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## Toward an Effective Regulatory Management System: Philippines

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*Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas*

## Toward an Effective Regulatory Management System: Philippines

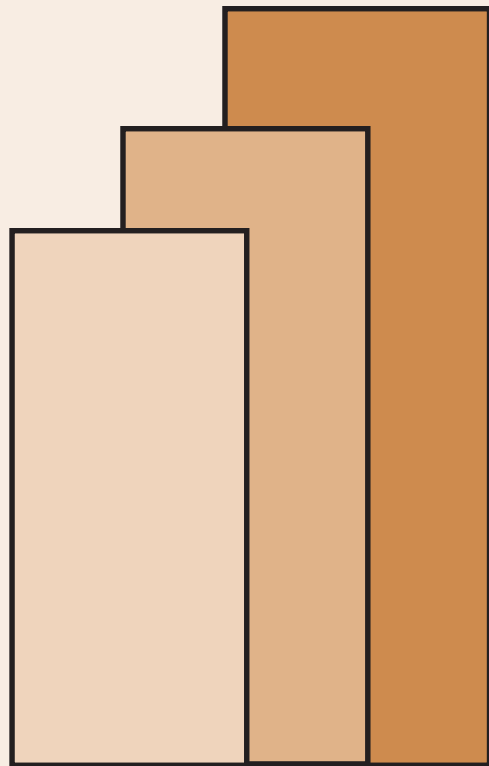
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## TOWARD AN EFFECTIVE REGULATORY MANAGEMENT SYSTEM: PHILIPPINES

**Gilberto M. Llanto**

### *Abstract*

In the emerging ASEAN Economic Community, regulatory quality and coherence will be critical in stimulating investments and improving the overall business and investment climate. The different countries in the region are concerned not only with aligning and harmonizing regulatory frameworks, but also first and more fundamentally, with reducing regulatory burden, improving regulatory quality and coherence. To achieve these objectives, the literature suggests the establishment of an efficient and effective regulatory management system [RMS]. An efficient and effective RMS will be a critical mechanism for “reducing the costs of doing business, facilitating international trade and investment, and improving regulatory outcomes in areas such as health, safety and environmental protection.” The paper examines the case for a regulatory management system for the Philippines and recommends specific measures for its establishment in Philippine policy space. It describes the overall experience of the country in regulatory reform, highlights the challenges in its journey toward regulatory quality and coherence, and identifies steps in constructing a responsive regulatory management system.

*Key words: regulation, regulatory quality, regulatory burden, regulatory management system, regulatory impact analysis, regulatory impact statement, cost of doing business*

## TOWARD AN EFFECTIVE REGULATORY MANAGEMENT SYSTEM: PHILIPPINES<sup>1</sup>

Gilberto M. Llanto<sup>2</sup>

*"The nine most terrifying words in the English language are:  
'I'm from the government and I'm here to help.'"*  
Ronald Reagan<sup>3</sup>

The paper examines the case for a regulatory management system for the Philippines and recommends specific measures for its establishment in Philippine policy space. The paper has three parts.

Part I describes the overall experience of the country in regulatory reform, highlights the challenges in its journey toward regulatory quality and coherence, and identifies steps in constructing a responsive regulatory management system. It has four sections: [i] introduction and country context, [ii] recent regulatory reforms, [iii] comparison of regulatory management systems in Malaysia and the Philippines, and [iv] assessment of the regulatory management system.

Part II of the paper discusses two case studies of initiatives toward improving regulatory quality at the national level and the local government level. The first case reviews the experience of the National

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<sup>2</sup> President, Philippine Institute for Development Studies.

The author thanks Ma. Kristina Ortiz for assistance with data used in the paper; Cherry Ann Madriaga for assistance with the case studies; and Bill Luz, Ruy Moreno and Faisah de la Rosa [NCC] and Garry Domingo [Quezon City Business Process and Licensing Office] for information on the case studies. Likewise, the author benefited from the comments and suggestions given by Derek Gill, Ponciano Intal, Jr and Ruy Moreno.

<sup>3</sup> [http://townhall.com/columnists/johnhawkins/2012/07/03/the\\_40\\_best\\_quotes\\_from\\_ronald\\_reagan/page/full](http://townhall.com/columnists/johnhawkins/2012/07/03/the_40_best_quotes_from_ronald_reagan/page/full)

Competitiveness Council [NCC] in working with various government agencies to reduce the cost of doing business in the country. The second case narrates the specific reforms undertaken by the Quezon City local government in reforming the business permit and licensing system to reduce cost of doing business and attract more private business establishments in the city. Part II ends with an elements table for each of the case studies, which shows the significance of each element of a formal regulatory management system in achieving the reform objectives discussed in the case studies.

Part III provides the conclusions and recommendations of the paper based on the analysis of the country's regulatory management system and the case studies. An overall elements table is presented as an assessment of the country's regulatory management system. The elements table shows the significance or lack of significance of each of the elements of the country's current "regulatory management system."

## **PART ONE: PHILIPPINE COUNTRY STUDY**

### **1. INTRODUCTION: MOTIVATION AND COUNTRY CONTEXT**

In the emerging ASEAN Economic Community, regulatory quality and coherence will be critical in stimulating investments and improving the overall business and investment climate. The different countries in the region are concerned not only with aligning and harmonizing regulatory frameworks but also first and more fundamentally with reducing regulatory burden, improving regulatory quality and coherence. To achieve these objectives, the literature suggests the establishment of an efficient and effective regulatory management system [RMS]. An efficient and effective RMS will be a critical mechanism for "reducing the costs of doing business, facilitating international trade and investment, and improving regulatory outcomes in areas such as health, safety and environmental protection." The assessment of existing or proposed regulations may be effectively undertaken through a good RMS, which then identifies the best choice of policy options [OECD, 2009] to achieve a regulatory objective while at the same time reducing the burden on consumers and firms. Thus, an efficient and effective regulatory management system [RMS] is of paramount importance to the Philippines to achieve higher societal welfare, greater efficiency and competitiveness of firms and more efficient integration with the putative ASEAN Economic Community.

Modern societies need effective regulations to support growth, investment, innovation and market openness. Governments use regulations as an instrument to influence or direct cognitive and behavioural changes in consumers [e.g., taxing tobacco and liquor] and firms [e.g., permitting and

licensing regimes] toward reaching certain policy goals [OECD 2010]. The policy goals range from economic to political to social policy objectives. Government use regulations to mediate diverse competing interests in complex, evolving societies. Effective regulation is necessary both at the macro level and at the level of firms and consumers. The ultimate objective of such government intervention is to uphold public interest and the general welfare. In many developing countries where many institutions are weak and missing markets result in inefficiencies, regulation is one of several policy tools wielded by government to address failure of the market to produce desirable social outcomes. This view of regulation rests on standard public interest theory that rests on two assumptions pointed out in Shleifer [2005]: first, unhindered markets often fail because of the problems of monopoly or externalities, and second, governments are benign and capable of correcting these market failures through regulation<sup>4</sup>.

However, there is also concern especially among business firms about the deleterious impact of poor and inefficient regulation. Poor regulatory environments undermine business confidence and competitiveness, erodes public trust in government and encourages corruption in public institutions and public processes [OECD 2010]. Cases of regulatory failure and capture, which could be very costly and detrimental to affected parties and to the economy as a whole, are well-documented in the literature. Several causes of regulatory failure have been cited: over-regulation that stifles business productivity and creativity to innovate; under-regulation that enables firms to produce shoddy products and services, thereby impairing consumer welfare, and poorly designed regulation and faulty implementation compounded by weak institutional capacities that create a regulatory burden on businesses. Regulatory capture contradicts the assumption of a benevolent and competent government [Stigler 1971].<sup>5</sup> With regulatory capture, firms can continue with monopoly pricing and even in the cases where regulators try to promote social welfare, they are incompetent and rarely succeed [Peltzman1989]<sup>6</sup>. Thus the scope for government regulation is minimal at best, and such intervention is futile and dangerous even in the rare cases where there is scope [Shleifer 2005].

These two contrasting views of regulation indicate the desirability of having an efficient and effective RMS. Under the public interest theory of regulation, regulations should be continuously reviewed and improved and a functional RMS will be a good instrument to achieve this objective. Under the regulatory failure and capture theory, a functional RMS could precisely be a strategic instrument to

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<sup>4</sup> Shleifer, Andrei [2005] "Understanding regulation," *European Financial Management*, Vol. 11, No. 4, 2005, pp. 439–451

<sup>5</sup> Stigler, G. J. [1971] "The theory of economic regulation", *Bell Journal of Economics*, Vol. 2, 1971, pp. 3–21. Cited in Shleifer [2005]

<sup>6</sup> Peltzman, S. [1989] "The economic theory of regulation after a decade of deregulation," *Brookings Papers on Economic Activity*, Special Issue, pp. 1–41. Cited in Shleifer [2005].

avoid regulatory capture in view of its deliberative and transparent process of reviewing proposed or existing regulation, consulting, and publication of the approved regulation. A functional RMS rightly implemented could result in better quality regulation and also in the reduction of compliance costs and regulatory burden.

Thus, recent literature has made a capital case of reviewing and improving regulatory management systems. Improving regulatory frameworks has become a major interest of policy makers since the mid 1990s with governments increasingly becoming concerned not only about specific regulations in certain sectors such as telecommunications and railways but also about the overall quality of institutions and processes where regulations are set and implemented [Jakobi, 2012]. The regulatory reform agenda has always been a work in progress since an earlier time, the 1970s, that spawned different waves of regulatory reform: de-regulation, re-regulation, and the creation of independent regulatory agencies [Radaelli and Fritsch, 2012]. These reforms seem to be the response to over-regulation, poorly designed regulation and faulty implementation of regulation. Thus, across Europe where the impulse to reform regulations has been strongest, regulatory reform ‘has become considerably more complex’ [De Francesco et al., 2011] but at the same time, major innovations to reform regulations have emerged. A major innovation is regulatory impact assessment [RIA] described by De Francesco et al. [2011] as “an administrative obligation to follow a set of rules for the definition of policy problems, the appraisal of the status quo, the identification of regulatory options, consultation of stakeholders and the economic analysis of feasible options” [page 2].

The emphasis of regulatory reform agendas has been on improving or ensuring the ‘quality of regulation’ [Radaelli and Fritsch, 2012], developing ‘smart regulation’ [Baldwin, 2005; Jensen et. al., 2010] or installing ‘regulatory oversight’ [Alemanno, 2007; Weiner and Alemanno, 2010]<sup>7</sup>. Regulatory reform includes both “better quality” regulation through more effective alignment of regulatory means to achieve policy goals, and “regulatory relief” through administrative simplification and deregulation to reduce the burden of regulation [Gill, 2011].

The OECD has pioneered on reforming regulatory policies and practices. A good regulatory management system helps to identify the best choice of policy options and reduces unnecessary burdens on citizens and firms [OECD, 2009]. Related to this, most OECD countries have introduced burden-reduction programmes to counteract the growing layers of red tape [OECD, 2009]. Reform of regulatory management systems look critically at “processes by which new rules are made and existing rules are

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<sup>7</sup> Cited in Radaelli and Fritsch [2012].

reviewed and reformed. Such processes aim to produce effective and efficient regulations, that is regulations that achieve the stated policy objectives and optimise economic benefits” OECD [2009].

Gill [2014] points out that every country has a unique regulatory system to make laws, regulations and rules and to review them. Countries are introducing changes in their respective RMS, strengthening institutions to make their regulatory systems more effective. The regulatory management system [is a system comprised of four elements: [i] regulatory quality tools, [ii] regulatory processes, [iii] regulatory institutions, and [iv] regulatory policies [OECD, 2007]<sup>8</sup>. Gill [2014] makes a distinction between the *formal* RMS [“what is in place”] and the requisite RMS [“what is required for an ideal or high performing regulatory system”]. The requisite RMS is understood as having a “full set of functionality that is needed in a high performing or ideal system,” with the following four elements: “the policy cycle, supporting practices and institutions, and a regulatory strategy” [Gill, 2014].

The distinction is important for understanding what is needed to have an efficient and effective RMS. A formal RMS existing in a given country produces regulation aimed at influencing or directing firm or consumer behaviour but that regulation could be inefficient or ineffective. Based on Gill’s distinction, it is the requisite RMS with its full set of functionality that can offer the decisionmaker the best choice of among several policy options. Developing a requisite RMS is what really matters from this perspective.

This perspective informs the discussion in this paper of the Philippines’ past experience with regulatory reforms, the current state of regulations in the Philippines and the steps that could be taken to develop a requisite RMS. Discourse in Philippine policy space has not yet considered the need for a formal RMS although there has been talk of the need for regulatory quality especially among business people. At the outset, it is useful to point out that there is no formal, coherent regulatory management system in the country, much less a requisite RMS, but the basic elements of such a regulatory management system are already present. The elements of a RMS are present and the challenge is to pull these together to form a requisite RMS. The paper identifies gaps and outstanding issues that policymaker and the private sector should address to develop a requisite regulatory management system.

A requisite RMS will be an important policy tool to achieve the inclusive growth agenda of the Philippine Development Plan, currently covering the period 2011-2016. The Philippines has embarked on a number of policy, regulatory and institutional reforms in recent decades and the hard work has paid off in terms of the economy’s recent remarkable performance amidst the lingering slowdown in the global economy and the devastation brought about by natural disasters. The economy grew at 7.2 percent in

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<sup>8</sup> Cited in Gill [2014].



2013, and 6.1 percent in 2014. With GDP growth averaging at 6.7 percent in the last three years the Philippines is one of the better performers among many developing economies<sup>9</sup>. Strong macro-economic fundamentals (low and stable inflation, moderate interest rates and a stable banking system, sustainable fiscal and external positions, political stability, good governance) underpinned this performance [Llanto and Navarro, 2014]. **Table 1** compares recent GDP growth performance in the ASEAN.

**Table 1. GDP growth rates in the ASEAN, 2010-2015**

	2010	2011	2012	2013	2014 <sup>f</sup>	2015 <sup>f</sup>
<b>Brunei Darussalam</b>	<b>2.6</b>	<b>3.4</b>	<b>0.9</b>	<b>-1.8</b>	<b>1.1</b>	<b>1.2</b>
<b>Cambodia</b>	<b>6</b>	<b>7.1</b>	<b>7.3</b>	<b>7.5</b>	<b>7</b>	<b>7.3</b>
<b>Indonesia</b>	<b>6.2</b>	<b>6.5</b>	<b>6.2</b>	<b>5.8</b>	<b>5.3</b>	<b>5.8</b>
<b>Lao PDR</b>	<b>8.1</b>	<b>8</b>	<b>7.9</b>	<b>8</b>	<b>7.3</b>	<b>7.4</b>
<b>Malaysia</b>	<b>7.4</b>	<b>5.1</b>	<b>5.6</b>	<b>4.7</b>	<b>5.7</b>	<b>5.3</b>
<b>Myanmar</b>	<b>9.6</b>	<b>5.6</b>	<b>7.6</b>	<b>6.8</b>	<b>7.8</b>	<b>7.8</b>
<b>Philippines</b>	<b>7.6</b>	<b>3.7</b>	<b>6.8</b>	<b>7.2</b>	<b>6.2</b>	<b>6.4</b>
<b>Singapore a/</b>	<b>15.2</b>	<b>6.1</b>	<b>2.5</b>	<b>3.9</b>	<b>3.5</b>	<b>3.9</b>
<b>Thailand b/</b>	<b>7.4</b>	<b>0.6</b>	<b>7.1</b>	<b>2.9</b>	<b>1.6</b>	<b>4.5</b>
<b>Viet Nam</b>	<b>6.4</b>	<b>6.2</b>	<b>5.2</b>	<b>5.4</b>	<b>5.5</b>	<b>5.7</b>

Note: f - forecast based on ADB's Asian Development Outlook 2014 Update (Accessed <http://adb.org/sites/default/files/pub/2014/ado2014update.pdf> ; 16 March 2015)

Source: ADB Asian Development Outlook 2014; ADB Statistical Database System

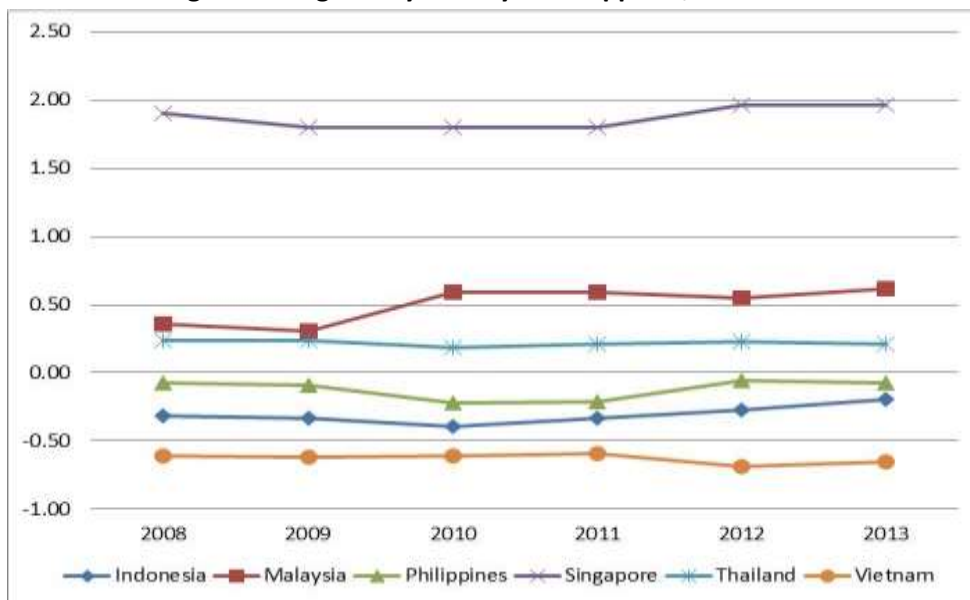
The Philippines is a democratic republic with a vibrant market economy. The private sector, policy analysts and economic researchers<sup>10</sup>, and civil society have actively engaged and collaborated with government on economic policy and regulatory reforms. In the past, policy and regulatory reforms have largely been the effort of government and it was not an easy path to take when reforms had to rely mainly on government effort. Now with ample democratic space, the private sector has collaborated with government, supported reform efforts and take an active part in identifying reform areas. Dialogues and

<sup>9</sup> The recent economic performance was a striking contrast to past chronicles of the Philippine boom-bust growth record. Some analysts observed that while Philippine growth record in the 1960s and 1970s was comparable to that of its ASEAN neighbors, a pronounced divergence from that growth path occurred in the "lost decade" of the 1980s until the early 1990s [Balisacan and Hill [2003].

<sup>10</sup> Economic researchers and policy analysts, for example, in the Philippine Institute for Development Studies

consultations with private business and civil society have become an indispensable process in regulatory reform. The enormous challenge in regulatory reform, which policy makers can productively address through an efficient and effective RMS, is illustrated by **Figure 1**.

**Figure 1. Regulatory Quality in Philippines, 2008-2013**



Note: \*Governance Score (-2.5 to +2.5)

Source: World Bank's Worldwide Governance Indicators (WGI) project

## 2. RECENT REGULATORY REFORMS

Regulatory reforms happen within the context of a country's political framework. To understand the evolution of regulatory reform initiatives in the country and focus on a strategy for developing a requisite RMS, this section briefly explains the country's political framework and the relative roles of the executive and the legislature in regulatory reform before providing the highlights of the regulatory reform experience in the country<sup>11</sup>.

The Philippines follows a presidential system and has a tripartite democratic governance structure composed of the executive, a bicameral legislature and judiciary branches of government. The executive branch is headed by an elected President. A professional civil service [bureaucracy] mans the different departments [ministries] that implement government policy directives and programs, and delivers public goods and services to a large population nearing 100 million as of 2014. Department secretaries [ministers] and their immediate subordinates [under secretaries, assistant secretaries and directors] are

<sup>11</sup> I got this idea from a comment by Derek Gill on the first draft of this paper.

appointed by the President of the Philippines. Local governments at the provincial, municipal and city level enjoy local autonomy following the enactment of the Local Government Code that decentralized and devolved certain powers and responsibilities, e.g., delivery of health care services, to local governments. Local officials, e.g. provincial governor, city or municipal mayor, are elected at the local level.

The bicameral legislature or Congress is composed of the larger House of Representative where representatives are elected by congressional districts, and the [smaller, with fewer members] Senate whose members are elected nationwide. An Independent Supreme Court has jurisdiction over the judiciary branch of government and supervises all types of courts, e.g., regional trial courts, Court of Appeals. The country has an independent judicial infrastructure and independent constitutional bodies [Commission on Audit, Commission on Elections, and the Civil Service Commission] and a fairly developed civil society that has been quite active in governance reforms, among others.

