despite the substantial trade and investment liberalization in the country along with increasing regional integration, penetrating the export market has not been easy for SMEs. Making small and medium manufacturers internationally competitive is a major challenge that would require government support and close coordination between the government and the SME sector. This requires a coherent set of policies and programs designed with the direct involvement of SMEs.

(iii) ASEAN Strategic Action Plan for SME Development and ASEAN Policy Blueprint for SME Development: Results of MTR Survey

The ASEAN Policy Blueprint for SME Development for SME Development (APBSD) 2004-2014 provides the framework for SME development in the ASEAN region in order to narrow the development gap in the region. It aims to accelerate the pace of SME development and enhance the competitiveness and dynamism of ASEAN SMEs by facilitating their access to information, market, human resource development and skills, finance, and technology. It also aims to strengthen the resilience of SMEs to withstand adverse macroeconomic and financial conditions along with challenges arising from a more liberalized trading environment and improve SME contribution to overall growth and development of the ASEAN region. By 2015, the APBSD envisions ASEAN SMEs as competitive, innovative, and world-class enterprises that perform major roles in regional and global supply chains and are able to take advantage of the opportunities from ASEAN economic integration. Its major programs consist of the following: Human Resource Development and Capacity Building; Enhancing SME Marketing Capabilities; Access to Financing; Access to Technology; and Creating Conducive Environment.

Building on the progressive work under the APBSD, the ASEAN Strategic Action Plan for SME Development aims to further enhance the competitiveness and flexibility of SMEs in moving towards a single market and production base in ASEAN. The key policy measures and activities cover access to financing, facilitation, technology development, promotion, and human resource development.

Four SMEs and one government-member of the SME Working Group were surveyed in order to evaluate the current status of the Philippine implementation of the ASEAN Strategic Action Plan for SME Development and the ASEAN Policy Blueprint for SME Development.

Overall, the assessment of the ASEAN Strategic Action Plan for SME Development showed low average effectiveness scores that ranged from no to little concrete impacts on the implementation of various programs covering access to financing, facilitation, technology development, promotion, human resource development and other regional SME initiatives. However, it is important to note that according to 4 respondents, financing such as improved financial products; developing regional capital market for SMEs; expanding mutual SME investment; improving SME access to finance; getting SMEs listed in growing stock market; and national and regional SME credit guarantee scheme were implemented with some moderate identifiable impacts. 4 of the respondents indicated that promoting ASEAN SMEs to the international market and wider dissemination of information on SME trade fairs were implemented with some moderate impacts. 4 of the respondents also indicated that promoting ASEAN SMEs to the international market and wider dissemination of information on SME trade fairs were implemented with some moderate impacts.

In general, the assessment of the ASEAN Policy Blueprint for SME Development for SME Development also indicated low average effectiveness scores that ranged from no or little concrete impacts on the implementation of various programs on human resource development and capacity building, enhancing SME marketing capabilities, access to financing, access to technology, and creating conducive policy environment.

(iv) Ways forward

In the last decade, manufacturing SMEs have not substantially generated sufficient value added and employment to increase competition, improve industrial structure and increase the

country's overall manufacturing growth. The weak performance of SMEs has been largely attributed to the large number of barriers that they must face particularly access to finance, technology, and skills as well as information gaps and difficulties with product quality and marketing. It would seem that the various government programs to address these barriers have been largely unsuccessful. Thus, it is not surprising that ASEAN initiatives to support SME development have also had little or no identifiable concrete benefits in the Philippines. The latter does not automatically imply that the ASEAN initiatives per se have not been useful.

Simply put, the overall business environment in the Philippines is still not conducive to SME development. Costs of doing business are still high in the Philippines, and they are likely to be even higher for SMEs. But that also means that any improvement in the country's business environment would yield even more substantial benefits to SMEs. This is highlighted, for instance, in the analysis of trade facilitation efforts of the government¹³. In particular, the perception of improvements in automation of customs procedures was higher for small and medium sized firms. That is, automation reforms have larger significance to SMEs. Past customs modernization efforts could have covered mainly the larger firms with more advanced electronic systems. With rapid technological change, more recent customs modernization efforts, especially in the automation of key procedures, are now more applicable and of greater assistance to smaller firms. A similar argument could be made for investment facilitation, and improvements in transport and logistics. Thus, the priority of government should be measures that would bring down the costs of doing business in the country such as those that directly address: complex, inefficient and ineffective administrative processes, procedures and arrangements; lack of effective competition in key sectors of the economy that result in inefficient and expensive services; and infrastructure investment.

