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

Furthering the Implementation of AEC Blueprint Measures

Gilberto M. Llanto et al.

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*“Furthering the Implementation of AEC Blueprint
Measures¹”*

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Abstract

The study identifies outstanding issues and bottlenecks and provides recommendations to facilitate the Philippines' full compliance to its commitments to the AEC. Various in-depth interviews and surveys were conducted with concerned stakeholders from government agencies and the private sector to bring to fore the issues and bottlenecks for policymakers' action. Although its focus is mainly on services and investment liberalization, this study also tracks policy changes in trade facilitation, non-tariff measures, standards and conformance and mutual recognition arrangements after the release of the 2010/2011 ASEAN Economic Community (AEC) Scorecard Reports.

Keywords: Philippines, ASEAN economic integration, AEC scorecard, services liberalization, investment liberalization, trade facilitation, non-tariff measures, standards and conformance, mutual recognition arrangements, ASEAN comprehensive investment agreement, medical professionals, maritime transport, telecommunications, tourism, banking, insurance, health services

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I. INTRODUCTION

The Association of Southeast Asian Nations' (ASEAN) member states---Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam---are currently taking the necessary policy actions and measures to prepare their respective economies for regional economic integration that commences in 2015. The ASEAN Economic Community (AEC), which is one of the three pillars² of the ASEAN Community, has four major components: (1) single market and production base; (2) competitive economic region; (3) equitable economic development; and, (4) integration into the global economy. The creation of a single market and production base serves as the principal goal and component of the AEC. To attain such goal, individual countries must implement policies and reforms that would facilitate the free flow of goods, services, investments, capital, and skilled labour.

The AEC Blueprint, which was created on 20 November 2007 by the ASEAN leaders, provides the guidelines for the implementation of the AEC. It stipulates the general and specific goals, plans and implementing actions that should be undertaken by member states within four implementation phases from 2008 to 2015. It includes both the national measures to be implemented by each country as well as the regional measures of the member states.

A. Implementation Status of the Philippines' Commitments

The Department of Trade and Industry (DTI)³ has been promoting the '4Cs' strategy under the Philippine AEC Game Plan, which focuses on enhancing the competitiveness of Philippine industries. The 4Cs strategy calls for: (1) complying with commitments; (2) enhancing competitiveness; (3) intensifying communications; and (4) promoting collaboration. In following the Game Plan, the DTI emphasizes that initiatives, both coming from the government and the private sector, must be harmonized and complementary if the country is to benefit from the upcoming regional economic integration and attain inclusive growth (Magkilat 2014).

In a presentation, the DTI Assistant Secretary of Industry Development Group Ceferino Rodolfo (2014) reported that the Philippines is currently on track in terms of actualizing the commitments specified in the AEC Blueprint. The country's compliance rate is 87.2 percent (or approximately 382 measures out of 439), which is at par with other ASEAN members. Nonetheless, Rodolfo noted that the Philippines' ability to take advantage of the AEC will highly depend on the skills, the means by which the workforce, especially the younger generation, will be equipped to support competitive industries and standards that would reflect how the government would 'support and cultivate a culture of quality consciousness in the production of goods and services'.

²² The two other pillars are the ASEAN Socio-Cultural and ASEAN Political-Security and Community.

³ DTI is a government agency that chairs the Committee for ASEAN Economic Community (CAEC) under the Philippine Council for Regional Cooperation.