At the local level, municipal, city and provincial governments enjoy autonomy but have remained partly dependent on the national government's fiscal transfers to finance local development expenditure. The 1991 Local Decentralization Code devolved and decentralized taxing, borrowing, and service delivery powers to local governments. The higher income local governments raise substantial local revenues while the lower income local governments have remained dependent on the internal Revenue Allotment [IRA] in view of relatively constrained local revenue raising capacities<sup>12</sup>. With respect to regulation, local governments impose tertiary rules or regulations such as licenses and permits on business firms through local ordinances presented and approved at local councils, and also executive orders issued by the local chief executive [mayors in the case of cities and municipalities, and governors in the case of provinces].

The form of government has a bearing on how a regulatory reform process is implemented in a given country. In the Philippines, the executive implements the laws enacted by Congress. It can broadly issue regulations in the form of Executive Orders, Circulars, Presidential Proclamations, and Administrative Orders, which regulate or direct behavior of firms and individuals but these issuances may be revoked, amended or changed by the succeeding President [Chief Executive]. On the other hand, laws enacted by Congress has the full force of law and are implemented by the Chief Executive who neither can amend nor revoke them. Laws can only be changed, revoked or amended by an Act of Congress. In the Philippine context, 'regulations' are executive issuances, e.g., Executive Orders, to implement particular executive decisions or laws enacted by Congress. In the latter case, the government issues Implementing Rules and Regulations [IRRs], which is the legal instrument used to implement a law enacted

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<sup>12</sup> IRA represents the local governments' 40% share in national internal revenue tax collections.

by Congress<sup>13</sup>. The IRRs seem analogous to the ‘secondary regulations to implement primary laws’ mentioned by OECD [2010] as a type of regulation under its comprehensive definition. As mentioned below, the other ‘types’ in OECD’s list are [a] primary laws, [b] subordinate rules, administrative formalities and decisions that give effect to higher-level regulations and standards. Gill [2014] lists the different types of regulations as [a] primary laws, [b] secondary regulations and [c] tertiary rules. Under this categorization, local government ordinances or local executive orders in the Philippines may be classified as ‘tertiary rules.’

In contrast, in a parliamentary form of government laws are essentially developed by the executive and ratified with some possible amendment by the legislature. Since the executive is represented in the parliament, it could be relatively easier to reform laws and regulations in this case.

Thus, in the Philippine context, certain regulations can be issued through executive fiat, which are implemented by the concerned government department [ministry]. Local government regulation passes through an approval process at local councils. On the other hand, other regulations [laws] can only be issued by Congress but are implemented by the government. This is an important distinction because in the case of a parliamentary form of government, the executive has a wide latitude for regulatory reform, while in the presidential type of government such as that in the Philippines, the executive has to work with and through Congress to change, amend, or revoke existing regulation [laws] or enact new regulation [laws].

It is important to have a clear definition of regulation and regulatory reform. Gill [2014] defines regulation as “a legal instrument to give effect to a government policy intervention. The term used for legal instrument varies by jurisdiction but includes all primary laws, secondary regulations or tertiary rules.” An earlier definition by OECD [2010] describes regulation more clearly as “any instrument by which governments, their subsidiary bodies, and supranational bodies [such as the EU or the WTO] set requirements on citizens and businesses that have legal force. The term may, thus, encompass a wide range of instruments: from primary laws and secondary regulations to implement primary laws, subordinate rules, administrative formalities and decisions that give effect to higher-level regulations (for example, the allocation of permits), and standards”. The definition of regulation by OECD and Gill are comprehensive and generic.

Applying this generic definition to the Philippine setting, regulation covers [a] laws enacted by the legislature- the ‘primary laws’], [b] regulations normally issued by government or a governmental

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<sup>13</sup> Usually, through a committee composed of government departments, that is, ministries.

regulatory body to implement a law enacted by Congress, and rules and administrative formalities such as licenses, permits issued by local governments, and [c] local government permits and licenses- ‘tertiary rules’ in Gill’s [2014] taxonomy. Regulations as commonly understood in the Philippine setting cover the following Circulars, Memorandum Orders or Executive Orders issued by the national or local government to influence or direct private behavior toward certain policy goals.

In this paper, a narrower definition of regulation is adopted for the simple reason that this is the type of regulation that is effectively controlled and implemented by the government. For example, the government can issue by executive fiat an Executive Order [EO] to implement a particular policy. The EO can be modified, sustained revoked or amended by the incumbent Chief Executive without going through the tedious process of legislation. Under this narrow definition, regulations implemented by regulatory bodies as mandated by the laws and local government permits and licenses are also included.

In tracing the country’s journey in regulatory reform, this section highlights only some of the major regulatory changes or reforms in the recent past. The Big Policy Changes occurred in the late 1980s till the decade of the 2000s. During at least three decades in the post-war period, trade and industrial policy supported an inward-looking import substitution strategy that is supported by an elaborate system of import controls, fixed exchange rates, licensing and permitting regimes<sup>14</sup>. There were attempts to liberalize trade in the early 1980s but the real major effort in achieving greater openness of the economy and more vigorous trade liberalization started in the late 1980s under the administration of Corazon Aquino. From thenceforth, trade and industrial policies were geared toward trade liberalization, privatization, and deregulation [Medalla, 1986; Medalla, 1998; Llanto, 2014]. The main driver of economic and regulatory reform in the post-Marcos period was the desire to recover growth and stabilize the economy after years of patchy economic performance during the martial rule period.

The foremost change following the demise of the Marcos regime was the ratification of a New Constitution [1987] that returned the democratic framework of representative government and introduced a Bill of Rights that ensures the protection of the rights and welfare of the people. The Constitution called upon the State, among others, to promote industrialization and full employment through industries that are competitive in domestic and foreign markets. Protection of Filipino enterprises against unfair foreign competition and trade practices was also incorporated in that basic law [Section 1, Article XII, 1987 Constitution]. The 1987 Constitution provided democratic space for a rising dense network of various interest groups representing civil society, church groups, labor, academe that compete with the

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<sup>14</sup> This episode in Philippine economic history is well told by Bautista, Power, and Associates [1979] and Tecson [1996]

traditional economic elite [supported by vested politicians] in influencing regulatory decisions and implementation, which was unthinkable under the restrictive governance framework of martial rule<sup>15</sup>.

The general tenor of post-Marcos reforms was reliance on private enterprise as the main engine of growth with government providing the proper policy and regulatory framework. However, the irony was that certain economic provisions of the New Constitution restricted or limited foreign capital participation in the economy by explicitly favoring Filipino ownership and control of certain economic activities and resources. Later in the 2000s, the restrictive economic provisions of the 1987 Constitution, e.g., land ownership, were identified by some local commentators and the foreign chambers of commerce as a constraint to attracting more foreign investments into the country<sup>16</sup>.

The government under the Corazon Aquino administration pursued an aggressive regulatory reform program by dismantling monopolies in certain industries such as sugar, coconut oil, and reducing tariffs covering mainly industry. In 1991 the Foreign Investment Act was enacted into law, which allowed foreign equity in Filipino enterprises to exceed 40 percent provided the firm seeks no investment incentives and it does not engage in an activity appearing in a negative list of the Foreign Investment Act. The second phase of the Tariff Reform Program under Executive Order 470, series of 1991 reduced the effective protection rates for industry. The third phase of the Tariff Reform Program implemented through Executive Order 264 further reduced tariffs for industrial products to within the 3 percent and 10 percent range by the year 2000 [Medalla, 1996; Medalla, 1998; Llanto, 2014].

The Ramos administration unilaterally put in place a profound tariff reduction and import liberalization program geared for long-term industrial restructuring [Canlas, 1996] but this happened mainly because of the support and cooperation of a political coalition hammered in Congress by a pragmatic Speaker of the House of Representatives. Other significant reforms in the 1990s covered central banking, energy, telecommunications, shipping, and water. Monetary policy, financial stability and regulation of banks were strengthened through the creation of the Bangko Sentral ng Pilipinas, replacing the debt-ridden Central Bank of the Philippines, which had threatened to be a drag to the economy. The Public Telecommunications Policy Act enacted in 1995 provided a regulatory framework for the telecommunications industry, which has just come out from a monopoly<sup>17</sup>. Water distribution in Metro Manila was privatized. This substantially improved coverage and delivery of water supply to millions of

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<sup>15</sup> This is not to say that there was no such interest groups representing labor, church and other stakeholders during the martial law regime. In fact, there were but they operated at great peril to life and property. The difference under a democratic framework is that dissent and protest can be more openly expressed and pursued without fear of retribution from an authoritarian state.

<sup>16</sup> There was policy inconsistency in wanting greater openness of the economy and trade liberalization and at the same time, maintaining a studious effort to limit, and in some instances, to shut out, foreign capital.

<sup>17</sup> President Ramos and his close adviser, General Almonte were staunchly against monopolies in certain sectors.

households and solved perennial problems of underinvestment and low quality service. A regulatory office was established to oversee the performance of the two private water concessionaires tasked with water distribution in Metro Manila. Overall, the regulatory reforms strengthened the market-orientation and outward looking stance of the economy.

Several other important reforms took place in the 2000s, namely the General Banking Law of 2000 and the Retail Trade Liberalization Act, which opened retail trade to foreign investments albeit with certain restrictions. The energy sector was reformed through the Electric Power Industry Reform Act of 2001 [EPIRA], which unbundled the electricity sector into generation, transmission, distribution and retail supply and introduced competition in the generation, distribution and retail supply segments. Transmission was privatized through a grant of a concession agreement to a private operator. It is noted that the EPIRA took as long as eleven years to pass into law and only under some political compromises covering generation and distribution, and condonation of debts of defaulting electric cooperatives.

At the local level, devolution and decentralization under the 1991 Local Government Code shifted the responsibility of basic public service delivery to local government units [municipalities, cities and provinces] and expanded the taxing and borrowing powers of local governments<sup>18</sup>. Those local government units have a large role to play in simplifying local regulations and lightening the regulatory burden faced by business firms, which have located in their [local government] areas. The local governments are a very heterogeneous lot, with varying capacities for governance. Some local governments, that is, those with better educated and reform-minded local chief executives have managed to turn their localities into local growth centers by providing a local environment supportive of investments and business, e.g., Cebu City, Iloilo City, San Fernando City, Lipa City and a few others. Still many others have lagged behind and have depended on fiscal transfers and financial assistance coming from legislators ['pork barrel' funds] to fund local development expenditures.

After regaining democracy from martial rule under Marcos, the Corazon Aquino administration initiated major economic policy and regulatory reforms, which the succeeding Ramos administration brought to higher heights with the dismantling of monopolies in several sectors and the creation of a policy and regulatory environment favorable to investments and business activities. However, the regulatory reform momentum weakened amidst the charged political atmosphere during the respective regimes of Estrada and Arroyo. The main factor behind the slowdown was the political uncertainty that clouded the administrations of Estrada and Arroyo, with the former being accused of corruption and other

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<sup>18</sup> The national government has retained major taxing powers [e.g., income taxation, value added taxation] and shares national revenue collections with local governments through fiscal transfers, basically the internal revenue allotment.

irregularities, and the latter with questions of the legitimacy of her election as president following revelations of alleged poll rigging<sup>19</sup>. It was as if the political and economic institutions seemed to have adopted somewhat a ‘wait-and-see’ attitude, an accommodative position favoring vested interests and fearful to push through with reforms because the political leadership is conflicted and compromised<sup>20</sup>.

Sta. Ana III [2010] cited bad governance as the “defining feature of the Gloria Macapagal-Arroyo administration.” Faced with massive protests questioning the legitimacy of her administration, “Mrs. Macapagal-Arroyo used a broad range of instruments, including macroeconomic policy for her political survival. . . that meant undertaking bad policies. . . re-enacted budgets that increased funds for political patronage but decreased spending for programmed essential services, and revenue-eroding measures to placate specific political constituencies” [Sta. Ana III, page 4].

On balance, it is noted that the Arroyo administration also tried to improve regulatory quality and even to provide regulatory relief to business through passage of the Anti-Red Tape Act of 2007 [Republic Act 9485]. The law requires government agencies to process applications for simple transactions like permits and licenses within five days and other documentation for more complex transactions within 10 days. Moreover, each government agency is enjoined under the law to put up a “Citizens Charter,” a document to be displayed prominently showing “the range of specific services provided by that office, a step-by-step guide on how to avail of these services, and standards on quality and timeliness to be expected from the agency in rendering these services” [Primer on the Anti-Red Tape Act]<sup>21</sup>. Under Arroyo’s watch, the EPIRA was passed eleven years after the first legislative bill seeking regulatory reforms in the electricity sector was filed. However, the problem was that political institutions, including the regulatory bodies and the bureaucracy seemed to have been compromised by policies and programs designed to ensure the political survival of the incumbent.

Thus, despite the raft of economic policy and regulatory reforms, poor governance has muted the impact of those reforms. The weaknesses and incompetence of some Philippine institutions have much

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<sup>19</sup> De Dios and Hutchcroft [2003] provide a graphic rendition of the events surrounding the fall of the Estrada presidency. Malaluan and Lumba [2010] chronicled the case of Arroyo as follows: “Under President Macapagal-Arroyo’s term, constitutional bodies have been damaged by serious breaches of independence in relation to the presidency. The Commission on Elections, the body mandated to safeguard the integrity of elections, has been racked with charges of election fraud involving the 2004 elections. In 2005, recorded conversations between President Macapagal-Arroyo and Commission on Elections Commissioner Virgilio Garcellano during the canvassing of the 2004 poll results surfaced. The conversations indicated voting and canvassing manipulation to ensure the victory of Macapagal-Arroyo. On 27 June 2005, Macapagal-Arroyo appeared on national television to admit having called a Commission on Election official before and during the canvassing of the results of the 2004 elections. She apologized for her “lapse in judgment.” Malaluan, Nepomuceno and Solomon Lumba [2010].

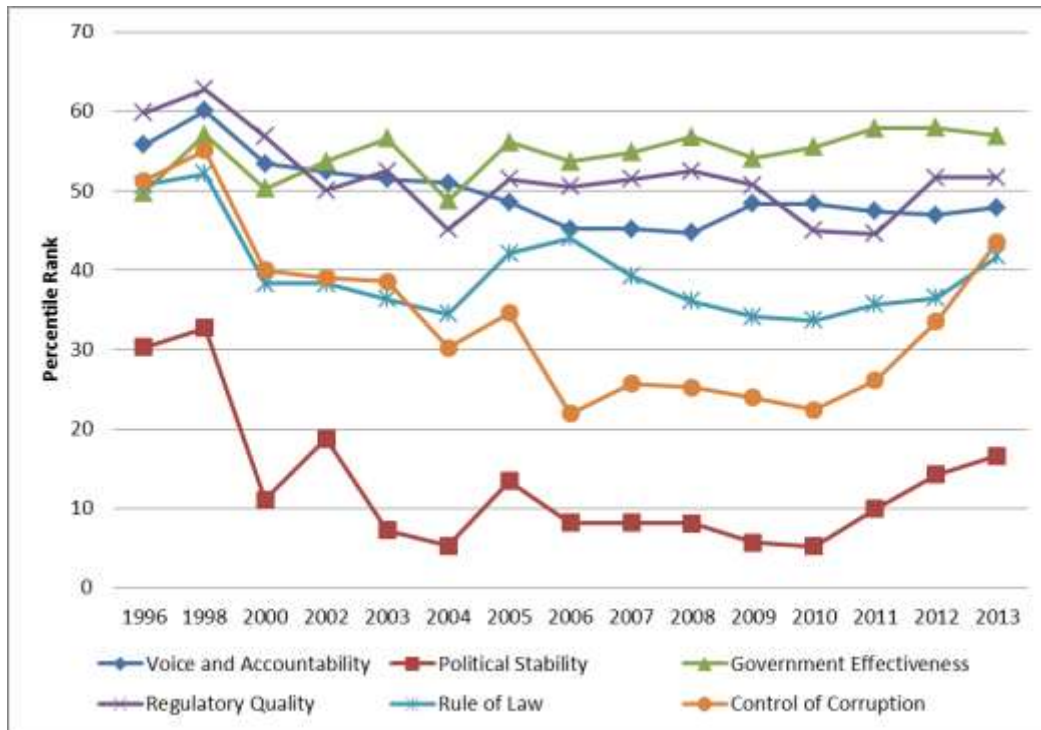
<sup>20</sup> See Laquian, Aprodicio and Eleanor Laquian [2002] and Doronila, Amando [2001].

<sup>21</sup> The Act aims to promote transparency in government transactions by requiring each agency to simplify frontline service procedures, formulate service standards to observe in every transaction and make known these standards to the client [Primer on the Anti-Red Tape Act].



to do with the overall poor quality of Philippine governance [shown by Kauffman, Kraay and Mastruzzi 2007; Llanto and Gonzalez, 2010]. **Figure 2** shows governance indicators for the Philippines, which were responsible for the relatively low ranking in investment climate assessments and global competitiveness reports. Indeed, the ADB [2007] opined that the regulatory burden was more acute in the Philippines than in its neighbors.

**Figure 2. Governance Indicators for the Philippines, 1996-2013**



Source: World Bank's Worldwide Governance Indicators

The present Benigno Aquino administration came to power in 2010 on the platform of good governance, especially of rooting corruption from the bureaucracy and reforming weak institutions that have been identified as major impediments to investments, growth and productivity in several studies, e.g, ADB's [2007]; Llanto and Gonzalez [2010], De Dios and Hutchcroft [2003]. The major reform effort under the current Aquino<sup>22</sup> administration centered on governance and institutional reforms [Run After Tax Evaders program, Run After the Smugglers program] and fiscal and budgetary reforms [Republic Act 10351 or the Sin Tax Reform Law of 2012, Budget Priorities Framework, Government Integrated Financial Management Information System, Organizational Performance Indicator Framework].

<sup>22</sup> President Benigno Aquino III, son of former President Corazon Aquino.

The serious attention given to governance and fiscal reforms coincides with the recommendations of a 2007 ADB study, which pinpointed narrow fiscal space and poor governance, that is, weak regulatory frameworks as critical development constraints faced by the economy. Under the Organizational Performance Indicator Framework, government agencies are made more accountable for their budget by ensuring the linkage among inputs, major final outputs and desired societal outcomes, that is, inclusive growth and poverty reduction. The Department of Budget and Management asks government agencies to align goods and services produced [called major final outputs] with societal outcomes. The present administration seems more committed to regulatory reform than the past Arroyo administration, having promised the electorate that it would improve the governance of the economy. A concrete step to improve governance in the economic and financial arena is to improve regulatory quality in order to reduce cost of doing business and contribute to firms' competitiveness.

In sum, economic policy has evolved from a highly protectionist regime [e.g., import-substitution, etc.] and a highly control-oriented regulatory framework [e.g., import controls, etc] to a market-oriented economic and regulatory policy that sees private enterprise as the locomotive of growth. A more expressive description of what has happened over time is that "the Philippines is one of many developing economies that in recent years have been relying more on the coordinative ability of competitive markets guided by a decentralized price system" [Canlas, 1996, page 29]. Market orientation has created a better investment environment for private business, and has brought favorable outcomes in terms of lower inflation and greater accessibility of better goods and services for the consumer. The recent creditable economic performance as mentioned above seems to show the power of this shift in orientation.

Political and institutional factors play a pivotal role in ensuring regulatory quality and coherence or in waylaying good regulations. Philippine experience confirms this. Alignment of political and institutional interests with regulatory objectives and the expected benefits arising from the regulation can ensure support for and implementation of good regulations, e.g., passage of excise taxes on "sin" products<sup>23</sup> and spending of proceeds in support of health sector projects. Political support to impose excise taxes on tobacco and liquor [so-called "sin" products] and earmark the proceeds thereof will project a good image of the supportive politicians into the electoral space<sup>24</sup>. On the other hand, in other instances, satisfaction of personal political objectives collides with regulatory reform efforts, for example, derailing efforts to pass a competition law so that monopolistic or oligarchic structures in private business

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<sup>23</sup> The "sin" products are demerit goods such as tobacco, liquor.

<sup>24</sup> Lobby to dilute the sting of sin taxes is strong but nevertheless, the proposed taxation passed.

can continue with their grip on product and distribution markets<sup>25</sup>. A proposed competition law, which the Philippines does not currently have, will provide a level playing field for private businesses, address problems of concentration and strategic behavior in the economy, and uphold consumer welfare but its enactment into law has been caught in the jaws of a tedious legislative mill. Thus, a tension exists between implementation of good regulations on the one hand, and on the other, the weak capacity of Philippine institutions and the intervention of conflicted politicians who have no incentive to arbitrate among competing interests with the general welfare of society in mind.

The narrative of recent regulatory reform in the country in this section provides the necessary country context for the succeeding discussion of the present status of the country's regulatory management system in Section 3, and its importance in Section 4.