But this does not preclude any role for SME-targeted domestic or regional programs. This is especially highlighted in the discussion on trade facilitation and agriculture. Such programs would require an integrated approach and a coherent set of domestic and regional policies and programs designed with the direct involvement of SMEs.

To boost SME competitiveness, pursuing promotion and development of outsourcing arrangements would be important. Given the potential opportunities arising from the growth of GPN industries through subcontracting and outsourcing, policies aimed at improving these relationships between SMEs and large corporations and MNCs are crucial for SME development. Subcontracting and outsourcing arrangements can be promoted by linking up or matching up companies, providing subcontracting and outsourcing advice to SMEs, and organizing fairs for subcontractors.

The experiences of South Korea, Singapore, and Taiwan show that the successful implementation of technology upgrading, human resource development and training, and finance support programs are crucial for SME growth and development. Industrial upgrading would require a strong base of domestic knowledge. This would need the development of specialized skills and technological capabilities. The government also needs to implement substantial reforms in all stages of the education and training system to cope with rising competition from lower wage countries. The quality and completion rates need to be improved and the length of the schooling be brought in line with international norms.

¹³ Please refer to the discussion in page 4 of this Report.

Moreover, technical training schools should reorient their curricula to serve employer needs and requirements; to address specific skills needed by both traditional industries.

Equally important particularly for the global/regional production network operations of multinational enterprises is the presence of good infrastructure and logistics that lower production cost and facilitate the easy supply chain management from the procurement of inputs to the export of outputs. This implies reducing power and communication costs, providing sufficient port systems, reducing travel time and offering travel and shipment options.

Within this light, the government could facilitate SMEs' gainful participation in ASEAN through: (1) designing a coherent set of policies and programs; (2) raising awareness of the potential of participation in international/global production networks and good understanding of the advantages and potential of sub-contracting; (3) addressing financing issues including inadequate working capital, insufficient equity, difficulties of credit finding and expensive credit cost; (4) improving the technological capabilities and strengthening supply chains to enable SMEs to move up the technology scale as well as to create and enhance existing linkages with production networks; and (5) creating an enabling environment for firms to survive and realize their potentials to grow, a crucial precondition for both foreign and domestic investment.

To improve MSMEs access to finance, the paper suggests the following: (1) implementation of the Central Credit Information Corporation to improve the overall availability of credit particularly for MSMEs, provide mechanisms to make credit more cost-effective, and reduce the excessive dependence on collateral to secure credit facilities; (2) changing the traditional mindsets of banks and encourage the adoption of non-traditional approach to SME lending. Traditionally, lending to SMEs is seen to entail higher risks and higher costs and the tendency is to over guarantee the loan; (3) trainings and capability building programs for SMEs to improve their financial literacy and management capacity are also necessary; and (4) improve data collection and statistics on SMEs particularly on financing indicators.

V. Ways Forward: Specific Recommendations to Raise the Implementation Rate of AEC Measures in the Philippines¹⁴

The AEC Scorecard is the mechanism developed to track the implementation of the various measures under the AEC Blueprint and its strategic schedules. To ensure that the timelines and targets of AEC are met, the AEC Blueprint is monitored in four phases: 2008-09; 2010-11; 2012-13; and 2014-15.

The Philippines' overall score for Phase I of the AEC Scorecard as of July 2011 was 95 percent. The score represented 104 measures that the Philippines had fully implemented, with 6 measures still to be fully implemented to date. Three of these measures, which are under various stages of implementation, are under Single Market and Production Base, particularly for free flow of services: (i) Schedule at least 51% of foreign equity in the 4 priority integration sectors for services (air travel, e-ASEAN, health care, and tourism); (ii) Schedule maximum 2 types of non-equity MA Limitations for all 29 subsectors of 4 priority integration sectors for services; and (iii) Schedule maximum 3 types of non-equity MA Limitations for all nine logistics subsectors. The other three are under Competitive Economic Region, specifically transport cooperation under the infrastructure development (ratification of protocols 2 and 7 of AFAGIT, and protocol 5 of MAAS).