B. About the Project

- 1) To support the effective implementation of the AEC Blueprint, the Economic Research Institute for the ASEAN and East Asia (ERIA), together with its Research Institutes Network (RIN) members and the ASEAN Secretariat, is currently undertaking the project entitled, 'AEC Scorecard Phase IV: Furthering the Implementation of AEC Blueprint'. This is the fourth of the series of studies conducted by the ERIA since 2009 to monitor the implementation and compliance status of each ASEAN member country. However, the latest project focuses not only on the current compliance and implementation status of the key AEC measures, but goes deeper as it dwells on the 'differences between the AEC commitments and the actual implementation of national policies, especially in the areas of services and investment liberalization' as well as tracks the policy changes since 2010/2011 (the period covered by ERIA's AEC Scorecard Phase I and II). With this, the study aims to flesh out the major issues and bottlenecks and to provide recommendations aligned with 'the Post-2015 ASEAN Vision' (Intal, Fukunaga, and Narjoko 2014).
- 2) This study covers the following policy areas: (1) trade facilitation; (2) services liberalization; (3) investment liberalization; (4) non-tariff measures (NTMs); (5) standards and conformance; and (6) mutual recognition arrangements (MRAs). Questionnaires were provided to key informants, particularly for trade facilitation, services, NTMs, standards and conformance, and MRAs. Various in-depth interviews were conducted with stakeholders from government agencies and the private sector.

The next section discusses the results of the survey for each sector and identifies the major bottlenecks and issues that have to be addressed so as the Philippines can fully comply with its commitments to the AEC.

II. SURVEY RESULTS, ISSUES, AND BOTTLENECKS

A. Trade Facilitation

As tariffs decline to near-zero level amongst ASEAN countries, some key trade facilitation measures are being undertaken to ensure the free flow of goods and to attain a single market and

production base for the AEC by 2015. The trade facilitation measures include the ASEAN Customs Modernization⁴, ASEAN Single Window⁵ and ASEAN Trade Repository⁶.

This section provides an update on the implementation status of the Philippines' Customs Modernization, National Single Window (NSW) and National Trade Repository (NTR)---all critical elements in the AEC Blueprint-Trade Facilitation Measures. Information was derived by using three sets of ERIA survey questionnaires. For insights on customs modernization and NSW, respondents were from the Bureau of Customs (BOC), the government agency (under the Department of Finance) mandated to undertake revenue collection, trade facilitation and border protection. The BOC was appointed as chairman of the NSW Technical Working Group.

For insights on NTR specifically, the respondent came from the Bureau of Import Services (BIS) under the DTI. The BIS facilitates imports, regulates imports on selected items, monitors the importation of liberalized and sensitive items as well as initiates and conducts preliminary investigations on dumping, countervailing, and safeguard protests. It was designated to chair the NTR Ad Hoc Technical Working Group.

Furthermore, this section has three parts: Part 1 summarizes the early assessments of the Philippines' trade facilitation initiatives and their impact. Part 2 provides the update, challenges and analysis in the implementation. Part 3 then summarizes the findings and includes policy recommendations to address the bottlenecks and to move forward with the AEC measures on Trade Facilitation in 2015 and beyond.

1. Philippine Trade Facilitation Measures: Early Assessment

The succeeding discussions are based on the findings of the Trade Facilitation component of earlier ERIA studies on AEC Scorecard Monitoring System and Mechanism (Phase II) and Mid-Term Review (MTR) of the Implementation of the ASEAN Economic Community Blueprint. It is important to note that these early studies only cover customs modernization and NSW implementation.

⁴ As stipulated in the Strategic Programme of Customs Development, ASEAN member states have embarked on the acceleration of modernization of customs techniques and procedures with the objective of enhancing trade facilitation and expediting the clearance of goods at customs.

⁵ In 2005, the ASEAN member states adopted the agreement to establish and implement the ASEAN Single Window (ASW), a facility that allows parties involved in trade and transport to lodge standardized documentation and/or data with a single entry point to fulfill all import, export and transit-related regulatory requirements.