### **3. COMPARISON OF REGULATORY MANAGEMENT SYSTEMS IN TWO ASEAN COUNTRIES**

There is no formal regulatory management system in the country as a RMS is commonly understood and implemented in countries such as New Zealand and Malaysia, among others. To understand what the Philippines lacks in the area of regulatory management system, it will be useful to compare Philippine practice with that of Malaysia, a neighboring ASEAN country, which has developed a working RMS. The brief comparison shows that the Philippines has some of the elements of a functional RMS but they are not effectively coordinated and woven into a coherent, requisite RMS implemented by a central oversight body. Malaysia was chosen as comparator because it is by far the only ASEAN country that has developed a formal RMS, which has started to contribute in improving regulatory quality and coherence. Viet Nam is still in the process of establishing its own requisite regulatory management system.

#### **Malaysia's Regulatory Management System<sup>26</sup>**

The Malaysian government's New Economic Model [NEM] that envisioned Malaysia as a developed economy by 2020 strongly indicated the need for good regulatory management to improve regulatory quality. Good regulatory quality helps to fulfill several policy objectives of the NEM that include:

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<sup>25</sup> A good example is crony capitalism under the Marcos regime, which political allies of the reigning strong man used to accumulate wealth at the expense of the common weal.

<sup>26</sup> The discussion of the Malaysia RMS comes from Malaysia Productivity Corporation [2013a] and Malaysia Productivity Corporation [2013b]. The reader is referred to these sources because space limitations allowed only a brief treatment of the Malaysian RMS in this section.

- Removal of barriers and reduction of cost of doing business;
- Improvement in decision making for policy implementation; and
- Improvement in economic efficiency through enabling fair competition.

According to the National Economic Advisory Council, as of 2010, there were over 3,000 regulatory procedures weighing heavily on businesses, administered by 896 agencies at federal and state levels<sup>27</sup>. To improve regulatory quality, the government established a formal regulatory management system with four elements: regulatory policies, regulatory institutions, regulatory procedures, and regulatory tools. Malaysia adopted a Regulatory Impact Statement [RIS] Process. The government issued the National Policy on the Development and Implementation of Regulations [NPDIR] to address gaps in the management system for regulations<sup>28</sup>. The NPDIR is implemented by distributing specific functions to the following institutions:

National Development Planning Committee [NDPC], responsible for overseeing the implementation of NPDIR, assessing its effectiveness and recommending improvements; and examining Regulatory Impact Statements [RIS] for adequacy and making appropriate recommendations.

Malaysia Productivity Corporation [MPC], responsible to NDPC; develops guidelines and programmes for the implementation of NPDIR; ensures capacity building programmes for regulators; assists NPDC in assessing RIS; provides guidance and assistance to regulators in regulatory impact analysis [RIA] and preparation of RIS.

National Institute of Public Administration [INTAN], responsible for providing training on Regulatory Impact Analysis.

Regulators, responsible for developing, maintaining, and enforcing regulatory programs, and meeting the Regulatory Process Management Requirements. A Regulator Coordinator, a senior officer, is appointed by a Ministry or a Regulator to act as the focal point for communications with MPC.

Stakeholders, responsible for inputs into the design and review of regulations. ; and

Attorney General's Chambers, responsible for offering legal advice on regulatory solutions, drafting of resolutions, harmonisation of regulatory requirements, etc.

The MPC was tasked to [i] review existing regulations with a view to removing unnecessary rules and compliance costs; [ii] undertake cost-benefit analysis of new policies and regulations to assess the

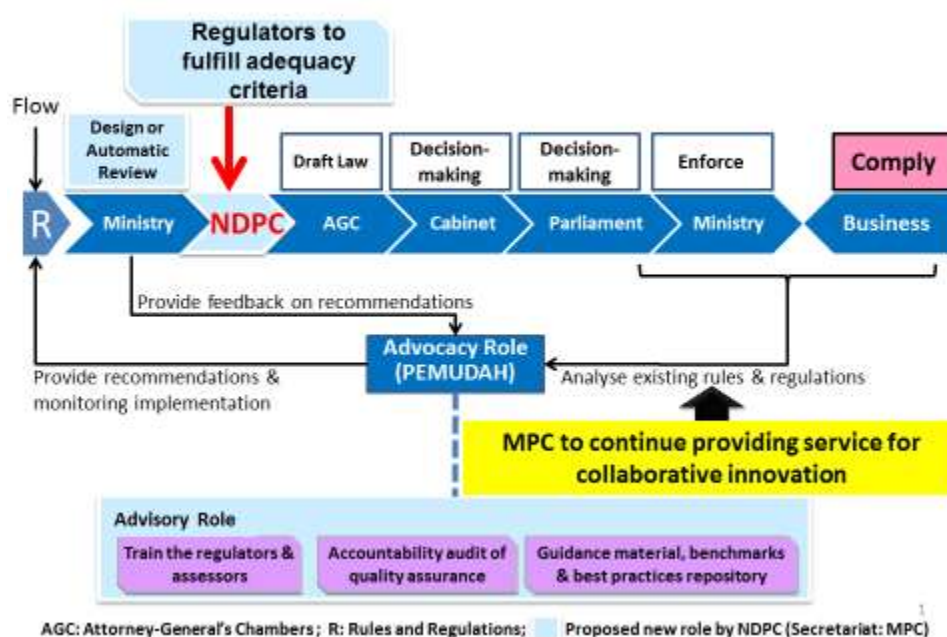
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<sup>27</sup> Source: Dato Abdul Latif Hj Abu Seman, Deputy Director General, MPC, "Implementation of good regulatory practice in Malaysia," ERIA Regulatory Management Workshop, Pacific Regency Hotel, Kuala Lumpur, Malaysia, 12 September 2014.

<sup>28</sup> Good regulatory policies help to enhance transparency and credibility of regulatory actions and create a climate for better quality of life and business environment [Tan Sri Dr. Ali Hamsa, Foreword, National Policy on the Development and Implementation of Regulations, 2013].

impact on the economy; and [iii] make recommendations to the Cabinet on policy and regulatory changes that will enhance national productivity. The Malaysian Government also created a Special Task Force to Facilitate Business [PEMUDAH] chaired by the Chief Secretary to the Government to ensure that Malaysia remains an attractive and competitive investment location. PEMUDAH addresses specific issues impacting on firms' decision to invest such as starting a business or establishing a factory. Its main task is to work on improving the quality of *existing* regulations. NDPC is tasked with ensuring the quality of *new* regulations [see Figure 3<sup>29</sup>].

**Figure 3. Malaysian Quality Regulatory Management System**

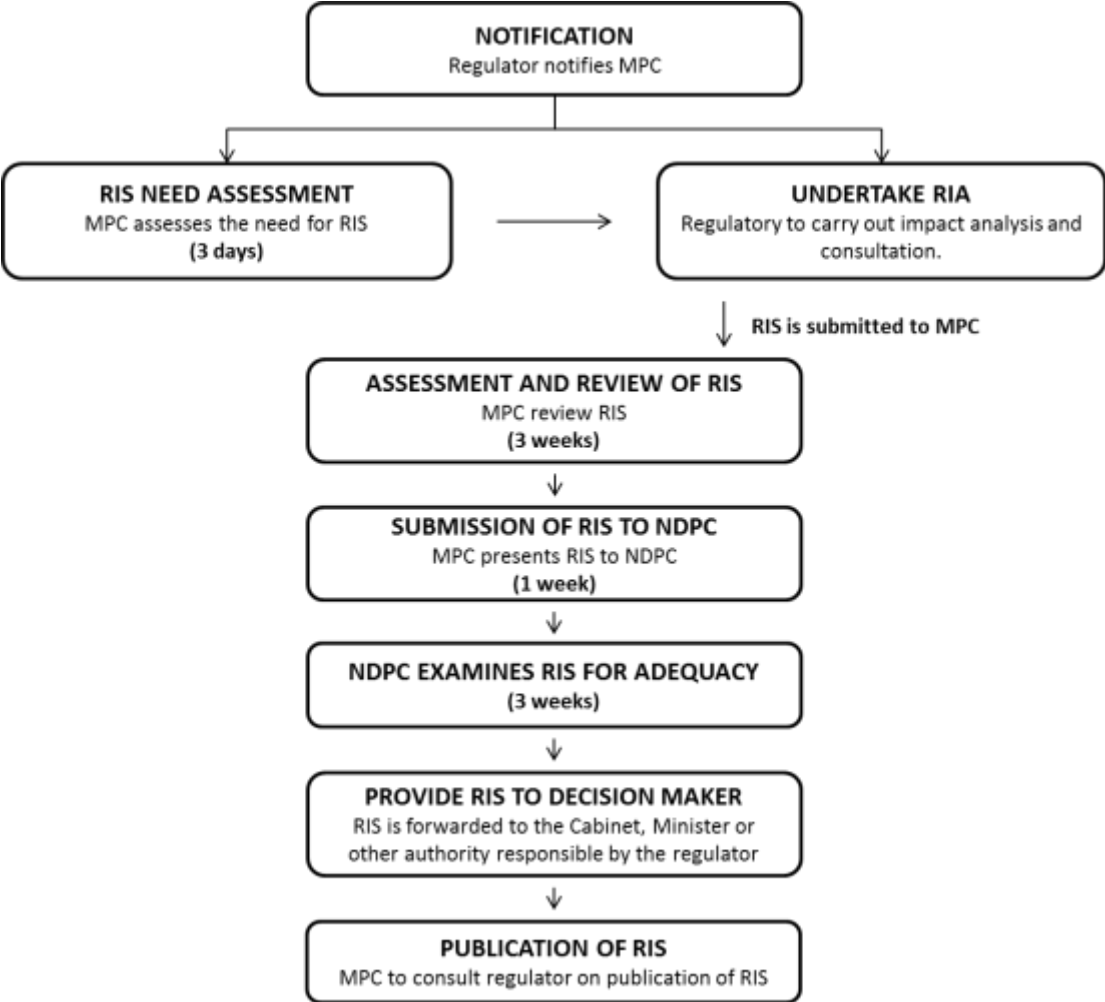


Regulatory procedures apply to all federal regulators and are confined to regulations that impact on business, investment and trade [MPC, 2013]. The regulatory process requires regulators to notify MPC on proposals to introduce or amend regulations. MPC will assess whether the regulator is required to submit RIS for the proposed regulation. Regulators proposing new regulations or regulatory changes must undertake a regulatory impact analysis [RIA] with the following components: problem identification,

<sup>29</sup> From a powerpoint presentation by Dato Abdul Latif, Second Technical Workshop on "Towards Responsive Regulations and Regulatory Coherence in ASEAN and East Asia: Deconstructing Effective and Efficient Regulatory Management System," Park Royal Hotel, Kuala Lumpur, Malaysia, 20-21 April 2015.

objectives, instrument options [feasible means for achieving desired objectives], and assessment of impact, which demonstrates benefits and costs. Timely and thorough consultations with affected parties constitute an important component of the RIA. Notice of proposed regulations and amendments must be given so that there is time to make changes and to take comments from affected parties into account. An important item is coordination with other regulators to avoid duplications and possible inefficiencies in implementation [see **Figure 4**].

**Figure 4. RIS Process, Malaysia**



Source: Malaysia Productivity Corporation (2013).

## Philippine “Regulatory Management System”

As discussed in Section 2 above, the Philippines has undertaken a series of major macroeconomic and regulatory reforms since the post-martial rule regime and continues with a market-oriented economic policy agenda detailed in the Philippine Development Plan. The first wave of economic reforms covered big-ticket, policy areas with cross-cutting, economy-wide application, e.g., reforms in fiscal policy, public financial management, including budgetary policy, trade policy and exchange rate policy, monetary policy. Several reforms covering particular sectors of the economy, e.g., energy, banking, telecommunication, agriculture, were also accomplished. Those reforms have placed the economy on stronger footing and have been indispensable in economic recovery and later, in contributing to a remarkable growth performance. At present the next big wave of reforms cover such barriers to private investments, especially foreign direct investments and employment generation, as inadequate infrastructure, perceptions of instability in policy and contract, and inefficient regulations. Tackling inefficient regulations may be properly done through a tool, that is, a functional [ideally requisite] RMS.

**Figure 5** helps in understanding the country’s “regulatory management system” [RMS]. The RMS is enclosed in quotation marks to signify that there is yet no formal RMS as stated at the beginning of this paper. The figure shows that the Philippines has the four basic elements of a RMS [second row of boxes] as described in Gill [2014] and OECD [2010]. However, the elements in the third row of boxes do not necessarily represent integral parts of a coherent and coordinated RMS nor are they always regularly undertaken, e.g., cost-benefit analysis, public consultations in preparing regulatory changes. The NCC is an outsider in the regulatory review process practiced in the country. It is essentially an advocacy body peopled by government and private sector industry associations whose main concern is to promote key regulatory reforms, among others. The NCC could potentially be the equivalent of the Malaysian PEMUDAH, if properly structured and empowered to work on reviewing existing regulation and applying a Regulatory Guillotine<sup>30</sup> on those regulations that constitute an unnecessary regulatory burden on firms and consumers. Regulatory Guillotine has been used in several countries as a basic tool for regulatory simplification [Jacobs, 2006]. **Box 1** summarizes the ‘regulatory guillotine’ approach taken by Viet Nam for an effective regulatory reform.

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<sup>30</sup> Trade Mark owned by Jacobs and Associates who developed the concept, application and implementation of it as an effective regulatory management tool.

**Box 1. Objectives and methodology: using a regulatory guillotine approach**

**Objective:** **Simpler, more efficient, and more transparent administrative system.** The marching orders are: [i] to simplify at least 30% of administrative procedures and reduce administrative costs by at least 30% [hence the name Resolution 30], and [ii] reduce the implementation gap in the domestic regulatory system with WTO and international trade agreements through the establishment of a modern and better regulatory system.

**Procedure**

**Inventory:** prepare standardized list of administrative procedures

**Self-review:** check legitimacy or necessity of administrative procedure; check suitability and reasonability of administrative procedure

**Review:** review by Special Task Force to review and assess administrative procedures

**Recommend:** retain, simplify or abolish administrative procedure

**Progress so far**

- Inventory: more than 5,000 administrative procedures in more than 9,000 legal normative documents were added to the database of administrative procedures
- Review: participation of ministries, business community and foreign business representatives
- Recommended for simplification: on June 2010, reform of 258 administrative procedures; late 2010, twenty five special resolutions to request all ministries to simplify 4,723 existing administrative procedures

Source: Vo and Nguyen [2015]

A formal RMS requires the conduct of a regulatory impact analysis and a subsequent issuance of a regulatory impact statement prior to any decision to impose the regulation. In a formal RMS, an institution conducts a systematic analysis [RIA] of proposed new regulation, or of a proposal to revoke an existing regulation. The RIA is supported by formal empirical studies. A formal statement of the expected impact of the proposed change [RIS] is later issued by the regulator. It appears that the Philippines does not have a functional RMS but a mere semblance of it. A formal RMS also has a central oversight and coordinative body that will review proposed and existing regulations. The Philippines does not have one either.

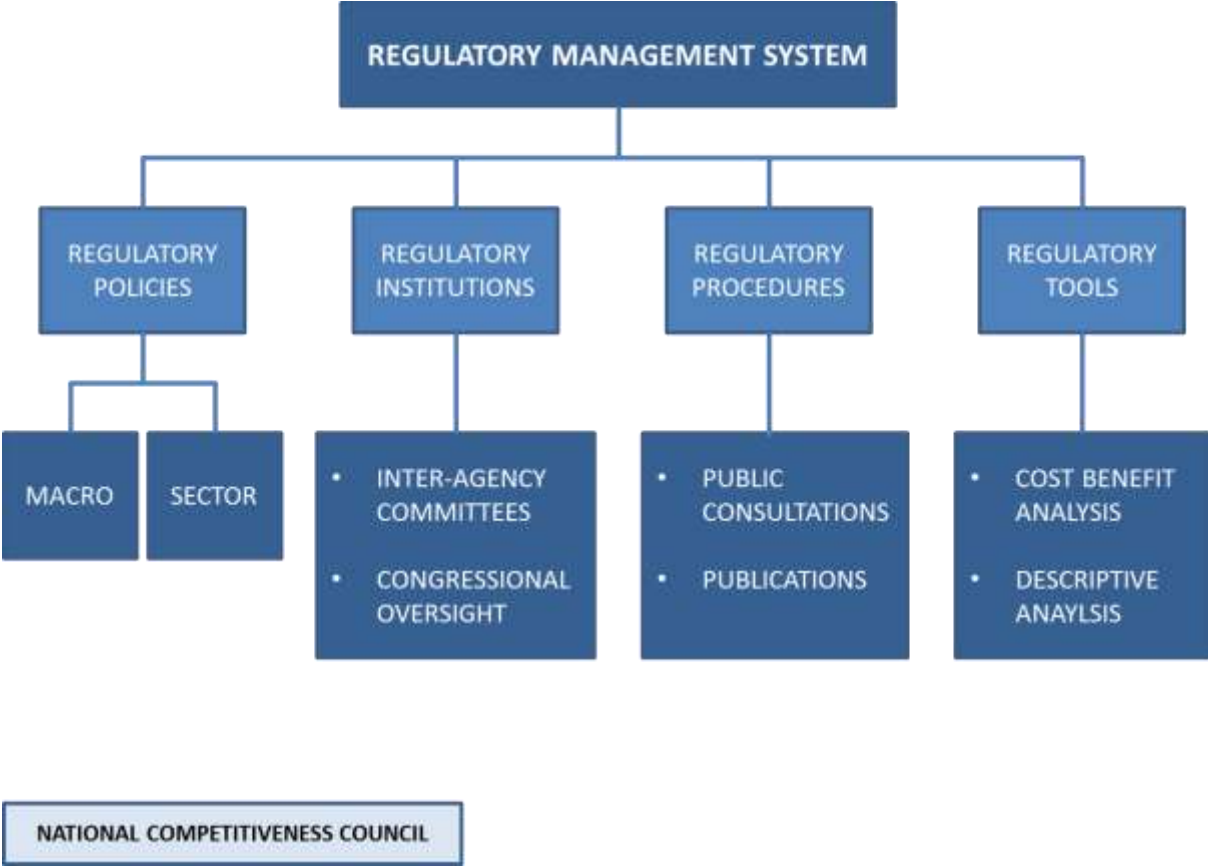
The nearest Philippine [imperfect] equivalent to a formal regulatory policy statement is the government's declaration of national competitiveness as a goal through Executive Order No. 571 [series of 2006], which created the Public-Private Task Force on Philippine Competitiveness to promote and



develop national competitiveness. The mandate was to ensure that the Action Agenda for Competitiveness is implemented effectively through collaborative effort of the public and the private sector. Particular key reform areas, such as business efficiency [reducing cost of doing business], infrastructure, and governance, which are critical in developing a more competitive business and investment climate, are targeted for implementation. Regulatory reform at the national and local level is expected to bring down the cost of doing business. Administrative Order No. 38 created an inter-agency Task Force on Ease of Doing Business to initiate, implement and monitor Ease of Doing Business reforms.

There is no strong central oversight body or institutional mechanism that would systematically coordinate, check for consistency and review efforts on new regulations or amendments to existing regulations contemplated by different regulators, e.g., Metro Manila Development Authority, Energy

**Figure 5. Elements of a “regulatory management system”, Philippines**



Regulatory Commission, Toll Regulatory Board, Land Transportation Office, etc. The effort to review the relevance, coherence, and quality of regulations is diffused to as many as 60 different regulators. The

Department of Justice [DOJ] is tasked with reviewing policies and other proposed measures for consistency with international obligations and advises the Chief Executive or the department [ministry] concern on these matters. The DOJ was also designated by Executive Order No. 45 [series of 2011] as the Philippines' Competition Authority, with the Office of Competition under it as the implementing arm with the mandate to enforce competition policies and laws and to prosecute violators.

It seems that regulatory bodies function as regulatory silos that focus only on their particular sectors to regulate. The national [central] government or a local government may create Ad Hoc Task Forces to tackle specific regulatory issues or problems that arise from time to time and this may require coordination of concerned government agencies. An example is the creation of an Ad Hoc Task Force to review and propose solutions to the problems arising from the local ordinance enacted by the City of Manila regulating movements of cargo trucks during particular hours of the day. The cargo truck ban triggered rising complaints by transport and logistics operators, importers and exporters, foreign chambers of commerce about the economic costs of this local regulation.

The creation of a temporary, short-lived 'after-the-fact' Ad Hoc Task Force to solve regulatory problems or any problem in government is a common approach. However, this is an inferior approach compared to having a formal central oversight body tasked with a systematic review, consultation, publication of proposed new regulation or proposed revocation of an existing regulation, and approval.