Under Phase II (2010-2011) of the AEC Scorecard, the key measures implemented to date include tariff and non-tariff reduction (e.g., entry into force of the ASEAN Trade in Goods Agreement on 17 May 2010); implementation of mutual recognition arrangements for medical, dental and nursing services; and conclusion of 5th round of negotiations for financial services. For the Philippines, there were 35 measures that were due for implementation by July 2011 that have not yet been fully implemented. Most of the measures are under Pillar 1, particularly for free flow of goods (19 out of 23 measures, especially those related to customs integration); 10 measures are under Pillar 2, with 5 competitiveness-related measures and 5 measures on ratification of transport protocols and agreements; and 2 measures are under Pillar 4 (Integration into the Global Economy).

In particular, measures critical for customs integration include the establishment of pre-clearance arrival for customs clearance and cargo release, development of advance ruling systems for tariff classification and value assessment, implementation of ASEAN Customs Declaration Document, implementation of cargo processing model, and finalization and implementation of Protocols 2 and 7 under the ASEAN Framework on the Facilitation of Goods in Transit. Standard and conformance measures still to be implemented relate to the development and implementation of standard MRAs as well as harmonized regulatory regimes for certain products. For transport, the priority is to finalize the pending protocols and agreements under ASEAN Multilateral Agreement on the Full Liberalization of Passenger Air Services¹⁵ (MAFLPAS), AFAFGIT, and MAAS.

Overall, the Philippines has demonstrated its commitment to the AEC and the AEC Blueprint, as indicated in the measures that have been implemented over 2008-2011. That said, key measures remain due for implementation, particularly those that relate to services liberalization, customs integration, and ratification of transport protocols and agreements. Liberalization measures in particular require changing Philippine laws, or even specific provisions in the Constitution, and hence are expectedly most difficult to undertake given the country's political economy constraints as discussed in the previous chapter. Others relate to

¹⁴ This section draws on Aldaba et al. (2010) and the draft prepared by Dr Melanie Milo.

¹⁵ Ratified on 28 March 2012.

changes in bureaucratic/administrative processes, procedures, and arrangements. Finally, ratification of transport protocols and agreements also requires upgrading the country's infrastructure. The analyses in the previous chapters have demonstrated the benefits of the implementation of AEC measures in the Philippines, particularly those measures that addressed precisely the key institutional weaknesses faced by the private sector. Further delays in implementation, which could also build up over time because the implementation of measures in the AEC Blueprint is designed to be progressive over time (i.e. future measures are built on earlier measures), could be costly for the country.

To bring the Philippines closer to its AEC 2015 commitments, the ERIA Phase II study on how to further improve the AEC Scorecard for the Philippines (Medalla et al. 2011) suggested that the following core measures be prioritized by the government: investment promotion and facilitation; trade facilitation and national single window; and transport facilitation. Apart from improving the implementation of the Philippines' AEC commitments, the same measures are necessary in order to reduce the gap between policy and implementation within the country, improve our investment climate, and boost the country's competitiveness to enable us to catch up with our neighbors.

(i) Investment Promotion and Facilitation

In terms of operational environment and investment climate, there are still many processes such as registration and applications for permits and licenses that have remained complex, problematic, and costly. The AEC Scorecard Phase 1 Philippine Country Report (Aldaba et al. 2010) highlighted the need for automation of business procedures in national government agencies; transparent procedures and guidelines; streamlined procedures handled by different national government agencies; clear and consistent policies, any policy changes should be communicated effectively; and assistance to prospective investors as well as investment promotion. The same were found in the survey of core measures as well as in the AEC Scorecard Phase 2 Philippine Country Report.

Hence, the top two investment measures that must be pursued are as follows: first, streamlined procedures for permits, licenses for investments in starting business; and second, acceleration of the adoption of investment promotion. As earlier discussed, streamlining procedures in starting a business would be important especially since the Philippines has lagged significantly behind other countries in the region in terms of cost of doing business indicators. Accelerating investment promotion with other ASEAN member countries would be important and to pursue this, more efforts are needed to coordinate and harmonize investment promotion efforts among the various investment agencies in the Philippines. With the AEC as external pressure, the government will also have to directly act on the issue of Constitutional limitations to foreign equity.