⁶ By 2015, the ASEAN member states will establish an ASEAN Trade Repository, which will serve as a gateway of regulatory information at regional and national levels. So as to improve transparency of trade, information will be accessible on the internet to economic operators such as exporters, importers, traders, government agencies, and the interested public and researchers.

a. Customs Modernization and Reforms

Aldaba *et al.* (2010) and Medalla (2012) discussed in detail the various custom reform programmes and the continuous modernization efforts carried out by BOC to further facilitate trade. There were the introduction of the Automated System for Customs Data Management (ASYCUDA++)⁷ in 1992-1998, the ASYCUDA-World⁸ software upgrades and subsequent implementation of the Electronic to Mobile (e2m) Customs Project⁹ in 2005. These reforms in customs administration improved the automation of procedures, especially in import declaration (as lodgement of import entries is already done electronically) and in payments of taxes and duties.

On the other hand, the country's export orientation programme had been facilitated by initiatives to simplify export procedures and documentation requirements through the establishment of the One-Stop Shop Export Documentation Center and by reforms in and automation of processing systems in economic zones¹⁰. Relevant customs processes such as the Standardized Harmonized System code or the ASEAN Harmonized Tariff Nomenclature (AHTN), tariff management, valuation system, risk management, inspection management, customs warehouse management, and cargo release notification were also put in place. Because of these, the Philippines scored high at 88 percent in customs modernization and integration (Aldaba, et al. 2011). The 2011 ERIA study noted the major gaps and the need to implement other equally relevant customs modernization measures such as the post-clearance system, Authorized Economic Operator (AEO) management and mutual recognition system, cargo profiling and tracking system, and ASEAN-related customs integration initiatives.

The MTR Survey on Trade Facilitation confirmed that electronic transactions in most key customs processes had been implemented, except in electronic export declarations and electronic certificates of origin (Medalla 2012). The responses also indicated that the BOC would implement e-customs for all major seaports and airports and targets coverage of all transactions by 2015.

⁷ASYCUDA++ is a computerized application system that conforms to international codes and standards and used in more than 65 countries worldwide. This software is developed by the United Nations Conference on Trade and Development (UNCTAD).

⁸ASYCUDA-World is an Internet-based lodgment system of customs information that integrates all agencies' processes. The components consist of the import and assessment system, automated export documentation system (AEDS), automated bonds management system, raw materials liquidation system, import and export support system, the Bureau of Customs (BOC) Portal, exports processing system, funds monitoring system, and resource and operations management system. However, BOC and UNCTAD failed to agree on delivery of ASYCUDA World, as such BOC implemented the e2m system in 2005.

⁹ The e2m Customs Project aims to develop a dynamic and faster end-to-end cargo clearance process, eventually through the use of mobile broadcasting and Internet/electronic data interchange connectivity. It makes use of advanced technology, including electronic signatures, to provide government officials, specifically customs administrators, with new tools for the better implementation of security, trade efficiency, and anticorruption measures. It is expected to support the implementation of the National and ASEAN Single Windows.

¹⁰ The BOC and the Philippine Economic Zone Authority (PEZA) introduced the automated import cargo transfer system, electronic import permit system, and the automated export documentation system.

Around 80 percent of basic customs operation is done electronically, where around 95 percent covers imports, at least 25 percent is on exports, and 75 percent consists of firms. Full coverage is targeted by 2015.

The MTR also included a survey of private sector firms' perceptions on improvements in customs procedures and processes. Results show that there was a more-than-50 percent increase in perceived full automation of customs procedures in 2011 compared with results of the previous year. The highest improvement in perception was in the payment of taxes and duties, followed by import declarations. The highest perception of non-automation was in support documentations (packing list, bill of lading, manifest, airway bill, invoice), followed by export declarations. These areas most in need of attention as identified by the responses were consistent with the findings from the questionnaires for government officials.

b. Philippine National Single Window¹¹

The Philippine National Single Window (PNSW)¹², another trade facilitation project, is an internet-based application that allows parties involved in trade to lodge information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements. The PNSW is developed in line with recognized international standards to enable interoperability and seamless integration with other countries' National Single Windows (NSW) and the ASEAN's Single Window (ASW).