Recently, Executive Order No. 571 [series of 2006], which created the Public-Private Task Force on Philippine Competitiveness was amended by Executive Order No. 44 [series of 2011]<sup>31</sup> renaming it as the National Competitiveness Council [NCC] and expanded its membership. It seems that the government has realized the necessity of establishing a relatively permanent institution to advocate for regulatory reforms. The impetus for the establishment of the NCC derives from the strong advocacy by the private sector, especially the local and foreign chambers of commerce to combine public and private resources in finding solutions to barriers to investment and growth. However, it must be made clear that the NCC is not a central oversight body to review regulations for consistency, coherence and coordination among concerned government agencies.

This is not to say that ad-hoc approaches rule the day all the time. There are standing governmental Inter-Agency Committees, e.g., Infrastructure Committee of the National Economic and Development Authority that could look into particular regulatory issues whenever such issues arise. However, they are not focused on regulatory reform but have a broader mandate that includes reviewing

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<sup>31</sup> Amending EO No. 571 (s. 2006) renaming the Public-Private Sector Task Force on Philippine Competitiveness as the National Competitiveness Council (NCC) and expanding its membership

and approving sectorial plans, e.g., national road plan, and assessing proposed infrastructure projects seeking foreign or local funding, and other tasks. These Inter-Agency Committees are not geared either for undertaking a systematic review of regulations because of lack of mandate, focus on regulations, proper staff and technical capacity to undertake a formal regulatory review process.

There are also congressional oversight committees that can examine and assess regulations, e.g., Joint Congressional Power Commission, Joint Congressional Oversight Committee on the Clean Air Act. However, these are legislative committees that merely exercise an oversight function to check executive compliance with a particular law, and sometimes, they are more interested in promoting popular interest for political reasons. Similar to governmental Inter-Agency Committees, those oversight committees neither have the technical capacity nor staff to undertake formal regulatory review process.

Philippine regulators are neither required to undertake regulatory impact analysis nor issue regulatory impact statements because these processes [RIA, RIS] have never been required of them. The standard practice is to notify the public, affected parties and various stakeholders about a proposed change in existing regulation or the introduction of new regulation, and invite them to public hearings and consultations where those affected parties and stakeholders can express their opinion or view on the pending regulatory change<sup>32</sup>. Vigilant members of civil society often attend such hearings, e.g., National Association of Electricity Consumers [NASECORE], Transparency and Accountability Network [TAN], and actively engage the regulators in dialogues over particular regulatory issues. The approved regulation is published in newspapers of general circulation to inform the affected parties and the general public. Regulatory institutions also publish regulations in their respective web sites, e.g., Bangko Sentral ng Pilipinas publishes Circulars, etc. affecting the banking system.

The most common tools used in assessing the effect of regulatory changes are the usual descriptive analysis and standard cost-benefit analysis. Regulators will typically undertake a cost-benefit exercise to determine the efficiency and perhaps, distributional effects of regulatory changes. However, the results of such exercises are neither published nor made available to the wider public and not even to academics or policy analysts, for scrutiny. The public and affected parties could only assume that such an exercise has been done prior to issuance of a regulation.

There are three pilot RIA projects in the country. These are in the Department of Tourism, the Department of Labor and Employment, and the National Economic and Development Authority [NEDA]. Through a technical assistance under the PHI Strengthening Institutions for an Improved Investment

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<sup>32</sup> An example is the public hearings conducted by the National Telecommunications Commission on proposed regulatory changes.

Climate with the Philippine Government, the Asian Development Bank is assisting the implementation of a Regulatory Impact Assessment regime at the Departments of Tourism and of Labor and Employment, respectively [ADB, 2012]. At the NEDA, the RIA pilot is under the ADB-supported technical assistance on Increasing Competitiveness for Inclusive Growth Program 2<sup>33</sup>.

The RIA pilot projects focus on developing capacity for a RIA based on regulatory best practice principles that are adjusted to local circumstances. It will be progressively rolled out across other departments with an Executive Order for full implementation across the Philippines Government in 2015 including the establishment of a central Office for Best Regulatory Practice [ADB, 2012]. Progress to date includes:

- Establishment of RIA Pilots in the Departments of Labor and Employment and Tourism
- Development of RIA Guidelines including templates
- Conduct of RIA Training across participating departments
- Various RIA awareness raising activities among senior representatives from Philippines government and business

There is a plan to establish the Office for Best Regulatory Practice at NEDA [**Box 2**].

#### **Box 2. NEDA RIA Initiative**

In late 2014, the National Economic and Development Authority (NEDA) was identified as lead agency in the institutionalization of RIA and, once a regulatory management system is established, will be responsible for reviewing and providing advice on standards and quality of Regulatory Impact Statements (RISs). Preparatory tasks are now being spearheaded by the NEDA Governance Staff whose primary mandate is to oversee and monitor progress of the governance reforms as well as review policies pertaining to good governance and the rule of law, which include competition and anti-trust enforcement.

NEDA is currently undertaking capacity-building activities, which include the creation of the inter-staff NEDA Good Governance Movers, conduct of RIA training sessions, and development of RIA Guidelines and Manual that will eventually be used as reference in the review of RISs from government agencies performing regulatory functions.

For 2015, NEDA is set to conduct research studies that will look into the governance framework for key strategies in agriculture and industry and services as well on their institutional arrangements and regulatory quality. In addition, it will expand the RIA pilot agencies and undertake capacity-building activities for these agencies. NEDA is also exploring the possibility of conducting a comprehensive review of the Philippine regulatory system and formulating a regulatory policy.

Source of information: Carlos Abad Santos, NEDA Governance Staff Director

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<sup>33</sup> Source of information: Governance Staff, NEDA

Current challenges include the need to improve the level of skills and knowledge in analyzing the impacts of regulations, weak coordination across ministries in the development and assessment of laws and regulations, and a weak interface between government and business in regulatory development and implementation, e. g., poor consultation practices and access to regulatory information [ADB, 2012].

#### 4. AN ASSESSMENT OF THE REGULATORY MANAGEMENT SYSTEM

The review of the Philippine experience with reforms indicates that reforms can be divided into [i] economy wide, macroeconomic reforms, e.g. trade liberalization whose crosscutting impacts are felt economy-wide and across sectors, and [ii] sector-based regulatory reforms, e.g., telecommunication policy reform, electricity sector reform.

The process of regulatory reforms was never, and will never be, an easy path for a country such as the Philippines. Just like any developing country finding its own growth path, the Philippines went through stages of regulation reform fraught with challenges brought about by bad governance during the martial law regime, the 1997 Asian financial crisis, which started at Thailand, the 2008 global economic crisis, which originated from U.S. sub-prime mortgage markets, and a domestic political crisis during the Arroyo administration. Notwithstanding these challenges, reform efforts were undertaken somehow, and by the turn of the 3rd century, the Philippine economy has acquired a positive outlook for sustained growth. Over the span of decades the economy has taken painstaking efforts to reform and these have paid off. The question is whether the country can sustain growth and make it more inclusive or whether growth will again be short-lived and episodic. It is a question basically of staying at the reform path wherein a formal, requisite RMS could certainly help the economy to sustain inclusive growth.

What then can be said of the “evolving regulatory management system in the country”? The short narrative in this paper about the major regulatory reforms in the past decades provides a glimpse of the capacity of the economy to introduce reforms in critical areas but as well, the need to manage the reform process in a more systematic and deliberate way through an effective regulatory management system. A number of reform efforts succeeded but there were failures as well.

**Regulatory policy** is the first of the four elements of an effective regulatory management system [Figure 5]. Market-oriented and outward looking regulations are a substantial element of an effective RMS for the Philippines. The Philippines has the *first* element of a formal RMS, namely, **regulatory policies**. Overall, the country’s regulatory framework includes market-friendly regulations, rules, laws, administrative and executive orders that try to provide the policy and regulatory environment as well as incentives for increased private participation in the marketplace.

However, there are national and local regulations that need review and simplification and improvement, e.g., permits and licenses, to lighten, if not to eliminate, regulatory burdens on firms and consumers. A thorough and detailed review of all national and local regulations for simplification and improvement has never been done in the country. There is a need to review the country's stock of regulations to revoke or amend those that have stifled entrepreneurship and innovation. It is critical to review the relevance of existing or proposed regulation to avoid creating unnecessary regulatory burdens on citizens and business firms. Cutting red tape and tackling regulatory inflation are fundamental measures to cut the cost of doing business [OECD, 2010]. Most OECD countries have burden-reduction programmes to counteract the growing layers of red tape [OECD, 2009]. Applying Scott Jacob's idea of a "regulatory guillotine" appears very appropriate at this time.

The Philippines has the **second** element of a formal RMS, **regulatory institutions**. Regulatory institutions cover various sectors, e.g., banking, telecommunications, energy, water, while government departments [ministries] also discharge regulatory functions, e.g., Department of the Environment and Natural Resources in charge of environmental laws and regulations. A critical issue with respect to ensuring regulatory quality is the inability of regulatory institutions, including some government departments to translate regulations into efficient regulatory outcomes. This could be because of inefficient regulatory policies, weak institutional capacity or resource constraints.

The Philippine experience shows that bad governance and inefficiencies in institutions, including the bureaucracy and the judiciary, tend to blunt reform efforts and weaken the positive impact of regulatory reforms. To some extent weak institutions form a strong barrier to reforms. The country may have very good regulations [laws, regulations, rules] but these may not fully confer the expected outcomes if not properly implemented. There is a need for competent institutions to effectively implement those regulations. Implementing good regulation is not a disembodied phenomenon but is nested in an effectively functioning institutional setting [Llanto and Gonzalez, 2010]. Lim [2010] bluntly has it that bad governments not only increase government failures, but also reduce the chances of urgently addressing market failures.

Competent regulatory institutions will be an indispensable element in an effective regulatory management system to ensure regulatory quality. Such institutions will monitor, assess impact and re-examine the usefulness of regulations. From the vantage point of this paper, the key insight at this juncture is the critical importance of having functional and credible regulatory institutions in a country's regulatory system. The absence of such credible institutions compromises the efficiency and effectiveness of regulation in the economy. In this regard, there is, thus, a need to continue with efforts to strengthen

the civil service, especially those civil servants in regulatory institutions, and to create an appropriate incentive structure for efficient public service delivery and better regulatory policies.

This leads to the question of whether the right approach for the Philippines is to create institutions such as that in Malaysia, which has the Malaysian Productivity Corporation and the PEMUDAH as critical institutions in its formal RMS. The Philippines has no formal institutional framework or arrangement such as that in Malaysia, which clearly delineates the different roles of institutions, e.g. MPC, PEMUDAH, in the review and assessment of regulatory policy changes. In the Philippines, there is no central oversight body that reviews the appropriateness and impact of existing or future regulations, and that is accountable for promoting whole-of-government regulatory reform. Each regulator takes care of imposing regulation, monitoring and evaluating regulatory changes, whether they be new proposals or amendments to existing regulation. The APEC [2009] points out the importance of having a comprehensive regulatory reform to improve the competitiveness of firms and industry.

While the PEMUDAH is not a permanent institution but a Task Force established in 2007, it is a respected platform where the public and private sectors can discuss and advocate regulatory reforms.<sup>34</sup> Because it has acquired credibility, PEMUDAH may be expected to stay around for quite some time until it evolves into some other organizational form as may be decided by the authorities.

In the Philippines, the NCC can assume the role of PEMUDAH but it has to be properly empowered and resourced. The Philippines has institutionalized public-private collaboration in regulatory reform and this is a good start in developing an appropriate institutional structure for regulatory reform. The Legislative-Executive Development Advisory Council [LEDAC], which was established by President Ramos during his term of office to act as a venue for getting agreements on what proposed legislation to push and support, could be a starting platform for the executive and legislative branches to discuss, agree and monitor priority regulatory reforms<sup>35</sup>. At present, NEDA is trying to develop capacity to do RIA with the objective of establishing an “Office of Best Regulatory Practice that will oversee advocacy, capacity building and roll-out of regulatory impact assessment (RIA) to the national government on a sustainable basis”<sup>36</sup>. Whichever institution may be tasked to function as a “PEMUDAH” will depend on the commitment and decision of the political leadership. This is an issue that should be tackled at the cabinet

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<sup>34</sup> Comment made by Dato Abdul Latif, MPC Deputy Director General during the Second Technical Workshop, April 25, 2015.

<sup>35</sup> The Legislative-Executive Development Advisory Council (LEDAC) has been created through Republic Act (RA) No. 7640 approved by then President Fidel V. Ramos on December 9, 1992. The LEDAC serves as a consultative and advisory body to the President, Chair of the National Economic and Development Authority (NEDA) Board, on certain programs and policies essential to the realization of the goals of the national economy. The LEDAC also serves as a venue to facilitate high level policy discussions on vital issues and concerns affecting national development. Source: <http://ledac.neda.gov.ph/about-ledac/>

<sup>36</sup> Information supplied by Director Carlos Abad Santos, NEDA Governance Staff

level to build consensus and resolve to implement a similar system in the country. There is a case for informing and convincing the President and the cabinet about the importance of a requisite regulatory management system for the country. This task seems to be an in-built role for NEDA, being the government agency that coordinates government policy.

However, there is a more fundamental issue than the presence of credible regulatory institutions. Governmental institutions that are tasked to implement regulation and arbitrate among competing interests could be weakened by the willingness of the political leadership to compromise good regulation in exchange for political support and expediency. In the Philippine setting, it seems that in the past the *problematique* in policy and regulatory reforms was not so much about the lack of interest or willingness of the bureaucracy and/or regulatory institutions to implement good regulatory policies but the lack of political will and commitment of a compromised leadership to reform. This seems to be the experience during past administrations. Fortunately, strong political will and leadership to reform are not an issue now in the Philippines as described earlier because a reform-minded administration currently occupies the seat of political power. But what of the future? Hopefully, the positive effects of governance reforms pursued by the current administration can lead to the formation of a constituency for reforms composed of private business firms, an expanding middle class, academe, civil society, returning overseas Filipino workers who have experienced the results of better governance in countries where they have found jobs, and other stakeholders that can exert pressure on the succeeding administration to stay the course of policy and regulatory reforms, and even to accelerate the process of reform<sup>37</sup>.

The Philippines has the *third* element of a functional RMS. **Policy dialogues, notification on proposed regulatory changes**, consultations and even workshops are standard procedures in the process of changing or introducing new regulation. The Philippines is an open society and takes great pride in providing various stakeholders with space to air their views on policy and regulatory reforms and in general on government performance. Political freedom is a cherished value in the country. What works for the Philippines though is a political culture of freedom, openness, debate, and dialogue, which are critical elements of a functional regulatory management system.

However, these procedures [consultations, dialogues] happen on a sectoral basis and are not necessarily coordinated across regulators that may be involved or affected by the proposed regulatory change. Regulatory reviews are undertaken by agencies responsible for specific sectors but they act as silos with no attempt at coordination with other regulatory bodies.

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<sup>37</sup> The national election of the next President and other national officials will take place in May 2016. The elected President will have a six-year term, without re-election, as provided for by the Philippine Constitution.



OECD [2010] avers that some regulations have sector-specific implications but many others have much broader effects. If this were true, then coordination among affected regulators should be a default feature in the Philippines' management of regulatory changes. Unfortunately, coordination across regulatory agencies or bodies is an exception rather than a default arrangement.

The procedure for issuing regulation by the executive branch of government is simpler and less laborious than that of the legislative branch. Public consultations or hearings are conducted to get reactions, comments, and suggestions on a proposed regulation to be issued, for example by a regulatory body. Those comments and positions presented by stakeholders and interested parties serve as input into the internal decisionmaking process of regulatory bodies.

There is no established protocols or procedures for review and there is no central governmental unit or agency that is mandated to do this. Regulatory bodies can choose to internally review the regulations they impose on economic agents but it is not known whether they actually conduct a regular review. Another matter is the methodology for review and vetting of proposed regulation or proposed changes in existing regulation. There also is no mechanism for national government-local government coordination on regulatory impositions, and sometimes some local governments could be overzealous with their exercise of local autonomy. The example of the cargo truck ban [discussed above] imposed by the City of Manila without proper coordination and consultation with stakeholders, which produced a monstrous logjam in the main international seaport and impacted on the cost of doing business, is a case in point.

The formal assessment of a proposed regulation or law undergoes a formal process in the legislature. Passing a law is undertaken in the legislature voting on a proposed legislation that has been reviewed and approved at the committee hearings and finally brought to a plenary session for voting. A proposed legislation is subjected to at least three readings in a committee. Conversely, a proposed legislation may be stopped or disapproved during any of those three readings. Various stakeholders and interested parties are invited to committee hearings to present position papers on the proposed legislation. Approval at the plenary session through a vote of a quorum of legislators moves the process to a bicameral committee meeting where representatives from Congress and the Senate deliberate and agree on the final shape of the proposed legislation that has been approved earlier in their respective chambers.

Formal assessment of proposed regulation or proposed changes in existing regulation is much simpler in the executive department because it is only the concerned regulatory body that is tasked to conduct an assessment, if warranted. There is no need to go to the legislature for changes or reforms

that may be done through executive fiat. At the local level, proposed local ordinances have to get the approval of the local council. The local chief executive after consultation with stakeholders may issue a local executive order.

The Philippines does not have the *fourth* element of a formal regulatory management system, **Regulatory Impact Analysis** [RIA]. However, it can be safely assumed that some cost-benefit analysis or comparison of advantages and disadvantages of a proposed change in the regulations is undertaken prior to formal issuance. It is not standard practice in the country to subject existing or proposed regulation to regulatory impact analysis but some form of *ex ante* descriptive analysis of the effect of proposed regulatory changes is presumably done by sectoral regulators, and sometimes by researchers<sup>38</sup>. Monitoring and impact evaluation of regulatory policies are not yet done by Philippine regulatory institutions. There is a need to continuously assess regulatory impacts and share the information to the public, which can use the power of public opinion to motivate government agencies and regulatory bodies to perform well.

The three pilot projects in developing RIA in the Department of Tourism, the Department of Labor and Employment, and NEDA, respectively are important steps toward developing capacity to conduct RIA in those departments and later in all departments [ministries] as envisaged by the ADB Technical Assistance Program.

It is ideal to have RIA as a whole-of-government policy. Principle No. 1 of the Recommendations of the OECD Council on Regulatory Policy and Governance encourages countries to commit at the highest political level to an explicit “whole-of-government” policy to assure regulatory quality<sup>39</sup>. However, as stated this is the ideal and perhaps it is only the OECD countries who have gone that far in making RIA a whole-of-government policy. Developing a culture of regulatory quality and conducting a RIA will take time but the Philippines can profit from investing in developing capacity for RIA. It is central to an effective RMS and embedding it as a whole-of-government policy in the future will be imperative to meet the goals of regulatory quality and regulatory coherence. At present, it will be difficult to operationalize RIA across the board, so to speak, but its adoption and implementation could be started in critical regulatory bodies such as the National Telecommunications Commission, Energy Regulatory Commission or even in a few local governments. Policy makers can prioritize sectors, e.g., financial markets, energy, water or regulatory institutions where the requirement to conduct a RIA will be established. Establishing RIA as a

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<sup>38</sup> For example, the PIDS was asked to estimate through a computable general equilibrium model the likely impact of tariffication when the government was bent on liberalizing trade in goods.

<sup>39</sup> Cited in OECD [2015]

process in regulatory institutions will take leadership and pressure from public opinion. This makes a case for educating the public and civil society in particular on RIA so that they may put pressure on political leaders to adopt RIA as a component process for good governance. Since the NCC is already with its foot at the door of the bureaucracy, so to speak, it could engage in advocacy for RIA and a requisite RMS. The DTI and NEDA, being oversight agencies could trigger the process. As indicated in the case study on NCC below, it has the advantage of being headed by a Trade Secretary with a better perspective than his predecessors on the importance of reducing cost of doing business. A plus factor for the Trade Secretary is his perceived closeness to the President and the wide support he enjoys from the business community. The same thing may be said of the incumbent Secretary of Economic Planning, who enjoys the respect and support of academe, policy analysts, legislators, and is also perceived to be very close to the President.

The current technical assistance to the NEDA Governance Staff is auspicious. Under this donor [ADB] effort, the country could start to take stock of regulations that impose regulatory burden on the private sector. The NEDA Governance Staff is presently in talks with the Philippine Institute for Development Studies [PIDS] on a number of studies on governance and regulation.

In sum, there is no formal, much less requisite, regulatory management system in the country. However, the review has revealed that the elements of a formal regulatory system are present in the country. While the different elements can be further strengthened or improved, the review implies that the country is ripe for a formal regulatory management system, if the political will is there. Establishing a formal and requisite regulatory management system needs strong political support at the highest level. The key issue, therefore, is to convince the political leadership at the executive and legislative levels of government to think in unison about the timeliness of establishing a formal and requisite regulatory management system. How can this be done? In general, policy reforms do not arise from the bureaucracy, which may resist changes in its daily routine for a range of reasons. Fortunately, the NCC is working with the bureaucracy to implement necessary reforms to cut the cost of doing business. The NCC can walk the extra mile by advocating for a formal and requisite RMS. Its advocacy can be bolstered by the wide credibility and support it has with the private business sector. The NEDA and LEDAC are other institutions already in place that can be harnessed to establish a formal and requisite RMS, but again, if the political will is there.