Building on the recommendations highlighted not only in the present survey but also in the other investment surveys covering both IPAs and firms, the following recommendations are proposed:

- 1) Unify and centralize the investment promotion and facilitation efforts by all IPAs under one agency with strong leadership. The IPAs were created by different legislations administered by different government bodies without an overall coherent and integrated investment promotion and facilitation strategy that would guide IPA activities. Each IPA individually coordinates with national agencies and LGUs. In the absence of standard procedures and processes for all IPAs, different arrangements emerged with some IPAs

facing more difficulties than others. It is important to establish a single mechanism to coordinate the business registration and investment promotion and facilitation policies with the national and local governments including standard procedures for granting of tax incentives and exemptions to investors. The case of Singapore's Economic Development Board (EDB) shows how a one-stop and lead agency for investment promotion has played a crucial role in Singapore's continued economic success. The crafting and passing of a legislation to centralize investment promotion and facilitation activities under a single agency should therefore be prioritized.

- 2) Strengthen the current efforts of the PIPP inter-agency committee to coordinate the various IPAs' actions and plans. This may be viewed as a transitional arrangement while a lead agency for investment promotion and facilitation is yet to be created. IPAs should synchronize their efforts in promoting the country, image-building activities, providing after sales service to investors and implementing the country's investment plan. They should update information regularly and make these easily available on-line. To be effective, IPAs should have sufficient resources.
- 3) Other IPAs in the country should learn and adopt the "PEZA way" in dealing with operational issues such as slow processing of permits and other clearances required by national agencies and local government units. As studies by Akinci (2008) and Booz Allen Hamilton (2008) showed, PEZA has successfully combined regulation and promotion. Its one-stop shop is very efficient and effective and has reduced the cost of doing business leading to increased competitiveness of firms.
- 4) To improve the operational environment and investment climate, IPAs should closely collaborate with national agencies and local government units particularly in the following areas:
 - Automation of business procedures in national government agencies, procedures and guidelines should be transparent;
 - Streamlining interrelated procedures handled by different national government agencies;
 - Implementing clear and consistent policies, any policy changes should be communicated effectively; and
 - Providing assistance to prospective investors as well as in promoting the country.
- 5) To review the existing investment incentives towards a more comprehensive and harmonized set of incentives governing all the IPAs. IPAs cannot and should not compete on the basis of fiscal incentives, but rather differentiate themselves in terms of facilities, services, and most importantly through streamlined procedures (FIAS 2008). As the survey results showed, most of the firms used IPAs primarily to get fiscal incentives. Currently, investment incentives have also widely differed from each other. PEZA offers income tax holiday (ITH) and a 5% income tax rate after; BOI has ITH but no 5% tax rate while both Subic and Clark have only a 5% tax rate but no ITH.

As the survey results showed, AEC 2015 is seen by most firms as offering both challenges and opportunities. To take advantage of the opportunities, the above suggested reforms must be accompanied by the following:

- 6) Increase infrastructure investment in physical infrastructure, power and logistics in particular, to reduce the cost of doing business in the country. Modern and efficient air, land, and sea infrastructure should be built fast enough.

- 7) Review the Constitutional limitations on foreign equity particularly the 60-40 rule. While limitations on foreign equity in these sectors cannot still be directly addressed, the government has to continue implementing measures to promote competition and strengthening institutional and regulatory framework particularly in public utilities. The Philippines is already considered as relatively open vis-à-vis its ASEAN neighbors. Foreign entry remains restricted in a substantial number of important economic sectors.
- 8) Improve institutional infrastructure by addressing corruption, which together with poor infrastructure, has severely weakened our competitiveness.

(ii) Trade Facilitation

While major achievements have been made in trade facilitation, a lot more needs to be done, especially in NSW. Possibly the most important hurdle to clear pertain to the relationship between the BOC, NSW and the Value Added Service Providers (VASPs), and how to link them together. Lack of progress in this area is the main factor that reduces the NSW scorecard for the Philippines. Removing the stumbling block in this regard would be key. As such, reforms in terms of Standardization and Harmonization are the important areas for improving the Philippine NSW Scorecard.

To this end, the key recommendations *at the national level* are as follows:

- 1) The automation and harmonization efforts of some OGAs well ahead or at the same time as the NSW initiative, should merge with the implementation of NSW. The experience of these OGAs (e.g., first wave of customs modernization efforts, DTI's one-stop shop export documentation center, or PEZA's electronic permit and automated export documentation systems) which combined the use of ICT and implementation of business process reforms could serve as benchmark of good practices. However, it is crucial to have systems compatibility and avoid duplicate or multiple lodging of trade-related transactions which could defeat the very purpose of NSW. Follow-up technical consultation in terms of the procedure and specific data requirements or forms of agencies (e.g., DTI's conditional release) could be considered in the NSW enhancement.
- 2) While other agencies have achieved modernization and computerization, some are still lagging behind. As the success of NSW relies on the speed of the slowest agency involved, e-government funds must be allocated to the agencies lacking physical infrastructure as well as technical staff.
- 3) The step-by-step procedure in the use of NSW must be disseminated to all concerned stakeholders the soonest possible time. The agencies involved or at least the members of NSW Steering Committee should immediately issue joint agencies implementing rules and regulations. Posting of implementing rules must be done electronically and physically. Furthermore, each agency must disseminate agency-specific information (through FAQs and changes of procedures if any) to all potential users.
- 4) While the Philippines' centralized funding of NSW assures implementation of this project for its first two years of implementation, the succeeding plans to sustain the project is unclear particularly among OGAs. The government needs to address this sustainability issue.
- 5) Ownership and leadership is the key to successful implementation of the Philippine government's NSW program. The plan must be more than beating the deadline for implementation of NSW and towards long-term and serious reforms in business

processes and change management. NSW project must be implemented as part of good governance and not a mere ICT project.

- 6) The NSW system or any trade facilitation initiatives should be adaptable to changes in legislation and developments. Effective implementation of trade facilitation initiatives and other pipeline measures must also be supported and implemented. This includes legislation to comply with the country's commitment to the Revised Kyoto Conventions, updating of some protocols for imports in some commodities, immediate implementation of Customs Transit System or multi-purpose declaration within Clark to Subic, and provision of modern facilities and port laboratories for testing and adequate technical staff. At the very least, well-informed help desk officers in the customs service and other agencies must be designated and continuously trained.
- 7) Finally, it is important to improve and strengthen the Risk Management System that links directly with the information and database of the NSW and BOC. It is important for the risk management department to develop not just the software but good data warehouse, directly linked with key departments of the BOC, particularly its Assessment and Operation and IT departments. As earlier noted, the Risk Management department should be directly under the Commissioner's office, for transparency and accountability.

(iii) Transport Facilitation

The problems of the Philippine transport services sector are in the areas of infrastructure development and regulation. There is a need for a "big bang" in infrastructure spending that would address the main problems of infrastructure development contributing to the poor state and performance of ports in the country.

In order for the Philippines to maximize the benefits of globalization and trade liberalization, it needs to address not only border issues but also and more importantly behind border issues. New opportunities in the global markets require an intensified focus on improving the efficiency of transport and logistics services.

The following policy recommendations are hereby presented to further improve the state of transport and logistics services in the country:

- 1) Improve port infrastructure and modernize port operation through efficient public-private partnership.
- 2) Remove conflict-of-interest situation of a regulatory agency, which owns certain infrastructure, e.g., ports in the case of PPA, and at the same time regulates port operation. Ensure the independence of regulatory agencies to ensure a more competitive market and upholding of consumer welfare.
- 3) Allow international airlines to land and pick up cargo business from the Diosdado Macapagal International Airport (DMIA) in Clark, Pampanga to give exporters from Subic Bay Freeport Zone and Clark Freeport Zone a less costly option for shipping out their exports, e.g., shorter travel time, more-on-time exports, avoiding the congestion in NAIA and heavy Manila traffic.
- 4) Improve the efficiency of concerned regulatory agencies and government departments involved in trade, e.g., Land Transportation Office, Bureau of Customs, by modernizing and streamlining operations through the use of information and communications technology (ICT).

- 5) Provide a clear and common understanding among concerned regulatory agencies and government departments of guidelines and policies, a simplification and reduction of export documentation requirements in addition to the automation of processes to bring down transaction costs.
- 6) Review the cabotage policy in light of the need for more competitive transport and logistics in the country.

In summary, all the above recommendations pose a serious challenge to the Aquino administration. In view of the deepening regional economic integration via the implementation of country's commitments to the AEC Blueprint, the Report put forward policy recommendations which are necessary in order to reduce the gap between policy and implementation, improve the investment climate, and boost the country's competitiveness to enable us to catch up with our neighbors and take advantage of the opportunities offered by the AEC. The Aquino government should make full use of its popularity and wide support from broad sectors in society to carry out these badly needed institutional and regulatory reforms together with huge infrastructure spending.

A key survey result for this MTR is the improvement in private sector perception with respect to the country's political stability and level of corruption, which respondent firms indicated to be better now than two years ago. This bodes well for the Aquino administration.

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