The NSW was implemented in the Philippines when Former President Gloria Arroyo issued Executive Order (EO) No. 482¹³. The order also created the National Single Window Task Force¹⁴ for Cargo Clearance on 27 December 2005 to ensure a coherent and effective formulation, coordination, implementation and monitoring of NSW.

¹¹ Drawn heavily from ASEAN ASW website (Philippines), NSW flyer, Medalla (2012), with some portions directly lifted.

¹² The PNSW is a realization of the ASEAN agreement to establish an ASEAN Economic Community (AEC) by 2015, whose mission is to develop a single market and production base that is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment, thereby forming the ASEAN Single Window (ASW).

¹³ Before the ASW Agreement was signed by member states, the Philippines already volunteered to be the pilot country for the implementation of the NSW for Cargo Clearance in April 2005 during the 3rd Inter-Agency Task Force Meeting on ASW.

¹⁴ Members of the Task Force are the relevant national government agencies, which have the direct mandate to regulate internationally traded goods. The Task Force has a Steering Committee directing and ensuring the effective implementation of the plan to establish the NSW, and the Technical Working Group (TWG) which attends to the day-to-day implementation of the Plan. The BOC chairs both levels of the task force. The government departments and agencies involved in the cargo clearance release are mandated to cooperate with each other so as to provide the BOC with automated electronic system required for the establishment, implementation, and operation of the NSW, and eventually link with the ASW.

The NSW implementation was planned in two phases: Phase 1 pertained to permits and clearances required by government agencies whilst Phase 2 involved the integration of the BOC database (e2m system) with the NSW.

Phase 1 started in October 2009 and included the installation and configuration of the TRIPS™ Single Window and connectivity with initially 10 agencies¹⁵ whose combined number of permits account for around 70 percent–80 percent of all import permits given. The NSW application in these agencies will consist of a single set of licences, permits, or clearances per agency. It features an electronically submitted application form, a dashboard to view the status of applications, notification via email of application status, and final electronic approval. There will be no changes in paper document forms as each agency will process applications according to its existing procedures. Documents may be printed for review and circulated for approvals (please refer to Medalla [2012] for the process flow). With this approach, there will be two independent but integrated systems (i.e., NSW and e2m customs) working simultaneously and exchanging information electronically.

Based on BOC's response in the MTR survey, there was a significant rise in the number of government agencies (from 10 agencies providing electronic licences, permits and certificates, the number went up to 26 agencies) connected to the NSW portal. These agencies can submit applications and necessary papers, verify status of applications online on the NSW dashboard, and obtain decisions regarding their transactions. The NSW portal is implemented in major seaports and airports and will hit full coverage by 2015. As a result, the Philippines also scored well with regard the NSW implementation at 82 percent based on the AEC Scorecard monitoring in 2011.

According to the ASEAN ASW website (Philippines), the PNSW Phase 1 implementation has already brought improvements as measured by the Key Performance Indicators pertaining to the approval time for issuing licences, permits and clearances to traders. Government agencies are also using the system to standardize their processes and decentralize operations, thus improving customer service throughout the Philippines. Electronic viewing and tagging of cargo import/export permits and clearances were initially rolled out in the Manila International Container Port and Port of Manila. The E-Payment module of the PNSW was also launched with the Sugar Regulatory Administration (SRA) and National Telecommunications Commission (NTC) as the pilot agencies.

¹⁵Agencies included in Phase 1 are the Sugar Regulatory Administration, Bureau of Animal Industry, Bureau of Plant Industry, National Food Authority, Bureau of Internal Revenue, the Food and Drug Administration, Philippine Economic Zone Authority, Bureau of Customs, Board of Investments, and Bureau of Product Standards.

c. Summary of Earlier Assessments

Overall, the AEC Scorecard monitoring (Phase II) and MTR study results indicate positive developments in trade facilitation. However, there remains room for improvement. In customs modernization, there are still gaps in the automation process in key areas such as export declaration, support documentation, inspection, and release of goods. Also, although Phase 1 of the NSW plan was fully implemented, the link between BOC's e2m and the NSW processes has yet to be established under Phase 2. As such, customs processing is still being done under two independent systems (i.e., NSW and e2m customs), which introduces inefficiencies in customs administration. Issues around the relationship amongst the BOC, NSW and the value-added service providers (VASPs) set back the implementation of PNSW Phase II. This point will be discussed further in the next section.