## PART TWO: CASE STUDIES

### Case Study 1: National Competitiveness Council<sup>40</sup>

#### Introduction

Over the past decade, the Philippines has been enjoying relatively significant economic growth as Gross Domestic Product (GDP) expanded by a compound annual average growth rate (CAGR) of 5.3 percent from 2004 to 2014. This has been mainly driven by household consumption, which accounted for around 70 percent of total GDP. Considerable growth was registered during the Benigno Aquino administration with the economy growing by 7.6 percent in 2010; 6.8 percent in 2012; 7.2 percent in 2013, and 6.1 percent in 2014. Only in 2011 did the economy experience a lower growth at 3.7 percent. Growth was primarily consumption-driven but investments have recently started to be a significant growth driver.

The weak inflow of foreign direct investments is a major concern as the country struggles to boost manufacturing for higher growth and employment, and also to become an important player in regional production networks. The hollowing of Philippine manufacturing has also been a critical concern mainly because of this sector's strategic role in growing the economy and most important of all, in providing jobs to an expanding labor force. Government is recently making loud noises about a 'new industrial policy' that is supposed to oversee the revival and growth of Philippine manufacturing<sup>41</sup>. To meet this objective, the government and the private sector have joined efforts to find measures that will improve the competitiveness and productivity of firms.

That there should be concern over firm competitiveness and productivity is intuited by looking at the rank of the Philippines relative to other countries in terms of various comparative indicators. The Philippines' rank in the World Competitiveness Yearbook declined from 40<sup>th</sup> in 2005 to 42<sup>nd</sup> place in 2006. In the 2007 Global Competitiveness Report the Philippines was in 77<sup>th</sup> place among 117 countries. In other similar reports, the Philippines has ranked much lower than its ASEAN counterparts.

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<sup>40</sup> This was prepared by Gilberto M. Llanto from an initial draft by Cherry Madriaga based on secondary data and interviews with Mr. Guillermo Luz, Private Sector Co-Chairman of NCC, and Mr. Ruy Moreno, Private Sector Director for Operations of NCC. The case study benefited from the comments of Abdul Latif, Yoshiro Naohiro, Ponciano Intal, Jr., and other participants in the Second Technical Workshop on "Towards Responsive Regulations and Regulatory Coherence in ASEAN and East Asia: Deconstructing Effective and Efficient Regulatory Management Systems," Park Royal Hotel, Kuala Lumpur, Malaysia, 20-21 April 2015.

<sup>41</sup> Government and the private sector have joined hands in crafting so-called 'road maps' for particular sectors, e.g., automotive industry road map, that will provide appropriate incentives to manufacturers as well as help them meet specific regulatory requirements of various agencies.

To address the situation, the Philippine government thought of creating a National Competitiveness Council that will lead efforts at identifying specific policy and regulatory reforms to improve firm competitiveness. This case study examines the NCC from the perspective of a regulatory management system as discussed in Part One of this paper. It discusses the role of the NCC and what it has accomplished given certain limitations [e.g., its being more of a recommendatory body], its strengths and weaknesses, and how the NCC could be an important element in a putative RMS for the Philippines.

### **Mandate and Role**

Executive Order No. 571 issued on October 2006 created the Public-Private Task Force on Philippine Competitiveness, the predecessor body of the current NCC. The Task Force was expected to improve competitiveness by ensuring the proper implementation of the Action Agenda for Competitiveness through strong collaborative efforts of the public and private sectors.

The Public-Private Task Force on Philippine Competitiveness was comprised of five government secretaries [Departments of Trade and Industry, Finance, Transportation and Communication, Education, and National Economic and Development Authority] and three representatives from the business sector, the Senior Advisor on international competitiveness, one representative from an academic institution, and another one from civil society. The Task Force was chaired by the Trade and Investment Secretary with a private sector representative as co-chairperson.

The Task Force immediately targeted key reform areas, such as improving business efficiency, infrastructure, and governance, which are all deemed critical in developing a competitive environment for the Philippine business sector. From 2007 to late 2010, there were six technical working groups [TWGs] handling the following: [a] competitive human resources, [b] efficient public and private sector management, [c] efficient access to finance, [d] improved transaction cost, [d] provision of seamless infrastructure network, and [e] energy cost competitiveness and self-sufficiency. The TWGs had members from the public sector, domestic and foreign chambers of commerce and other industry associations. The rationale behind the inclusion of the private sector industry associations and the chambers was to ensure that issues or constraints common to a sector or industry are considered during deliberations of the Task Force instead of narrow vested interests or individual corporate perspectives.

A series of workshops led by the Export Development Council and the private sector guided the drafting of a competitiveness policy framework. Specific concerns of major stakeholders such as business organizations, the government, the academic community, and non-government organizations, relating to the country's competitiveness—its strengths, weaknesses, opportunities, and threats- were surfaced.

Various position papers and reports such as the Philippine Business Conference report of the Philippine Chamber of Commerce and Industry (PCCI), the Investment Climate Improvement Report of the American Chamber of Commerce, the 2006 National Manpower Summit, the National Export Congress Scorecards, and the 2006 Roadmap for Export Competitiveness of Services Sectors were also sources of information on specific issues and concerns<sup>42</sup>.

Executive Order No. 571 [series of 2006] was amended by Executive Order No. 442 [series of 2011], which formally constituted the National Competitiveness Council [NCC] with membership from the Task Force described above, and the Departments of Energy and Tourism and five more private sector representatives as additional members. The Co-Chairperson [private sector representative] has a term of two years and may be reappointed by the President of the Philippines. The current Aquino administration provided a budget amounting to Php5 million for the NCC's operations; succeeding funding will come from the annual budget of the Department of Trade and Industry [DTI]. The private sector, on the other hand, shall provide a budget for its own activities.

As operationalized, the NCC has adopted a particular institutional stance. Emphasis is placed on the private sector being the driver of growth and development while the public sector is the enabler, the body that has the capacity to create a conducive environment for private investors through market-friendly policies, regulations, and processes at the national, provincial, and municipal/city level. For continuity, the staff of the Task Force were retained. The membership of the NCC was expanded and the different working groups were strengthened. The working groups were increased to 14. Other tasks of the NCC include providing inputs and recommendations to the Philippine Development Plan, the Philippine Investments Priority Plan, and the Philippine Exports Priority Plan. It is also a primary venue where the private business sector can air their issues or concerns regarding the industry, services, and agricultural sector, and give advice to the Office of the President and the Congress on policies and regulations to improve competitiveness. Additionally, the NCC studies the competitiveness indices reported by various international organizations and analyzes where the country must improve, particularly with respect to the indicators in twelve such reports that are being closely monitored by NCC.

At this juncture, it is important to note what brought about the attempt to invigorate the NCC by adding members, expanding the number of working groups and appointing champions [government officials] and co-champions [key private sector representatives] to lead the reform efforts. Based on interviews with key NCC officials, it seems that the Task Force [predecessor of NCC] was not particularly

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<sup>42</sup> Macaranas [2011] provides a description.

effective in addressing specific constraints to doing business and in improving firm productivity and competitiveness. Despite the past administration’s establishment of a high level team, the Task Force efforts were hampered by the lack of attention and commitment to reform by the political leadership at that time<sup>43</sup>. In particular, commitment at the highest levels, namely the Cabinet Secretaries, was negligible as they had other priorities. The exception was the Policy Improvement Processes (PIPS) submitted to the Millennium Challenge Corporation, which was coordinated directly by the Executive Secretary. Thus, the new [current] administration reviewed the mandate, role and membership of the Task Force and transformed it into a formal public-private council called the NCC that has better access to the President through the DTI Secretary. A stronger emphasis on the collaboration and partnership between the public and private sectors in improving firm competitiveness was made. Government agencies cannot do it alone without private sector cooperation and collaboration.

### Working Structure

At present, there are fourteen NCC Working Groups that are assigned to work on specific policy and regulatory reforms [see **Table 2**]. Each working group has a champion [from the government] and a co-champion [from the private sector] who will lead the reform efforts.

**Table 2. NCC Working Groups**

Working Groups	Objectives
Anti-corruption	<ul style="list-style-type: none"> <li>• To be able to come up with a system of tracking cases filed with the Ombudsman</li> <li>• To improve transparency and accountability</li> </ul>
Budget Transparency	<ul style="list-style-type: none"> <li>• To streamline and automate the processing, releasing, and tracking of Internal Revenue Allotment for congressional allocation and for school-building construction projects nationwide</li> <li>• To improve transparency, equity, and accountability in budget delivery</li> </ul>
Business Permits and Licensing System (BPLS)	<ul style="list-style-type: none"> <li>• To reduce the cost of doing business by streamlining the BPLS through the adoption of one form and reduced steps, days, and signatories for new applications and business renewals resulting to a more efficient business environment both at the LGU and national levels</li> </ul>
Education and Human Resources Development	<ul style="list-style-type: none"> <li>• To develop a globally competent workforce by enhancing human resource competitiveness by integrating the industry and education sector to match the skills and knowledge of the workforce with the</li> </ul>

<sup>43</sup> According to key informants, it seems that the previous administration was not able to focus on addressing competitiveness issues because it was distracted by controversial governance issues.

	needs of the businesses providing domestic and international markets products and services
ICT Governance	<ul style="list-style-type: none"> <li>• To recommend projects or actions to the NCC for the improvement of the Philippine ranking in the Global Information Technology Report of the World Economic Forum or other ICT ranking reports of international agencies</li> <li>• To define and recommend a working framework for ICT governance in the Philippines, including the consideration for a “central authority” to more effectively coordinate and implement national ICT projects and other ICT-related initiatives</li> <li>•</li> </ul>
Infrastructure	<ul style="list-style-type: none"> <li>• To push infrastructure policies and the development of an intermodal and seamless transport infrastructure system in the country thereby reducing transport and/or travel costs.</li> </ul>
Judicial System	<ul style="list-style-type: none"> <li>• To develop and recommend/propose reforms that will improve the quality of the Philippine Judicial System</li> </ul>
National Single Window (NSW)	<ul style="list-style-type: none"> <li>• To identify strategies, activities, and steps that would facilitate the implementation of the National Single Window to increase transparency in cargo processing; provide a more accurate, timely, and cost-efficient exchange of trade information; reduce customs operational costs; streamline processing of import and export clearances and permits; and improve revenue collection</li> </ul>
Performance Governance System (PGS)	<ul style="list-style-type: none"> <li>• To come up with a strategic and performance management tool that would allow government agencies to be assessed objectively and therefore foster transparency and accountability in the different tiers of the organization</li> <li>•</li> </ul>
Philippine Business Registry (PBR)	<ul style="list-style-type: none"> <li>• To facilitate business registration-related transactions by integrating all agencies involved in business registration</li> <li>• To provide a faster process for business registration, thus strengthening the government’s effort of providing quality service to the people and realizing its commitment to curb corruption and reduce red tape in the bureaucracy</li> <li>• A web-based system that serves as a one-stop shop for entrepreneurs who need to transact with several agencies to be able to start operating a business.</li> </ul>
Philippine Services Coalition	<ul style="list-style-type: none"> <li>• To develop a clear strategic plan for the Philippine services sector and implement a strategy for promoting Philippine services in the regional and global markets</li> </ul>



Notes:

1. No information available yet for the Agri-trade Logistics and National Quality Infrastructure
2. Philippine Business Registry is a program of the DTI and has a different structure compared to the other working groups. It has no current private partner yet.
3. Power and Energy is a dormant working group since it has no private sector champion yet.

Source: National Competitiveness Council and the Philippine Business Registry

Dialogues and consultations are staple processes in the NCC and with greater interaction with the private sector, it is expected that there would be better formulated policy and regulatory reform recommendations. The key difference, it seems, is that the government is now willing to listen and respond to reform recommendations.

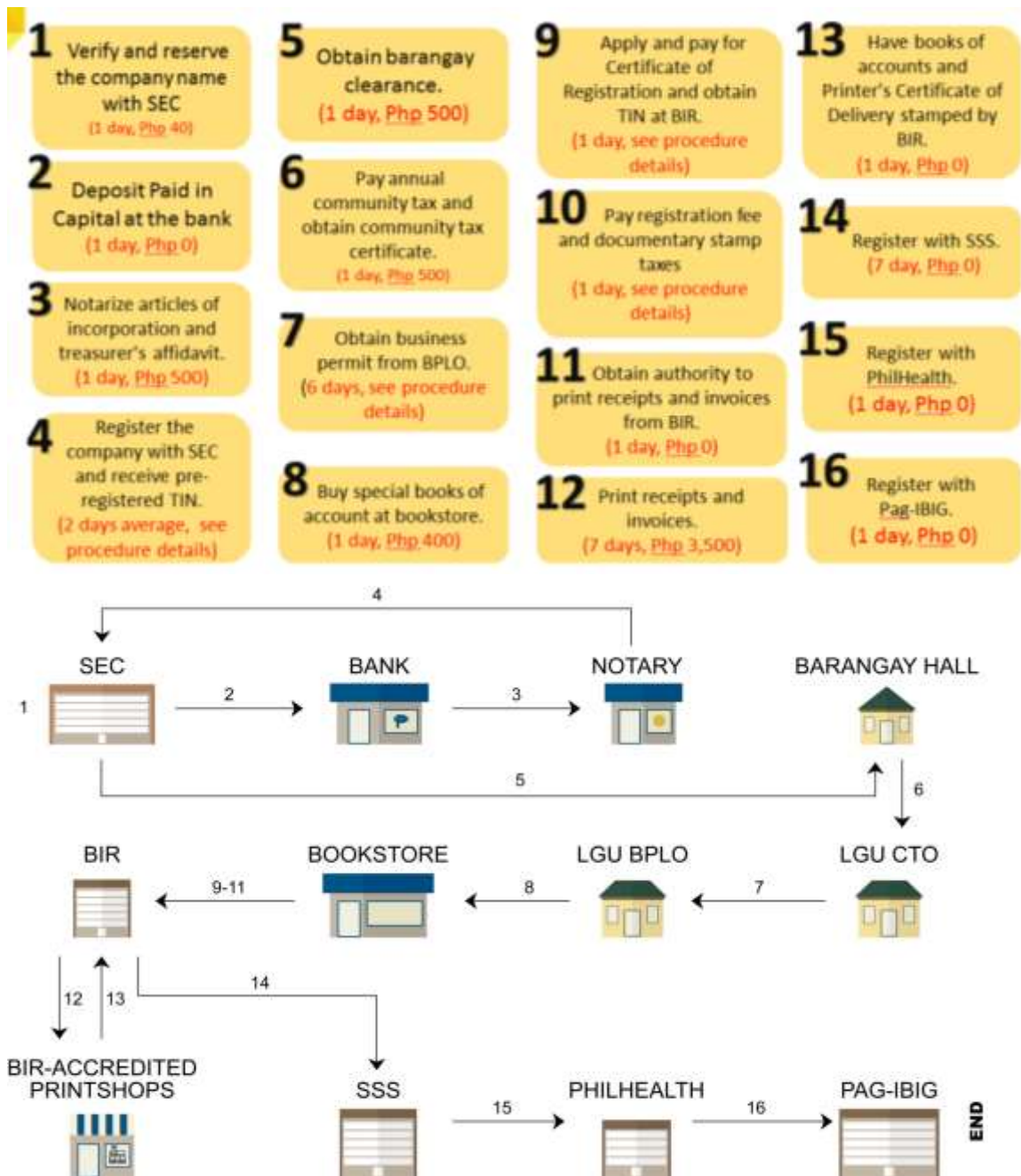
### **Additional Measures**

In the earlier years of the current administration, the Philippines ranked low in various competitiveness reports. In response, the Aquino administration issued Administrative Order No. 38, series of 2013, which created an inter-agency task force, chaired by NCC to initiate, implement and monitor Ease of Doing Business (EODB) reforms. The reforms will cover the processes identified under the Doing Business Survey, as administered by the International Finance Corporation (IFC). This survey ranks the participating countries across ten (10) indicators, namely: 1) starting a business; 2) dealing with construction permits; 3) getting electricity; 4) registering property; 5) getting credit; 6) protecting investors; 7) paying taxes; 8) trading across borders; 9) enforcing contracts; and 10) resolving insolvency. To enable the public to access and monitor the progress that different government agencies are making in simplifying business processes, the EODB Task Force created the Doing Business Dashboard.

Apart from improving the Philippine competitiveness rankings, the other major role of the EODB Task Force is to ensure the implementation of the *Game Plan for Competitiveness* which set reform targets for each concerned government agency. The *Game Plan* was crafted after comparing the country with its ASEAN counterparts in terms of the ten indicators mentioned earlier, and looking at what processes or changes have to be adopted or made to be at par with those countries. For example, in *How To Start a Business*, in Malaysia this takes six days to complete with only three steps and in Singapore with three steps and three days maximum as opposed to the Philippines' 16 steps and 34 days. To address this, the EODB Task Force studied the number of steps, time, as well as cost per transaction and the results were reported to the Economic Cluster of the Cabinet. After this, the NCC communicated with the government agencies tasked for the transactions—the DTI, SEC, SSS, BIR, PhilHealth, and Pag-Ibig, as well as the local government units. Additionally, comments and suggestions from the sectors that submit data and

information to the IFC for the Ease of Doing Business report, such as auditing firms, law firms, consultants, and government agencies, were sought on how to further streamline the process (Luz, 2013). **Figures 6 and 7** show, respectively the old and new procedures on starting a business in the country. Previously, it would take 16 steps and 34 days to start a business. With the new procedures, only 6 steps remain and the procedure can be completed within 8 days.

**Figure 6. Starting a Business: Old Procedures**



Source: National Competitiveness Council

**Figure 7. Starting a Business: New Procedures**



Source: National Competitiveness Council

AO No. 38 has the commendable feature of promoting the participation of other relevant stakeholders such as the concerned national government agencies (22), LGUs (535), business associations and chambers (150), bilateral and multilateral development agencies (15), and nongovernment organizations both local and foreign, and even individuals (Moreno, 2015) in order to have a more collaborative and effective implementation of the *Game Plan*. Moreover, Section 2 (f) of AO No. 38 mandates the EODB Task Force to monitor and evaluate the programs and policies that will be implemented in achieving competitiveness. Another initiative of the national government in this regard is the establishment of the “Contact Center ng Bayan (CCB),” which serves as the main help desk to deal with complaints and suggestions of citizens regarding regulatory processes and procedures in government agencies. It also serves as a means for citizens to access information. The Contact Center ng Bayan as a feedback mechanism is an essential tool to assure that government frontline services are indeed facilitative and efficient.

## Some Positive Results

Table 3 shows some of the significant business reforms undertaken by the EODB Task Force in raising the Philippine competitiveness rankings. The table also reports reform issues requiring immediate attention.

**Table 3. Progress in Business Reforms in Philippines, DB Report 2008 to 2015**

Doing Business Report	Indicator	Reform
DB 2015	Trading Across Borders	Truck ban in Manila created logjam in the ports <b>[immediate reform issue requiring action]</b>
DB 2014	Dealing with Construction permits	Eliminated the requirement to obtain a health certificate
	Getting Credit	Improved access to credit information by beginning to distribute both positive and negative information and by enacting a data privacy act that guarantees borrowers' right to access their data
	Paying Taxes	Introduced an electronic filing and payment system for social security contributions
DB 2012	Resolving Insolvency	Adopted a new insolvency law that provides a legal framework for liquidation and reorganization of financially distressed companies
DB 2011	Starting a Business	Eased business startup by setting up a one-stop shop at the municipal level
	Dealing with Construction Permits*	Made construction permitting more cumbersome through updated electricity connection costs <b>[immediate reform issue]</b>
	Trading Across Borders	Reduced the time and cost to trade by improving customs systems, adding such functions as electronic payments and online submission of declarations
DB 2010	Getting Credit	Improved access to credit information through a new act regulating the operations and services of a credit information system
	Paying Taxes	Made paying taxes less costly for companies by reducing the corporate income tax rate
	Resolving Insolvency	Enhanced the insolvency process by promoting reorganization procedures through the introduction of prepackaged reorganizations and by establishing qualification requirements for receivers
DB 2009	Trading Across Borders	Reduced the time for importing by upgrading the risk-based inspection and electronic data interchange systems

<b>DB 2008</b>	Starting a Business	Made starting a business more difficult by increasing the paid-in minimum capital requirement
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\* Policy reforms / changes which made it more cumbersome to do business in the Philippines  
Source: World Bank (2014); the reform issues requiring immediate attention [Author's]

As seen in seven out of 12 reports, from 2011 to 2014, the country's ranking has considerably improved [World Economic Forum Global Competitiveness Report (+33), Global Enabling Trade Report (+28), World Bank-International Finance Corporation Doing Business Report (+53), Transparency International Corruption Perceptions Index (+49), and the Heritage Foundation Economic Freedom Index (+26)]. The country has moved up in rank in these reports because of effective coordination and action from the sectors involved [Table 4]. Meanwhile, challenges in infrastructure, education, research and development, and disaster response have remained (Luz, 2014).