2. Progress in Implementation of Trade Facilitation Measures: Results of 2014 Survey

This section is an update on the status of implementation of customs modernization, NSW and the Philippine National Trade Repository (PNTR), which is part of Philippine compliance to the ASEAN Trade in Goods Agreement and the World Trade Organization (WTO)-Agreement on Trade Facilitation.¹⁶ Information is taken from the responses of BOC and BIS officials during the interview and some secondary sources. Challenges and issues encountered by concerned government agencies are discussed.

a. Customs Modernization

The country's tariff classification follows the ASEAN Harmonized Tariff Nomenclature (AHTN), with the 2012 version now being implemented¹⁷ as per the BOC's Customs Memorandum Circular (CMC) No. 262-2012 issued on 16 November 2012. Online tariff rates are available at the Tariff Commission¹⁸ website. The Tariff Commission has also developed the Philippine tariff finder¹⁹, the first of its kind in the ASEAN. This free online facility allows users to do a quick search of Philippine tariff rates on specific products and to access the eight existing Philippine tariff schedules. The facility incorporates a search engine that permits tariff searching by keyword or by AHTN 2012 product code. The BOC website features a quick link to the Philippine tariff finder.

¹⁶As prescribed in Article 13 of ASEAN Trade in Goods Agreement and Article 1 of WTO-Agreement on Trade Facilitation, respectively.

¹⁷ Following approval by the National Economic and Development Authority Board on 18 September 2012.

¹⁸ A government agency that acts as a key technical and policy adviser on tariff and related matters while staunchly maintaining its advocacies on industry competitiveness, international trade facilitation, and consumer welfare improvement.

¹⁹ http://www.tariffcommission.gov.ph/tariff_finder/

Although the Tariff Commission does not have an advance ruling system yet for tariff classification, it has issued 245 tariff commodity classification rulings²⁰ (Tariff Commission 2013 Annual Report). Meanwhile, the management and application of tariff rates is functionality under the BOC's current e2m system.

For the customs valuation system, the verification process is automated under the e2m Value Reference Information System but the upgrade of values in a specific entry declaration is not automatic. It does not use any third-party valuation database or valuation service. The e2m also has automated release notifications (online release system) as well as an electronic payment system, e-Payment (Payment Abstract Secure). The progress on customs modernization is summarized in Table 1.

Table 1. Summary of Customs Modernization Progress: Philippines

Customs Processes	Automated or with Programme?	Remarks/Developments
1. Standardize HS Code	Yes	AHTN 2012
2. Implementation of Tariff Management	Yes	Under e2m: No advance ruling system yet for tariff classification; Philippine Tariff Finder (+)
3. Implementation of Valuation System	Yes	Under the e2m: Value Reference Information System but no 3 rd -party valuation database
4. Implementation of Manifest Processing	Yes	Under the e2m: Electronic Manifest System
5. Implementation of Goods Declaration Processing	Yes	Under the e2m but validation is performed by VASPs (i.e., thru their system)
6. Implementation of Risk Management and Selectivity	Yes	Under e2m: Selectivity system but assessment info not shared amongst other government agencies (OGAs)
7. Implementation of Inspection Management	Partial	Only non-intrusive inspection using NII equipment (e.g., container scanning, x-raying)
8. Implementation of Customs Bonded Warehouse (CBW) Management	Partial	CBW programme being implemented but no IT system in place to support automation; Electronic record keeping for CBWs being considered in the update of e2m
9. Implementation of Cargo Release Notification	Yes	Under e2m: On-line Release System (OLRS)
10. Implementation of Post-Clearance Audit	Partial	With PCA programme (under RA 9135 and Tariff and Customs Code of the Philippines) but no IT system in place yet

²⁰ Section 1313a of the Tariff and Customs Code of the Philippines.

11. Implementation of AEO Management	Partial	Adoption of AEO programme but no IT system in place yet
12. Implementation of AEO Mutual Recognition	No	--- Not yet applicable
13. Appeals and Arbitration	Yes	with legislation
14. Implementation of Transit Cargo Tracking system	Partial	Customs Administrative Orders for the implementation of a GPS-assisted Transit System for review/approval of Department of Finance (DOF)
15. Implementation of Track and Trace of goods	No	Not yet applicable
16. Implementation of Electronic Payment System	Yes	Under e2m: e-Payment (Payment Abstract Secure)
17. Implementation of Raw Materials Liquidation System	Partial	no IT system in place but being considered in the update of e2m
18. Publication of Customs Rules	Yes	Online release of Customs Administrative Orders, Customs Memorandum Circulars, Customs Memorandum Orders
19. Customs Integration Initiatives related to Customs (for government officials only)	Partial	AHTN implementation only; no development in AFAFGIT (Protocol 2 & 7)

In the implementation of manifest processing, a pre-arrival manifest for sea-based import is required at least 12 hours before arrival of the shipment. The manifest can be submitted either through the internet web application (using Electronic Manifest System of e2m) or physically.

As far as goods declaration of imports and exports is concerned, e2m allows electronic lodgement but validation is performed by VASPs, that is, through their system. There is also automation in risk management and selectivity processes. For the year 2012, 25 percent²¹ of import consignments and 10 percent of exports were selected for physical inspection. However, inspection management is only partially automated through non-intrusive inspection using Non-Intrusive Inspection (NII) equipment (e.g. container scanning, x-raying). There is no information technology (IT) system yet that supports inspection management for scheduling and assigning of inspectors as well as an override manual or auditing/oversight procedure. (Note: The e2m system has this feature (i.e. inspection management capability) but has been switched off.)

As can be observed in the above table, some customs-related programmes are in place but still lack an IT system to support the automation. For instance, the electronic record keeping for

²¹ This estimate is consistent with what was reported under Llanto et al., p. 36 (2013) as to proportion of shipments cleared based on physical inspection (red lane): 25.40 percent covering period: 1 January to 31 December 2012.

Customs Bonded Warehouses (CBWs) and raw materials liquidation system are being considered in the updated version of e2m. There is a post-clearance audit programme as provided by RA 9135 (“An Act Amending Certain Provisions of Presidential Decree No. 1464 Otherwise Known as the Tariff and Customs Code of the Philippines”) but automation is not a yet part of the process. The same applies to the AEO Management Programme²².

For the transit cargo tracking system, a draft Customs Administration Order (CAO) calls for the implementation of a GPS-assisted transit system but the Philippine Economic Zone Authority (PEZA) hesitates to do so due to cost issues. Other customs-related programmes in place pertain to appeals and arbitration, and publication of customs rules. On the latter, as part of BOC’s transparency²³, issuances (i.e., customs administrative orders, customs memorandum circulars and customs memorandum orders) have been online since 2000.

Since the AEO Programme is confined to the Clark Freeport Zone, the Philippines has not signed any MRA with other countries. Meanwhile, as to the ASEAN customs integration initiatives, only AHTN has been adopted. Protocol 2 (Designation of Frontier Posts) and Protocol 7 (Customs Transit System) of the ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT) have not yet been implemented. According to Llanto (2012), Protocol 2 under AFAFGIT is still under discussion and consultation, whilst there is some progress seen with Protocol 7 as the BOC is merely waiting for the authority to sign from the Office of the President.