**Table 4. Philippines' Rank in Global Competitiveness Report Card**

	2011	2012	2013	2014
<b>WEF Global Competitiveness Index<sup>a</sup></b>	75/142	65/144	59/148	52/144
<b>IFC Ease of Doing Business<sup>b</sup></b>	134/183	136/183	138/185	108/189
<b>IMD World Competitiveness Report<sup>c</sup></b>	41/59	43/59	38/60	42/60
<b>TI Corruption Perception Index<sup>d</sup></b>	94/177	105/176	129/183	
<b>Economic Freedom Index<sup>e</sup></b>	115/179	107/179	97/177	89/178
<b>Global Information Technology<sup>a</sup> Report</b>	86/138	86/142	86/144	78/148
<b>Travel and Tourism Report<sup>a</sup></b>	94/139	n/a	82/140	
<b>Global Innovation Index<sup>f</sup></b>	91/125	95/141	90/142	100/143
<b>Logistics Performance Index<sup>g</sup></b>	n/a	52/155	n/a	57/160
<b>Fragile States Index<sup>h</sup></b>	50/177	56/177	59/178	52/178
<b>Global Enabling Trade Index<sup>a</sup></b>	n/a	72/132	n/a	64/138
<b>Global Gender Gap Report<sup>a</sup></b>	8/135	8/135	5/136	

Sources:

<sup>a</sup> World Economic Forum

<sup>b</sup> International Finance Corporation

<sup>c</sup> Institutional Institute for Management Development

<sup>d</sup> Transparency International

<sup>e</sup> Heritage Foundation

<sup>f</sup> World Intellectual Property Organization

<sup>g</sup> World Bank

<sup>h</sup> Fund for Peace

According to the NCC, the improvement in rankings can be attributed to improvements in the following business processes: 1) resolving insolvency, 2) getting electricity, 3) registering property, 4) starting a business, and 5) paying taxes. These improvements were mostly in line with efficiency-related

measures although there were also some which are geared toward improving the quality of service being provided to the stakeholders (NCC 2014b). The projects and accomplishments of the NCC working groups as of 2014 are summarized in **Table 5**.

**Table 5. Working Group Projects**

Working Groups	Projects/Accomplishments with other NGAs	Description
Anti-Corruption	<ul style="list-style-type: none"> <li>• Annual Enterprise Survey on Corruption (with Social Weather Station)</li> <li>• Bantay.ph</li> <li>• Contact Center ng Bayan</li> <li>• Integrity Initiative</li> </ul>	<ul style="list-style-type: none"> <li>• Survey measures perception and experience of corruption in the bureaucracy</li> <li>• Offers information on how the Anti-Red Tape Act can help fight corruption</li> <li>• A help desk through which citizens and organizations can send their complaints and concerns on government services</li> <li>• Aims to encourage companies and organizations to sign an integrity pledge to abide by ethical business practices and support a national campaign against corruption</li> </ul>
Budget Transparency	<ul style="list-style-type: none"> <li>• Electronic Transparency Accountability Initiatives for Lump Sum Appropriations System (eTAILS)</li> <li>• Document Management System</li> </ul>	<ul style="list-style-type: none"> <li>• web-based application designed to streamline and automate the processing, releasing, and tracking of lump-sum funds which comprise 20% of the total national government budget</li> <li>• logs requests, keeps track of and manages action documents, and prevents unnecessary delays in fund releases. It allows the tracking of the requests for notice of cash allocation (NCA) from the government agencies to the actual release of the NCA</li> </ul>

	<ul style="list-style-type: none"> <li>• Budget ng Bayan</li> <li>• Cashless Purchase Card System</li> <li>• Kabantay ng Bayan</li> </ul>	<ul style="list-style-type: none"> <li>• provides information on the National Budget and lets people provide feedback through the Citizen’s Portal</li> <li>• Does away with petty cash advances and payments in procurement, with details of each transaction recorded in real-time and on a web-based platform</li> <li>• In support of Open Data Philippines, the NCC contributed to the conduct of the Kabantay ng Bayan Hackathon, a competition to develop innovative mobile or web-based applications to strengthen budget transparency practices</li> </ul>
<p>Business Permits and Licensing System (BPLS)</p>	<ul style="list-style-type: none"> <li>• Streamlining BPLS Program</li> <li>• BPLS Customer Experience Survey</li> <li>• BPLS Monitoring and Evaluation/Validation Project</li> </ul>	<ul style="list-style-type: none"> <li>• The Local Government Academy trains local government units to streamline processes for business registration using the standards prescribed by the DILG and the DTI in JMC No. 01, series of 2010. As of the second quarter of 2014, 1,221 out of 1,634 LGUs in the Philippines have already completed streamlining</li> <li>• Measures the experience and satisfaction level of businessmen with the process of renewing their mayor’s permit</li> <li>• To check if LGUs that reported to have completed</li> </ul>

		streamlining have actually done so
Education and Human Resources Development	<ul style="list-style-type: none"> <li>• Labor-Market Intelligence</li> <li>• K-12 Implementation</li> <li>• Industry-Academe Linkage</li> <li>• Technical-Vocational</li> <li>• Reintegration of Filipino Overseas into Philippine Society</li> <li>• Benchmarking and compliance to International Accords/Mutual Recognition Agreements</li> </ul>	
Infrastructure	<ul style="list-style-type: none"> <li>• Addressing the issues affecting the competitiveness of the Philippine Aviation Industry</li> <li>• Common Carriers Tax (CCT) and Gross Philippine Billings imposed on foreign carriers</li> <li>• CIQ Overtime Fees on Government Account</li> <li>• Decongestion of Manila Ports</li> <li>• Implement Masterplans for Luzon logistics corridor and the ASEAN RoRo Network</li> </ul>	
Performance Governance System (PGS)	<ul style="list-style-type: none"> <li>• Performance Governance System</li> <li>• Public Governance Forum</li> </ul>	<ul style="list-style-type: none"> <li>• Local adaptation of the Balanced Scorecard which tracks performance using critical measures to ensure organizational reform. The PGS allows for multi-sector participation in translating the institutional vision into executable strategies and realizable initiatives</li> <li>• Provides a venue for public and private institutions to present their scorecards before a multi-sector panel composed of senior business and government executives,</li> </ul>



	as well as NGO representatives who are tasked to evaluate performance and provide recommendations.
<ul style="list-style-type: none"> <li>• Islands of Good Governance</li> </ul>	<ul style="list-style-type: none"> <li>• This initiative seeks to showcase breakthrough performance results of both public and private institutions. The results will be certified by external auditors and will be presented during the 2015 Asia Pacific Economic Cooperation (APEC) in the Philippines</li> </ul>

Notes:

1. No information available yet for the other Working Groups  
Source: National Competitiveness Council

**Future Plans**

The NCC, through the National Quality Infrastructure Working Group, is also pushing for a National Quality Law, the final draft of which has already been submitted to Congress on November 2014 for legislative action. The proposed law will require compliance to international technical requirements like standardization, metrology, testing, quality management, certification, and accreditation to ensure more competitive products and services, to guarantee the safety, health, and protection of consumers and to safeguard the environment. This would apply to all goods and services, including the production process, marketing, and distribution<sup>44</sup>.

In 2015, the NCC aims to establish additional working groups to tackle other specific problems that hamper the country’s development such as those relating to Science and Technology research and development and disaster response. In addition, the NCC will encourage more LGUs to participate in its

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44 The Working Group is headed by National Economic and Development Authority Deputy Director General Emmanuel Esguerra and Food and Drug Administration Acting Director General Dr. Kenneth Hartigan Go with members including the Bureau of Product Standards (BPS) and Philippine Accreditation Bureau (PAB) of DTI, National Metrology Laboratory (NML), Department of Public Works and Highway (DPWH), Philippine Exporters Confederation, Inc. (PHILEXPORT), Philippine Chamber of Commerce and Industry (PCCI), Federation of Philippine Industries (FPI), Philippine Metrology, Standards, Testing and Quality (PhilMSTQ), and National Association of Consumers Inc. (NACI). (NCC, 2014<sup>c</sup>)

Cities and Municipalities Competitiveness Index (CMCI). For the 2013 round, the index covered 285 LGUs, comprising 122 cities and 163 municipalities. In 2014, this increased to 535 LGUs with 136 cities and 399 municipalities and for 2015 the goal is to increase coverage to more than 1,000 cities and municipalities. The Cities and Municipalities Competitiveness Index was launched in 2014 in cooperation with USAID Project INVEST and the 15 Regional Competitiveness Committees (RCC), which were created in 2012 and whose initial task is to design the index and collect and analyze data, looking at a specific set of indicators. Participating cities and municipalities were ranked in terms of economic dynamism, infrastructure, and ease of doing business. According to the NCC, the index would assist businessmen and investors in deciding where to set-up their businesses. (NCC, 2014<sup>d</sup>). The results and information gathered by the RCCs were referred back to the local, provincial, and other national government agencies for proper action. Other roles of the RCCs is to formulate programs to improve competitiveness, address the particular needs of the region, provide technical assistance, and undertake investment promotion activities to encourage the entry of investors.

Another project lined in 2015 is the implementation of Project Repeal. The aim of this project is to revoke laws and regulations that increase the cost of doing business in the country and hinder competitiveness. This would eliminate onerous procedures that strain efficiency, lower the cost of doing business, reduce bureaucracy in the system, and get rid of red tape, among others. As of present, NCC is still gathering information on what laws to repeal and once these have been identified, the NCC will establish a structure that will work on the repeal of those laws. The goal is to work with Congress in repealing such laws and regulations and establish a structure to oversee the process by 2016. (Remo, 2015).

### **An Assessment**

The experience of the NCC in policy and regulatory reforms brought about 11 important lessons on achieving competitiveness<sup>45</sup>:

- 1. Transparency leads to competitiveness.** In 2010 and 2011, public infrastructure spending went down as the new administration wanted to review all infrastructure projects and procurement procedures. Public infrastructure spending picked up in the subsequent periods under better governance and some control over corruption. Investor confidence rose in response to better governance and transparency.

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<sup>45</sup> Interview with NCC.

2. **Work in progress is not good enough.** In competitiveness, the country is only ranked and scored when the job is completed and implemented.
3. **It's all about execution and delivery.** In competitiveness rankings all reforms must be in by June 1 for IFC and World Bank. Game plans and strategies are built along that deadline.
4. **Teamwork is important. Avoid silos.** Not one government agency can solve interconnected problems. Coordination and commitment to reform are crucial.
5. **Focus on multiple fronts and not just one single variable.** There is no single bullet, single solution to complex problems. Coordination is important to deal with multiple, complex issues.
6. **The competition never sleeps.** For instance, Singapore, one of the highest-ranking countries in the world is always on a continuous improvement program.
7. **The bar always rises.** A competitive world raises the bar all the time, and the country should be ready for it.
8. **Speed-to-reform should be the new mantra.** Action plans more than feasibility studies.
9. **Maintain momentum.** The Philippines cannot afford to slow down the pace of reform. IN fact, it should accelerate the reform process.
10. **Embed and institutionalize change.** Executive orders, legislations, laws are necessary for institutionalization. But more important are actual practice, reform mindset and culture of the country.
11. **Public-private collaboration is important and effective.** The public and private sector have their respective strengths and it is important to harness these for regulatory reform.

It is apparent that the government is highly committed to raise the level and quality of firm competitiveness in the country. It seems that some policy and regulatory reform efforts have started to bear fruit as the country has continuously improved its ranking in various indicators, e.g., Ease of Doing Business.

As mentioned in the Part I of this study, the Philippines does not have a regulatory management system *per se* but it has the basic elements of a regulatory management system. It has established certain institutions such as NCC that could be an important element in a requisite regulatory management system. The NCC with strong political support is becoming an important venue for fostering reform efforts. The NCC has significantly contributed to improving the overall business climate in the country as chair of the EODB Task Force. It has been active in advocacy but unfortunately it does not have sanction powers and

cannot impose regulatory reforms. It is not a regulatory institution and neither does it have oversight responsibilities on the regulatory reform process.

The case study reports the processes undertaken by NCC in regulatory reform, e.g., dialogues, consultations, working groups, construction of competitiveness index and others. It has done this through better public-private sector collaboration that solicits support to its advocacy efforts from concerned government agencies and affected businesses. Participation by stakeholders [those represented in the working groups] and a feedback mechanism on the reform efforts are important elements of the regulatory reform process in the country.

It can benefit from using more systematic and empirical approaches such as regulatory impact analysis [RIA] in identifying rules and regulations to be subjected to a ‘regulatory guillotine<sup>46</sup>.’ The RIA is an important tool in a requisite regulatory management system as indicated in the experience of Malaysia and other countries that have incorporated it in their respective regulatory reform process. **Table 6** presents the relative significance of the elements of the RMS as seen in the case of the NCC.

**Table 6. Elements Table, Case of the National Competitiveness Council**

	National RMS tool	Impact- significance – Very = high significance Significant = medium Not very = low significance None = no significance	Remarks
<b>Policy Cycle Elements</b>			
Big policy	Consultations and pressure from business groups to reform	<u>Significant</u>	<ul style="list-style-type: none"> <li>Creation of the National Competitiveness Council to stimulate the country’s competitiveness through a public-private partnership approach that shall encourage or facilitate investments leading to more employment and livelihood opportunities helping in encouraging inclusive growth and</li> </ul>

<sup>46</sup> TM by Jacobs and Associates.

			addressing poverty reduction.
Little & legal policy	Dialogues with business groups, and government agencies	<u>Very Significant</u>	<ul style="list-style-type: none"> <li>• The amendment of EO 571 through EO 44 formed a stronger National Competitiveness Council; issuance of AO 38 on EODB Task Force</li> <li>• Expansion of membership to include the Department of Energy and Department of Tourism</li> </ul>
Decision making support	Access to the President by the DTI Secretary	Significant	<ul style="list-style-type: none"> <li>• President Aquino issued EO 44, mandating the different national government agencies to be co-heads of the working groups</li> </ul>
Change implementation	None	<u>Not Very Significant</u>	<ul style="list-style-type: none"> <li>• No change management plans in place</li> <li>• There was continuity between the previous Task Force and the current NCC</li> <li>• The framework is basically the same though the approach is now more focused, hands-on, and proactive on the part of both the public and private sectors</li> </ul>
Administration & enforcement	None	<u>Not very significant</u>	<ul style="list-style-type: none"> <li>• Despite results, Philippines still rank relatively lower than counterparts;</li> <li>• Enforcement is the main issue.</li> </ul>
Monitoring & review	None	<u>Not Very Significant</u>	<ul style="list-style-type: none"> <li>• Monitoring needs improvement; Impact evaluation still to be done</li> </ul>

			<ul style="list-style-type: none"> <li>The success of NCC may be gauged through the improved rankings in the 12 global reports being tracked by NCC and by the Department of Budget and Management including NCC projects as part of the key performance indicators in the public sector</li> </ul>
<b>Supporting Policy Practices</b>			
Consultation communication & engagement	Dialogues, workshops, Consultations	<u>Significant</u>	<ul style="list-style-type: none"> <li>Both the public and private sector are invited to consultations and workshops with both sectors actively engaged in the discussions</li> <li>There are two chairmen in NCC, one from the government, the DTI, and the other from the private sector</li> <li>Same goes for the Working Groups, there are public and private sector representatives, foreign and local chambers of commerce, and industry associations</li> </ul>
Learning	Analysis of indicators by NCC	<u>Significant</u>	<ul style="list-style-type: none"> <li>Data gathering, especially regarding regional competitiveness has started</li> <li>Efficiency and effectiveness is addressed by looking at the indicators where the country is getting better or where it is lagging</li> </ul>

Accountability & transparency	Establishment of web site; various media [means of communications] are used to inform the public and stakeholders	<u>Significant</u>	<ul style="list-style-type: none"> <li>Website was setup where most reports and projects are uploaded; <a href="http://www.competitive.org.ph">www.competitive.org.ph</a></li> <li>Open Data</li> </ul>
<b>Supporting Institutions</b>			
Regulatory policy principles	Executive Orders	<u>Significant</u>	<ul style="list-style-type: none"> <li>Necessary executive orders were issued</li> </ul>
Lead institutions	DTI, NCC	<u>Significant</u>	<ul style="list-style-type: none"> <li>NCC is co-chaired by the DTI</li> </ul>
Coordinating institutions & training providers	NCC	<u>Significant</u>	<ul style="list-style-type: none"> <li>Working Groups are co-headed by private sector and national government agencies</li> </ul>

Source: Author's assessment

**Moving Forward**

This case study highlighted the processes undertaken by NCC in pursuing regulatory reforms that have produced results in terms of improving the rank of the country in various global indices, e.g., Ease of Doing Business. Dialogues, consultations, working groups, and analysis of various global competitiveness indices are all done under strong collaboration and advocacy efforts of both the public and private sectors. The participation by stakeholders through working groups and a feedback mechanism on the reform efforts are important elements of the regulatory reform process in the country. As earlier stated, the country does not have a formal RMS but it has the elements of a good RMS that are waiting to be coordinated and put together into some coherent institutional framework. NCC could be an important element of a formal RMS. A good RMS will need a transparent deliberative process that NCC has started and continue to do under a putative formal RMS.

It is clear that NCC could not have achieved its reform objectives without strong political support from the highest political leadership in the country. Political will and the willingness of concerned agencies, in this case, DTI to work for regulatory reforms in collaboration with stakeholders matter a lot. The critical role of the private sector, civil society and media in pushing for regulatory reforms cannot be overemphasized.

To buttress a formal RMS, there is a need for more systematic and empirical approaches such as RIA and formal notices such as regulatory impact statement [RIS] to inform the public and various stakeholders of an ex-ante assessment of the effects of regulation. This brings out the importance of

doing calculations on the savings and avoidable costs realized through regulatory reforms, in short, the importance of producing evidence of the efficacy of such reforms. During the post-reform period, ex-post impact assessments should be done to equip policy makers with the information about what needs to be done on the reform measure under scrutiny.

### **Case Study 2: Quezon City Business Permit and Licensing System<sup>47</sup>**

The 1991 Local Government Code conferred local autonomy to local governments and decentralized local service delivery. It assigned greater taxing, spending and borrowing powers to local governments, and entitled local governments to receive 40 percent of national government tax revenue as annual fiscal transfer [called the Internal Revenue Allotment]. Local governments take responsibility for local development expenditures and for creating a local environment conducive to investment and creation of businesses in their areas of jurisdiction. Local governments regulate local business activities through various permits and licenses that they grant to local businesses.

This is a case study of the Quezon City local government's effort to reduce cost of doing business in the city. The Department of Trade and Industry maintains that there is a positive relationship between streamlined business registration and licensing system and the flow of investments into the city (DTI, 2006). Hence, Quezon City local government's goal for a simplified business permit and licensing system [BPLS] is the creation and registration of more local businesses, which will spur employment and contribute to local revenue growth. A simplified BPLS is also expected to encourage informal businesses, mostly microenterprises and small enterprises, to register and operate in the formal economy.

In 2006, the Department of Trade and Industry (DTI) through the Bureau of Small and Medium Enterprise Development (BSMED) in cooperation with the German Technical Cooperation—Small and Medium Enterprise Development for Sustainable Employment Program (GTZ-SMEDSEP) and the Asia Foundation (TAF), commissioned the Development Academy of the Philippines (DAP), to conduct a study on the good practices in streamlining business registration in local government units [LGUs]. DAP assessed the situation of 16 LGUs using the following key performance indicators:

- Number of businesses that applied/renewed application for a business permit;
- Time allotted to secure a business permit;

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<sup>47</sup> This was prepared by Gilberto M. Llanto with the help of Cherry Madriaga who did the initial draft based on interviews with Garry Domingo, the chief of the Business Process and Licensing Office, and Ruy Moreno and Faisah dela Rosa, BPLS National Competitiveness Council. The author would like to thank the following for comments on this case study: Abdul Latif, Yoshiro Napiro, Ponciano Intal, Jr., and participants in the Second Technical Workshop on "Towards Responsive Regulations and Regulatory Coherence in ASEAN and East Asia: Deconstructing Effective and Efficient Regulatory Management Systems," Park Royal Hotel, Kuala Lumpur, Malaysia, 20-21 April 2015.