Other positive developments are taking place in the area of trade facilitation. For one, the BOC has begun implementing the ASEAN Second Pilot Project on regional self-certification²⁴, which allows exporters from participating ASEAN members to self-declare their goods without presenting a certificate of origin. Customs Memorandum Order No. 2-2014 provides guidelines to establish the parameters and procedure in the accreditation of producers/manufacturers as certified exporters²⁵.

The filing of a Customs Modernization and Tariff Act bill is a leap forward in establishing a solid legal framework for the BOC to implement the trade facilitation measures provided for in several trade agreements where the Philippines is a signatory. Another important infrastructure in trade facilitation is the establishment of the Philippines’ NSW (which will be discussed in detail in the succeeding section of this study).

²² Adoption of Authorized Economic Operator (AEO) Programme for Trade Facilitation but implementation will initially apply to exporters/locators inside Clark Freeport Zone (Customs Memorandum Orders 14-2013 issued last December 2013). As of this writing, only 3 firms have availed of the AEO programme.

²³ Creation of the BOC dashboard on the National Open Data Portal ‘Customs ng Bayan’ makes key information on customs operations open and accessible to the public for the first time in the history of the BOC. Also available are monthly disclosure of BOC Consumption entries data and regular disclosure of weighted average dutiable values for all imports.

²⁴ Memorandum of Understanding on the Second Pilot Project was signed on Aug. 29, 2012 by the Philippines, Indonesia and Lao PDR, in preparation for the development and putting into operation of an ASEAN-wide self-certification system in 2015. Consequently, President Aquino issued Executive Order 142 on October 14, 2013 to implement the said MOU.

²⁵ As of this writing, the Philippines has 2 accredited firms and 1 pending application.

In compliance with Section 6 of the Anti-Red Tape Act of 2007, the BOC has set up, implemented, and applied its service standards in accordance with its Citizen's Charter. The charter, which can be viewed in the BOC website, details the documents, time, and fees associated with a particular service. All these are expected to improve access to relevant trade facilitation information as well as the stakeholders' compliance; to strengthen enforcement of customs procedures; and to minimize, if not eliminate, corruption, amongst others.

Despite these progress and developments, there remain challenges and issues in the current customs processes and procedures. On the customs core processes, the e2m system has not yet succeeded to simplify procedures. The system contains many technical flaws that have resulted in more human intervention referred to by many stakeholders as 'electronic-to-manual' instead of 'electronic-to-mobile'. Some modules are not fully integrated to the e2m system, thus requiring manual intervention, whilst others are still running on the old ASYCUDA++, resulting in an ASYCUDA++-and-e2m hybrid system. As such, users can choose to use either the manual or the electronic scheme in clearing their shipment, a process that defeats the original purpose of the automation project.

Another issue is the involvement of VASPs under the e2m system in the goods declaration process. Because validation is performed by VASPs, this becomes a privacy concern because a third party (i.e., the VASP) now has access to documents (e.g., the inward foreign manifest and consolidated cargo manifest). Also, the fees charged by VASPs constitute an additional cost to traders.

The delay in the upgrade of IT infrastructure and network is also a problem. Users experience frequent downtime and the system slowdown. The BOC had planned to replace the e2m system with the Integrated Philippine Customs System (iPCS)²⁶ as early as the first quarter of 2013 so as to consolidate all the current customs systems in place. However, due to compliance issues related to government procurement processes and requirements, the plan was put on hold until it was eventually overtaken by changes in the BOC leadership. In terms of computerization initiatives, a former BOC official had described the BOC-IT department as undermanned and underequipped to carry out the plan.

Like other institutions, the BOC goes through organisational changes not only amongst its staff and priority programmes but, more importantly, amongst the BOC top management itself. The problem though is that organisational change happens too frequently. Other internal problems such as lack of manpower resources, low compensation, budgetary constraints to IT infrastructure upgrade (i.e., in terms of number of computers and internet connection), amongst others, impact negatively on the BOC.