- Number of steps (including signatures) required to secure a business permit;
- Number of documentary requirements; and
- Revenue generated from business registration

The DAP report identified the following six good practice categories of a Business Permits and Licensing System:

1. Process improvement
2. Business one stop shop
3. Computerization
4. Partnership and participation
5. Information, education, and communication
6. Customer satisfaction

**Table 7** shows Quezon City local government’s good practices in streamlining business registration. Reducing the number of steps, signatures, and requirements in obtaining a business permit is not something new to the city. It is noted that the goal of improving business registration was espoused by the City Mayor in the period 2001 to 2010 by issuing various executive orders such as Executive Order No. 12, which reduced the processing time for securing business permit, and Executive Order No. 30, which expedited the procedures in renewing the business or mayor’s permit.

**Table 7. Good Practices in Streamlining Business Registration in LGUs**

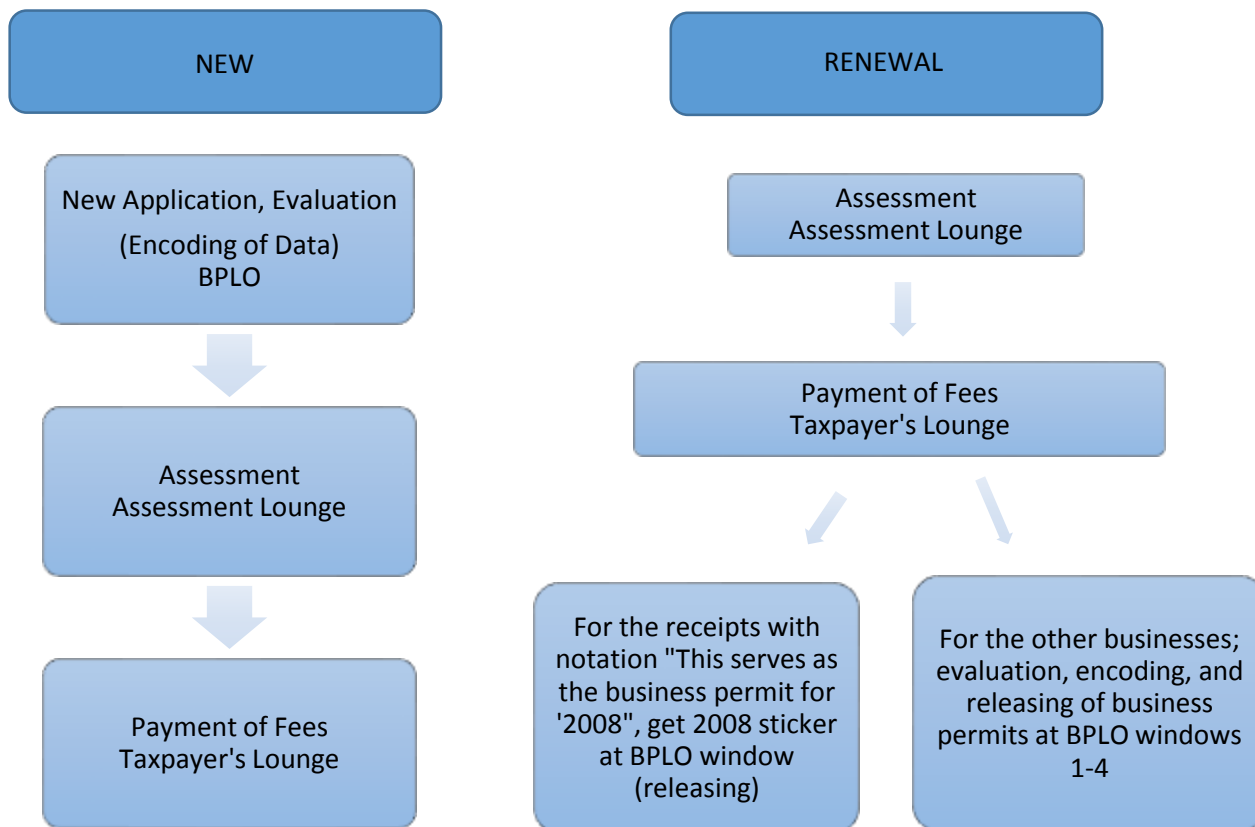
Island Group	LGUs	Good Practice in Streamlining Business Registration					
		Process	BOSS	Computerization	Partnership and Participation	IEC	Customer Satisfaction
Luzon	Cabuyao, Laguna		X	X		X	
	La Trinidad, Benguet	X	X	X			X
	Marikina City	X	X	X		X	X
	Muntinlupa City	X	X	X	X	X	X
	Naga City	X	X	X	X	X	X
	Quezon City	X	X	X	X	X	X
Visayas	Bacolod City	X	X	X	X	X	X
	Iloilo City	X			X		
	Kalibo, Aklan	X	X		X	X	X
	Ormoc City	X	X	X	X	X	X
Mindanao	General Santos City	X	X	X	X	X	X
	Iligan City	X	X	X	X	X	X
	Ozamiz City	X	X	X	X	X	X

Surigao City	X	X	X	X	X	X
Malaybalay City	X	X			X	X
Zamboanga City	X	X	X		X	X

Source: Department of Trade and Industry's Streamlining Business Registration in LGUs (2006)

The old and new procedures in securing a business permit are shown in **Figure 8**.

**Figure 8. Flow Chart for the Application for New / Renewal of Business**



The second good practice of Quezon City local government listed in **Table 7** is the Business One Stop Shop (BOSS). Executive Order No. 16 issued in November 2009 simplified the business registration procedure especially for new applicants, whether sole proprietorships, partnerships, and corporations, in accordance with the Local Government Code, from 12 steps to only three (3), as shown in **Table 8**.

**Table 8. Old versus New Procedure, Applying for a Business Permit<sup>48</sup>**

For minimally regulated (low risk) business category	Old Process	New Process
No. of steps (excluding national requirements)	12	3
Average time to receive the Mayor's Permit	minimum of 18 days	Within 24 hours - for low risk, without inspection type of business 9 days – for low risk, with inspection type of business
No. of forms for applicant to fill up	8	1
No. of visits to secure permit	8	1 (in BPLO)
No. of offices to follow-up	6	1 (BPLO, SB Representative)
No. of face-to-face interaction between applicant and city employees	minimum of 18	7

Source: Quezon City website, Business One Stop Shop (BOSS)

<sup>48</sup> Minimally regulated (low-risk) businesses include:

- Accounting services
- Administrative offices
- Building and building maintenance
- Carinderia
- Consultancy firms
- Deep well drilling offices
- Engineering services
- General building contractors
- General engineering offices
- Graphic arts design firms
- Installation of wall coverings
- Landscaping
- Liaison offices
- Management consultancy
- Marketing consultancy
- Merchandise brokerage
- Messenger services
- Non-life insurance agencies
- Plumbing installation services
- Real estate brokers
- Real estate developers
- Retailers
- Retail peddlers
- Sari-sari stores
- Watch repair shop

The Department of Trade and Industry [DTI] and the Department of the Interior and Local Government [DILG] issued Joint Memorandum Circular [JMC] No. 01, series of 2010 to provide the standards in streamlining the business permits and licensing system. The DTI and the DILG jointly administer the Nationwide Streamlining of the Business Permits and Licensing System (BPLS) to address the cumbersome process of acquiring business permits and licenses from local governments across the country. The Joint Memorandum Circular was addressed to the regional directors of DILG, DTI, the Bureau of Fire Protection, and members of the Sangguniang Panglungsod, and the Sangguniang Bayan [local government councils]. The streamlining program enjoined major cities and municipalities to follow service standards in processing applications for new business registration and renewal of the same. It prescribed a unified application form, reduced the number of steps, processing time, and number of signatories required for business applications. According to the JMC, the processing time for business permit application must be at most 10 days for new applications and five (5) days for renewals. Additionally, the process must not exceed five (5) steps and the signatories should be reduced to five (5) or less.

Quezon City local government complied with the requirements of JMC No. 01 and also established a Business One Stop Shop [BOSS]. Depending on its corporate organizational form, a business firm has first to register either with the Department of Trade and Industry, the Securities and Exchange Commission or the Cooperative Development Agency (CDA) before registering with a local government. The BOSS in Quezon City local government has reduced the transaction costs of business registrants. See **Table 9** for the simplified business registration procedure in Quezon City. In 2011, further streamlining of the procedure was done through Executive Order No. 17.

**Table 9. Simplified Business Registration Process for New Business**

Main Activity	Detailed Steps
1. Applicant visits Business One Stop Shop [BOSS]	<ul style="list-style-type: none"> <li>• An employee from the BPLO, (the “SBRP Representative” or “SB Rep”, informs applicants of the following               <ul style="list-style-type: none"> <li>○ Process flow</li> <li>○ Documents needed</li> </ul> </li> <li>• SB Rep assists/interviews the applicant in filling up the unified new business application form/SB e-form in the computer</li> <li>• SB Rep checks/verifies information in the completed form with the applicant</li> </ul>

	<ul style="list-style-type: none"> <li>• Applicant confirms the completeness, accuracy, and truthfulness of the information declared</li> <li>• SB Rep presents applicant actual amount of taxes and fees due</li> <li>• SB Rep asks applicant if he/she will pay today</li> <li>• If yes, prints application form and gives to the applicant</li> <li>• Applicant signs the forms and proceeds to step two (2)</li> <li>• SB Rep informs applicant when he/she will get license plate and registration document but not more than nine (9) days from payment of the relevant taxes and fees (to be delivered by courier or registered mail)</li> </ul>
<p>2. Applicant moves to the payment counter within the BOSS to pay</p>	<ul style="list-style-type: none"> <li>• Applicant pays total taxes and fees to assigned/detailed City Treasurer’s Office collector and gets official receipt</li> <li>• Applicant returns to SB Rep who notes the OR number for recording</li> <li>• For low risk establishments, business permits can be obtained already after showing proof of payment</li> </ul>
<p>3. Applicant receives license plate and registration document</p>	<ul style="list-style-type: none"> <li>• Regulatory departments, offices, or units conduct inspection within the prescribed time</li> <li>• Private delivery service delivers license plate and documents to applicant</li> </ul>

Source: Executive Order No. 16, Series of 2009

Computerization is one of the most notable intervention made to streamline transactions in Quezon City. This has allowed businesses to do off-site transactions. Instead of going to the Quezon City hall to transact, local enterprises may transact in any of five branches established in strategic spots in the city, namely Cubao, Galas, La Loma, Novaliches and Talipapa, which are conveniently linked to the main server in city hall. This has lessened fraud and corruption in the business registration process. A database of local businesses has also been created in cooperation with the Quezon City Chamber of Commerce and Industry (QCCCI) and the QCCCI Foundation. This is instrumental in creating a strong partnership between the local government and the private sector.

In 2010, Quezon City was selected by the Philippine government and the World Bank-International Finance Corporation (WB-IFC) as the benchmark city in the country in the Ease of Doing Business report. It had the highest number of business registrations in the country. According to the 2011 Doing Business Report of the WB-IFC, Quezon City ranked very low relative to 25 other cities worldwide in terms of obtaining construction permits [rank: 22<sup>nd</sup>] and registering a property [rank: 17<sup>th</sup>]. Enterprises wanting to locate in the city had to secure numerous clearances such as mayor's permit, construction permit, occupation permit, and health permit, among others. Given this, the city ranked 12<sup>th</sup> overall in the ease of doing business.

The city government decided to do something with the low ranking. In coordination with the IFC and the National Competitiveness Council (NCC), it introduced changes in the acquisition of business permits through Executive Order No. 17, series of 2011. This essentially reduced the processes and requirements for the application of construction permits by about 50 percent and the number of steps from 78 to 14 procedures through the utilization of a computer-based monitoring system. The NCC acted as the private sector representative during the consultations on improving the BPLS and recommending regulatory reforms in the city government. The Quezon City local government and NCC worked with the national government agencies, e.g., Bureau of Internal Revenue on eliminating or merging certain steps in the business permit and licensing system. A Task Force on Ease of Doing Business was established to work on the necessary reforms. The city government's BOSS was also strengthened, which saw new business registrations increase by 32 percent. It is well to note that there was no private sector opposition to the local regulatory reforms. The NCC took the role of private sector representative in the consultations, which resulted in a more business friendly business permit and licensing system in the city.

There were originally nine (9) requirements for obtaining a business permit. Executive Order No. 17 trimmed this down to four (4) to streamline the procedure and limit face-to-face contact between applicant and local government staff to reduce opportunities for bribery and corruption. With the change in procedure, an applicant is able to secure the required permit to conduct business within an hour of his/her application. **Table 10** lists the requirements for new business and renewal of business permit. The requirements include those mandated by national government agencies such as the building permits, sanitary permits, fire safety permits, Social Security System registration, contribution to the state-owned housing fund [PAG-IBIG], and registration with the Bureau of Internal Revenue.

Other required permits are not immediately necessary for the issuance of a business permit. However, the business permit that has been granted will be revoked if the business does not comply with the other requirements within a specific number of days. The goal of the local government is to make it

easier for applicants to obtain a permit and it has taken steps to achieve this. However, the national government also requires certain permits, e.g., fire permit to satisfy the National Building Code, and sometimes obtaining those nationally imposed permits could be problematic especially for small businesses.

**Table 10. Requirements for New Business and Renewal of Business Permit**

Requirements for New Business	Requirements for Renewal of Business Permit (2015)
<ol style="list-style-type: none"> <li>1. Barangay Clearance (original)</li> <li>2. DTI for single proprietor or SEC for corporation (original and photocopy)</li> <li>3. Title or Tax Declaration if owned or Contract of Lease if rented and Lessor's Permit (photocopy)</li> <li>4. Locational Clearance (photocopy)</li> </ol> <ul style="list-style-type: none"> <li>• Authorization Letter and ID if representative (original and photocopy)</li> <li>• Other documents as required per nature of business (photocopy)</li> </ul>	<ol style="list-style-type: none"> <li>1. Business Permit 2014 (original)</li> <li>2. Barangay Clearance (original)</li> <li>3. Fire Safety Inspection Certificate (original and photocopy)</li> <li>4. Locational Clearance (original and photocopy)</li> </ol> <ul style="list-style-type: none"> <li>• Other requirements as required per nature of business (original and photocopy)</li> </ul>

To help improve the BPLS process, the NCC monitors the reports coming from the BPLS Field Monitoring and Evaluation Survey. The NCC helps the Quezon City local government to continuously improve the business permitting process and to develop a database of local businesses that will enable the city government to further enhance the business climate in the city. The NCC, along with the private sector, also acts as a mediator between government agencies, both national and local. The NCC also recommends improvements on business-related processes based on international standards to improve the ranking of Quezon City relative to other benchmark cities abroad.

Another innovation in businesses processes done by the city was to link up with the DTI's Philippine Business Registry in 2012. Quezon City local government was the first local government to be connected to the PBR, which allows new applicants to list their businesses and acquire business permits in a faster and more convenient matter, from two weeks to a mere 30 minutes. This has been made possible by linking the registration processes of six national government agencies, specifically, DTI, SEC,

BIR, the Home Mutual Development Fund (PAG-IBIG), the Philippine Health and Insurance Corporation (PhilHealth), and Social Security System (SSS).

Quezon City local government has long recognized the need to reduce cost of doing business in the city in order to attract new businesses, support existing businesses and encourage the registration of thousands of informal businesses in the city. Through a series of executive orders, the establishment of a one stop shop business center, and the link to the Philippine Business Registry, the city government has reduced the number of steps and requirements for business permits and licensing, and thus, a big regulatory burden on business firms. This has been made possible by the excellent cooperation between the city chief executive [mayor] and the local legislative council to work toward simplifying the BPLS.

In this regard, **Table 11** rates the different elements of the regulatory policy cycle according to their significance or lack of significance in influencing the overall outcome of reforming the city’s BPLS. Based on the experience of Quezon City local government, it is not impossible for other local governments to streamline their business permit and licensing system. The ratings given in **Table 11** indicate how significant a particular element has been in improving the Quezon City local government’s BPLS. The rating of the different elements will vary according to how those other local governments use those elements in reforming their respective BPLS.

**Table 11. Elements Table, Case of the Quezon City Local Government**

	National RMS tool	Impact- significance – Very = high significance Significant = medium Not very = low significance None = no significance	Remarks
<b>Policy Cycle Elements</b>			
Big policy	Assistance by NCC, IFC and discussions with local legislative council	Very Significant	<ul style="list-style-type: none"> <li>Necessary to streamline the business permits and licensing system to encourage more investments and push businesses to register</li> </ul>
Little & legal policy	Local executive orders	Very significant	<ul style="list-style-type: none"> <li>Release of the Joint Memorandum Circular (JMC) No. 01, Series of 2010 as well as Executive Order No. 17,</li> </ul>



			<p>Series of 2011 to further simplify the process for doing business in Quezon City</p> <ul style="list-style-type: none"> <li>• The JMC is for all the LGUs and the regional government agencies while the EO is specific for Quezon City</li> </ul>
Decision making support	Commitment by city mayor	Very significant	<ul style="list-style-type: none"> <li>• Mayor initiated the changes and ensured changes were installed</li> </ul>
Change implementation	None	None	<ul style="list-style-type: none"> <li>• No information on whether the city had a change implementation plan on BPLS</li> </ul>
Administration & enforcement	Establishment of one stop business center	Very significant	<ul style="list-style-type: none"> <li>• Local business permits and licenses are given once local requirements are complete.</li> <li>• National government requirements, e.g., fire permit, must be satisfied within a few days of grant of local business permit; otherwise, the local permit will be revoked.</li> </ul>
Monitoring & review	Business permit and licensing office [BPLO] and NCC monitoring	Significant	<ul style="list-style-type: none"> <li>• The BPLO monitors and cancels permits in case business does not comply with the other requirements;</li> <li>• NCC monitors reports of local governments</li> </ul>
<b>Supporting Policy Practices</b>			
Consultation communication & engagement	Consultations with NCC representing private sector	Significant	<ul style="list-style-type: none"> <li>• NCC was the private sector representative</li> <li>• National government agencies are aware that their requirements must still be complied with</li> </ul>

			<p>but Quezon City can already grant the business permit after businesses submit the initial requirements</p> <ul style="list-style-type: none"> <li>•</li> </ul>
Learning	Data base	Significant	<ul style="list-style-type: none"> <li>• Data base on number of businesses and on revenues generated are tracked by BPLO.</li> <li>• Advice from the NCC on international standards</li> </ul>
Accountability & transparency	Audit by Commission on Audit	Significant	<ul style="list-style-type: none"> <li>• Commission on Audit [COA] audits all local government transactions.</li> <li>• There is a need for greater transparency of results to the public.</li> </ul>
<b>Supporting Institutions</b>			
Regulatory policy principles	Joint Memorandum Circular No. 01	Significant	<ul style="list-style-type: none"> <li>• In compliance with the JMC, the EO, and the government's goal of easing doing business in the country</li> </ul>
Lead institutions	City government, DILG, DTI, NCC	Very Significant	<ul style="list-style-type: none"> <li>• DILG and DTI are the main overseers of the Quezon City LGU and the BPLO;</li> <li>• NCC provides support.</li> </ul>
Coordinating institutions & training providers	DTI, NCC	Significant	<ul style="list-style-type: none"> <li>• DTI and NCC conduct assessment of procedures and provides recommendations</li> </ul>

### PART III. CONCLUSIONS AND RECOMMENDATIONS

In the past, critical regulatory reforms were vigorously undertaken under a reform-minded government [Corazon Aquino, Fidel Ramos under a regime of democratic governance where consultation and dialogue are important processes used to generate stakeholder support]. However, regulatory reform efforts can be attenuated by political events or phenomena that may distract or compromise the political leadership [e.g., Estrada and Arroyo administrations facing political upheavals during their respective regimes]. Reforms in governance under the current administration seems to have restored business and consumer confidence in the economy. This opens a window for regulatory reform in the country.

It is much easier to undertake regulatory reform that can be done through executive fiat rather than those reforms that need legislation. Certain regulatory reforms covering various sectors [water, telecommunications, banking, sugar and coconut oil] were successfully undertaken by the executive branch of government, but not without serious opposition from vested interests. This demonstrates the paramount importance of political will and able leadership to surmount even the strongest opposition from vested private groups and conflicted politicians. The importance of committed reform champions<sup>49</sup> as a significant factor in achieving those regulatory reforms despite opposition by vested interests has to be recognized. Regulatory reform efforts happen at two levels: the national and local government levels. Local governments exhibited varying success in reforming local policies and ordinances. Reform-minded local governments that have good governance frameworks, including regulatory frameworks, have succeeded in attracting investments and businesses in their areas of jurisdiction.

Regulatory reform passing through the legislative process was much harder to undertake with reform efforts that could span several administrations, e.g., energy reform under EPIRA, and and that could be somewhat diluted due to political compromises that have to be made to gather political support for a reform measure. Other regulatory reform efforts, e.g., enacting a competition law, failed to make it through under a tedious legislative process.

Despite the raft of good regulatory reforms, regulatory quality was poor. A weak point in the regulatory system is poor implementation of regulatory measures. Private firms have complained of regulatory burden such as regulatory processes that increase the cost of doing business. Weak institutional capacity for regulation and enforcement, and the absence of a more deliberative process of

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<sup>49</sup> For example, Corazon Aquino, Fidel Ramos and Joe Almonte. General Jose Almonte was the foremost and most trusted adviser of President Ramos.

review, consultation, publication and approval of proposed regulatory changes [new regulation or changes in existing regulation] had much to do with poor regulatory quality. There is a need for a more systematic approach to regulatory reform, which otherwise could appear as serendipitous or even sporadic in the face of opposition to reforms by vested interests, including the bureaucracy, which may not always welcome the idea of change. It will be to the country's advantage to have the political leadership commit political capital to a sustained and systematic program of regulatory reform within a realistic time frame.

In sum, it is clear from the assessment that the country does not have a formal, much less requisite, regulatory management system that will help ensure that regulation will deliver the envisaged development outcomes. A well-coordinated requisite RMS in the sense of OECD and Gill, and in the way Malaysia has and implements it, could result in more consistent and coherent regulations, and a lower regulatory burden on consumers and firms. A requisite RMS could have contributed to improving regulatory quality in the country. Instead what an observer sees is different degrees of regulatory quality across regulatory institutions. There is a lot of unevenness in the way regulation is conceptualized, evaluated, consulted, approved and implemented. Regulatory changes may be proposed and considered by a concerned government agency but only in response to a critical event or a crisis. For example, an impending shortage of rice, the staple food of the population, may trigger a review of import protocols and licensing regimes to expedite importation<sup>50</sup>. However, a review, if ever conducted, is not a deliberative, coordinated process but rather responds sporadically to emerging situations calling for such a review.

On a positive note, the elements The elements of a formal RMS are present but are not coordinated into one coherent management system with a central oversight body that reviews proposed new regulations and proposed changes in existing regulations. An overall assessment of the rudimentary "regulatory management system" in the country is shown in **Table 12**. The table shows that the country has the elements of a formal RMS but those elements are not pulled together into a coherent and coordinated system.

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<sup>50</sup> In the Philippine setting, the National Food Authority, a government agency under the Department [Ministry] of Agriculture regulates rice importation.

**Table 12. Elements Table: Assessment of RMS, Philippines**

<u>Policy Cycle Elements</u>	National RMS tool	Impact – significance – Very=high significant=medium not very= low no =none	Where could a requisite system have made a difference? Why?
Big Policy	Pressure from various stakeholders to reform: Senate, House of Representatives, International Donor Community, Academe, other stakeholders	Very significant	Requisite system is NOT in place.
Little & legal policy	-Dialogues, workshops, seminars -Committee hearings in senate and house of representative - media reports	Very significant	Requisite system is NOT in place.
Decision making support	-Stakeholders' participation;  -Academe consulted  - Reference to experiences in other countries (where applicable)	Significant	Requisite system is NOT in place.
Change implementation		Not very significant.	Requisite system is NOT in place. Weak point of regulatory process.
Administration & enforcement		Not very significant	Requisite system is NOT

			in place; weak point of regulatory process
Monitoring & review	Initial work on monitoring by Department of Budget and Management, and other oversight agencies	Not very significant	Requisite system is NOT in place.  Oversight agencies are now conscious of the need for monitoring and evaluation
<b><u>Supporting policy practices</u></b>			
Consultation communication & engagement	Dialogues, workshops, consultations	Significant	Requisite system is NOT in place.
Learning	Academe, policy analysts, chambers of commerce issue regular analysis and updates.	Significant	Requisite system is NOT in place.
Accountability & transparency	Publication in newspapers and information through other media;  Government agencies maintain web sites that are accessible to the public.  For example, Citizens' Charters are published in the web sites	Significant– public becoming more conscious of citizens' rights; agencies becoming more conscious of public ethics and accountability	Requisite system is NOT in place.
<b><u>Supporting Institutions</u></b>			
Regulatory policy principles	Executive Orders, Administrative Orders; Implementing	Very significant	Requisite system is NOT in place.

	Rules and Regulations		
Lead institution	Office of the President; different Cabinet Secretaries	Significant	Requisite system is NOT in place.
Coordinating institutions	National Economic and Development Authority; oversight agencies like Department of Finance	Significant	Requisite system is NOT in place.

In developing a requisite RMS for the country it is important to heed the advice of OECD [2010] that for regulatory policy to support economic and social renewal, its core institutions and processes need to be developed further. This includes [i] a strengthening of evidence-based impact assessment to support policy coherence; [ii] institutional capacities to identify and drive reform priorities; and not least [iii] paying more attention to the voice of users, who need to be part of the regulatory development process.

In view of the foregoing, the following are recommended.

- The government must exercise firm leadership and political will in reducing regulatory burden and improving regulatory quality. It can do this by establishing a formal and requisite RMS. It can start by issuing an Executive Order announcing RIA as a whole-of-government policy, and not for sector regulators alone.
- The political leadership should identify or constitute a central oversight body that will oversee the implementation of a formal and requisite RMS. It can establish an organization such as the contemplated Office of Regulatory Practice that will oversee the conduct of RIA in national government regulatory agencies and the issuance of regulatory impact statements.
- Regulatory agencies should build capacity in undertaking RIA and formulating regulatory impact statements.
- The role, mandate, and stock of regulations of regulatory agencies should be reviewed to reduce regulatory burden.
- Government oversight agencies [e.g., NEDA] should ensure a more intensive involvement of the private sector, civil society, academe, research institutions, and media in regulatory reform.
- Research institutions such as the Philippine Institute for Development Studies should intensify its efforts in conducting impact assessment studies, especially those bearing on regulations.

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Annex A. Sample Business Permit



REPUBLIC OF THE PHILIPPINES  
 QUEZON CITY, METROPOLITAN MANILA  
 OFFICE OF THE MAYOR



**BUSINESS PERMIT NO.**  
**DATE ISSUED**

14-010481  
 February 24, 2015

This certifies that  
 with registered trade name as  
 as represented by  
 with business address at

Nationality  
 EXCEEDEA SOLUTIONS PROFESSIONAL SERVICES INC.  
 EXCEEDEA SOLUTIONS PROFESSIONAL SERVICES INC.  
 REGGIE H. VALLENTE-PRESIDENT  
 2ND FLR FBR ARCADE BLDG. #317 KATIPUNAN AVE LOYOLA HEIGHTS 3



has been granted a BUSINESS PERMIT to operate the following business/es under ordinance No. SP-91, S-93, otherwise known as the 1993 Quezon City Revenue Code, and the ordinance/s indicated at the back hereof, subject to such other pertinent ordinances, laws and related administrative implementary regulations.

<b>VALID UNTIL</b>		<b>DECEMBER 31, 2015</b>	
<b>KIND OF BUSINESS</b>		<b>REMARKS</b>	
CONTRACTOR Information Technology *****NOTHING FOLLOWS*****		COND. #1, 2 & 16 AS CITED AT THE BACK**SUBMIT PSIC/LC WITH 10 DAYS FROM THE DATE OF ISSUANCE NON-COMPLIANCE REVOKES THIS PERMIT**	
<b>TOTAL NO. OF EMPLOYEES</b>	3	<b>AREA OF ESTABLISHMENT</b>	4
<b>SSS No.</b>		<b>TIN</b>	008-832-963
<b>SUBJECT TO THE CONDITIONS AT THE BACK HEREOF:</b>			
<b>PERMIT FEE &amp; CITY TAX TO BE PAID ON OR BEFORE:</b>			

For and by the Authority of the City Mayor:  
 HERBERT M. BAUTISTA

GARRY C. DOMINGO  
 Chief of Office

**PARTICULARS OF PAYMENT**

Official Receipt No.	B-2015-000-084-0002751
Date of Payment	02/06/2015
Period Covered	1-4 2015
Permit Fee	6,671.98
City Tax	
Garbage Fee	
Sanitary Fee	
Building Insp. Fee	
Electrical Insp. Fee	
Plumbing Insp. Fee	
Signboard Fee	
Fire Insp. Fee	
Penalty & Interest	
Plate / Sticker	
<b>Total Amount Paid</b>	<b>6,671.98</b>

**IMPORTANT**

Failure to renew this Business Permit/License within the prescribed period shall subject the taxpayer to a twenty-five percent (25%) surcharge of the permit fee.



This permit shall be posted conspicuously at the place where the business is being conducted and shall be presented and/or surrendered to concerned authorities upon demand. Upon closure of business, surrender this permit within 20 days to avoid penalty.

THIS PERMIT IS NON-TRANSFERABLE AND VALID ONLY WITH CORRESPONDING OFFICIAL RECEIPTS SHOWING PAYMENT OF PERMIT FEES AND CITY TAXES. ANY ERASURE/ALTERATIONS WILL INVALIDATE THIS PERMIT.

No. 032250

MEANN

**Annex B. Application for Business Permit and License for Single Proprietorship**

	<input type="checkbox"/> NEW <input type="checkbox"/> RENEWAL	REPUBLIC OF THE PHILIPPINES QUEZON CITY BUSINESS PERMITS & LICENSE OFFICE	
<b>APPLICATION FOR BUSINESS PERMIT &amp; LICENSE FOR SINGLE PROPRIETORSHIP</b>			DATE (MM/DD/YY)
THE CHIEF BUSINESS PERMITS & LICENSE OFFICE OFFICE OF THE MAYOR QUEZON CITY			Pursuant to the provisions of Sec. 67 of the 1993 Quezon City Revenue Code and Sec. 105 of MMC Ord. No. 82-03, as amended, I have the honor to apply for a Business Permit to operate my business and hereby submits the following:
<b>BUSINESS NAME/TRADE NAME</b>			
<b>TAXPAYER'S NAME</b> <i>(Please Print)</i>		Last Name	First Name
<b>HOME ADDRESS OF BUSINESS OWNER</b>			
House No.		Street	Barangay
<b>BUSINESS LOCATION</b> <i>(Indicate exact address)</i>			
If within a bldg., specify stall, room, floor number		Street No.	Street Name
<b>PROPERTY INDEX NO.</b>			
TAXPAYER'S IDENTIFICATION NUMBER (TIN)		LOT & BLOCK NO.	
<b>DTI (BUSINESS NAME) REGISTRATION NUMBER</b>			
TELEPHONE NUMBER		FAX NUMBER	
IF EMPLOYER, EMPLOYER'S SOCIAL SECURITY NUMBER (SSS)			NO. OF EMPLOYEES
<b>NAME &amp; ADDRESS OF AUTHORIZED REPRESENTATIVE</b>			
Last Name		First Name	
Home Address			
IF BUSINESS ESTABLISHMENT IS RENTED	SINCE WHEN	IS THE BUSINESS USING A SIGNBOARD	<input type="checkbox"/> Yes <input type="checkbox"/> No
	MONTHLY RENTAL	AREA OF SIGNBOARD	
	FROM WHOM		
IF YOU HAVE OTHER EXISTING BUSINESS PERMIT / LICENSE	EXISTING KIND OF BUSINESS	BUSINESS PERMIT NO.	BUSINESS LOCATION
<b>KIND OR NATURE OF BUSINESS/ACTIVITY APPLIED</b> <i>(Please state nature of business in accordance with the QC Business Activity Classification Standard)</i>			
	UNIT (No./City)	AREA (Sq. Mts)	CAPITALIZATION (P/Boarded or Part Ltr)
			CODE (Do not fill this)
<b>TOTAL</b>			
P			
Should the BPLO discovers/finds any falsehood(s) and/or misrepresentation(s) in this application, I/We agree to the immediate cancellation of the business permit & license and or closure of the establishment without notice and hearing and shall not file any case of whatever kind to question the closure establishment and/or withdrawal/cancellation of the license permit and shall hold the Quezon City Officials free and harmless from any civil, criminal and/or administrative liability arising from any action taken of the application and/or BPLO permit license. Should I, We violate any of the undertakings and/or commitments I/We agree liquidated damages equivalent to twenty-five (25%) percent of my/our gross earnings of the proceedings year as determined by the City.			
THIS APPLICATION AND/OR BPLO PERMIT/LICENSE DOES NOT EXEMPT APPLICANT/PERMITEE FROM COMPLYING WITH THE REQUIREMENTS AND OR SECURING THE PERMITS/LICENSES BY OTHER AGENCIES/AUTHORITIES REQUIRED BY EXISTING LAWS/ORDINANCES/RULES AND REGULATIONS AND HEREBY UNDERTAKE TO COMPLY THEREOF.			
I / We hereby certify that the statement/information given above are true and correct to my/our knowledge. IN WITNESS WHEREOF, I/WE set my/our hand this ____ day of _____, _____ at _____.			
<b>CLEARANCE FROM RECORDS DIVISION:</b> <i>(To be filed up by Personnel)</i>		SIGNATURE OVER PRINTED NAME OF APPLICANT(S)	
REMARKS:		SUBSCRIBED AND SWORN to before me this ____ day of _____, _____ at _____.	
VERIFIED BY:			
<b>ZONING CLASSIFICATION:</b> <i>(To be filed up by Personnel)</i>		ACTION TAKEN/REMARKS:	
REMARKS:			
VERIFIED BY : NOTED :		CHIEF OF OFFICE BUSINESS PERMIT & LICENSE OFFICE	

23928



**LOCATIONAL SKETCH OF BUSINESS ESTABLISHMENT**

SUBMITTED BY: \_\_\_\_\_

Signature of Applicant

VERIFIED BY: \_\_\_\_\_

Inspector/Verifier

**E N D O R S E M E N T S**

REQUIREMENTS	OFFICE/AGENCY	DATE ISSUED	AMOUNT TO BE PAID	RECOMMENDATION
<input type="checkbox"/> BARANGAY CLEARANCE	BARANGAY			
<input type="checkbox"/> LOCATIONAL CLEARANCE	ZONING ADMIN.			
<input type="checkbox"/> SANITARY/HEALTH CERT.	CITY HEALTH DEPT.			
<input type="checkbox"/> BUILDING PERMIT	BLDG. OFFICIAL			
<input type="checkbox"/> POLLUTION CLEARANCE	POLLUTION OFF (CLEAN & GREEN)			
<input type="checkbox"/> MECHANICAL PERMIT	INDL. SAFETY DIV.			
<input type="checkbox"/> ELECTRICAL INSPECTION	CITY FIRE DEPT.			
<input type="checkbox"/> POLICE CLEARANCE	CPD, PNP STN-1			
<input type="checkbox"/> CTAO CLEARANCE CERTIFICATE	CTAO			
<b>OTHER SPECIFY:</b>				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				

**I N S T R U C T I O N S**

**TO APPLICANT - PLEASE SUBMIT THE PHOTOSTAT COPY OF THE FOLLOWING:**

**1. SINGLE PROPRIETORSHIP**

- Registration Certificate from the Securities of Trade and Industry (D.T.I)



**2. OTHER REQUIREMENTS:**

- If Alien - authority from the Board of Investments (BOI)
- Certification from the National Food Authority (NFA) to sell rice.
- Certificate of Accreditation from the National Board of Trade/Dept. of Trade for repair shops.
- Sworn Statement to operate as an OFFICE ONLY.
- Barangay Clearance where the Business is located.
- If cooperative, the Cooperative Development Authority (CDA) registration.

**IMPORTANT:**

1. The application for Business Permit & License shall be accomplished in triplicate.
2. The application must be filed by the applicant himself or his duly authorized representative BUT personally signed by the business owner. If juridical person, a duly authorized representative may file the application.
3. All payments should be made at the City Treasurer's Office duly receipted with the corresponding Official Receipt.
4. FOLLOW-UP AND FIXING by employees of the Quezon City Government is prohibited. DO NOT PUSH THEM to violate this regulation. Help the City Government in its program to give efficient service to taxpayers by way of avoiding fixers.

Annex C. Application for Business Permit and License for Partnership and Corporation

	<input type="checkbox"/> NEW <input type="checkbox"/> RENEWAL	REPUBLIC OF THE PHILIPPINES QUEZON CITY BUSINESS PERMITS & LICENSE OFFICE <b>APPLICATION FOR BUSINESS PERMIT &amp; LICENSE                  FOR PARTNERSHIP &amp; CORPORATION</b>	
THE CHIEF BUSINESS PERMITS & LICENSE OFFICE OFFICE OF THE MAYOR QUEZON CITY		DATE (MM/DD/YY)	
Pursuant to the provisions of Sec. 67 of the 1993 Quezon City Revenue Code and Sec. 105 of MMC Ord. No. 82-03, as amended, I have the honor to apply for a Business Permit to operate my business and hereby submits the following:			
<b>BUSINESS NAME/TRADE NAME</b>			
<b>TAXPAYER'S NAME</b> <small>(Print Name of Partnership/Corporation)</small>			
<b>PRESIDENT</b>		<b>TREASURER</b>	
<b>BUSINESS LOCATION</b> <small>(Indicate exact address)</small>	<small># within a bldg... specify stall, room, floor number</small>	<small>Street No.</small>	<small>Street Name</small>
<b>PROPERTY INDEX NO.</b>		<b>LOT &amp; BLOCK NO.</b>	
<b>AUTHORIZED REPRESENTATIVE</b> <small>(Name of Business Firm's Officer/Signatory)</small>		<b>POSITION</b> <small>Official Capacity</small>	
<b>HOME ADDRESS OF REPRESENTATIVE</b>		<small>Street No.</small>	<small>Street Name</small>
<b>SEC REGISTRATION NUMBER</b>		<b>DATE ISSUED</b>	
<b>TAXPAYER'S IDENTIFICATION NUMBER (TIN)</b>			
<b>TELEPHONE NUMBER</b>		<b>FAX NUMBER</b>	
<b>IF EMPLOYER, EMPLOYER'S SOCIAL SECURITY NUMBER (SSS)</b>		<b>NO. OF EMPLOYEES</b>	
<b>IF BUSINESS ESTABLISHMENT IS RENTED</b>	<b>SINCE WHEN</b>	<b>IS THE BUSINESS USING A SIGNBOARD</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
	<b>MONTHLY RENTAL</b>		
<b>FROM WHOM</b>		<b>AREA OF SIGNBOARD</b>	
<b>IF YOU HAVE OTHER EXISTING BUSINESS PERMIT / LICENSE</b>	<b>EXISTING KIND OF BUSINESS</b>	<b>MAYOR'S PERMIT NO.</b>	<b>BUSINESS LOCATION</b>
<b>KIND OR NATURE OF BUSINESS/ACTIVITY APPLIED</b> <small>(Indicate if Business is Additional or Previous &amp; Specify Exact Nature)</small>	<b>UNIT</b> <small>(No./Qty)</small>	<b>AREA</b> <small>(Sq. Mts)</small>	<b>CAPITALIZATION</b> <small>(Subscribed or Paid Up)</small>
			<b>% ALIEN / NATIONALITY</b> <small>(As per BOP Accounts)</small>
<b>TOTALS</b>			
Should the BPLDO discover/finds any falsehood(s) and/or misrepresentation(s) in this application, I/We agree to the immediate cancellation of the business permit & license and/or closure of the establishment without notice and hearing and shall not file any case of whatever kind to question the closure establishment and/or withdrawal/cancellation of the license permit and shall hold the Quezon City Officials free and harmless from any civil, criminal and/or administrative liability arising from any action taken of the application and/or BPLDO permit license. Should I, We violate any of the undertakings and/or commitments I/We agree liquidated damages equivalent to twenty-five (25%) percent of my/our gross earnings of the proceedings year as determined by the City.			
THIS APPLICATION AND/OR BPLDO PERMIT/LICENSE DOES NOT EXEMPT APPLICANT/PERMITTEE FROM COMPLYING WITH THE REQUIREMENTS AND OR SECURING THE PERMITS/LICENSES BY OTHER AGENCIES/AUTHORITIES REQUIRED BY EXISTING LAWS/ORDINANCES/RULES AND REGULATIONS AND HEREBY UNDERTAKE TO COMPLY THEREOF.			
I / We hereby certify that the statement/information given above are true and correct to my/our knowledge. IN WITNESS WHEREOF, I/WE set my/our hand this ____ day of _____, ____ at _____.			
<b>CLEARANCE FROM RECORDS DIVISION:</b> <small>(To be filled up by Personnel)</small>		<b>SIGNATURE OVER PRINTED NAME OF APPLICANT(S)</b>	
<b>REMARKS:</b>		_____ SUBSCRIBED AND SWORN to before me this ____ day of _____, ____ at _____.	
<b>VERIFIED BY:</b>			
<b>ZONING CLASSIFICATION:</b> <small>(To be filled up by Personnel)</small>		<b>ACTION TAKEN/REMARKS:</b>	
<b>REMARKS:</b>			
<b>VERIFIED BY:</b>		_____ CHIEF OF OFFICE BUSINESS PERMIT & LICENSE OFFICE	
<b>NOTED:</b>			

23000