A former BOC official had observed that the bureau is more focused on revenue generation. That is, it is more preoccupied with attaining its revenue targets than with the planning and conduct of

²⁶ Contract to develop and implement was awarded to Webb Fontaine Group last June 2013 but was put on hold due to preliminary injunction issued by Manila Regional Trial Court. Post Qualification procedure must have overlooked the numerous allegations of submission of falsified documents of winning bidder Webb Fontaine, who is also bidding for NSW2.

its operations, particularly trade facilitation. Furthermore, the BOC has insufficient knowledge on the relevance of risk management and concomitantly, lacks the determination to apply risk management in its border control procedures.

b. National Single Window

As discussed in the previous section, President Arroyo's Executive Order No. 482 in 2005 created the National Single Window Task Force for Cargo Clearance, and the BOC was appointed as chairman of the Technical Working Group whose task is to ensure the smooth implementation and operationalization of the NSW project.

The Philippines adopted the phased approach in the development of the NSW. In the initial stages of NSW Phase 1, some agencies were partially consulted during the development, but some did not participate for various reasons such as (1) there was no strong legal mandate or directive from management; (2) they were not technically prepared; (3) they lacked resources; or (4) there was no urgent need for NSW at the moment.

As the domestic legal framework on electronic documentation and processing, Republic Act (RA) No. 8792²⁷ (commonly known as Electronic Commerce Act of 2000) was enacted into law to regulate electronic document-related issues. The same act includes provisions on electronics transactions and digital signature. By 2012, there had not been a single endorsed domestic Certificate Authority (CA) for Digital Signatures, and the DTI was still establishing the criteria to authorize CAs (JASTPRO, 2012).

Based on the interview with the BOC, the NSW Phase 1 is partially finished, with NSW now operational in 30 core agencies, whilst 20 other agencies will be for confirmation/consideration in NSW Phase 2 (i.e., to be electronically linked in Q2 2015). Agencies that are electronically linked to NSW have different levels of system interface or interchange of trade processes with the NSW (Table 2).

²⁷ An Act providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions and Documents, Penalties for Unlawful Use thereof and for other purposes.

Table 2. Level of System Interface or Interchange of Trade Processes with NSW

	Agencies under DA: (BAI, BFAR, BPI Quarantine, NFA, NMIS, FPA, PCA), BOI and PEZA	Bureau of Internal Revenue (BIR)	Sugar Regulatory Administration (SRA)	All Other Agencies
System interface/ interchange of permit application and issuance	Other government agencies' own system interfaces with single window	Single window provides electronic facility to agency	Single window provides electronic facility to agency	Single window provides electronic facility to agency
System interface/ interchange of permits in declaration clearance	OGA's own system interfaces with single window	Single window provides electronic facility to agency	Single window provides electronic facility to agency	Single window provides electronic facility to agency
Coordination of goods inspection by OGA	Manual coordination	No inspection is made by BIR	Manual coordination	Manual coordination
Coordination of payment of OGA fees	OGA uses own payment system	BIR uses own payment system	Single Window provides electronic facility to Agency (e- Payment)	OGA uses own payment system

Notes: Agencies under Department of Agriculture (DA): Bureau of Animal Industry (BAI), Bureau of Fisheries and Aquatic Resources (BFAR), Bureau of Plant Industry (BPI), Bureau of Quarantine, National Food Authority (NFA), National Meat Inspection Service (NMIS), Fertilizers and Pesticide Authority (FPA), Philippine Coconut Authority (PCA), and Board of Investments (BOI) and Philippine Economic Zone Authority (PEZA)

In terms of Permit Application and Issuance and Permits in Declaration clearance, agencies under the Department of Agriculture, Board of Investments and PEZA use their own system to interface with NSW, whilst the Bureau of Internal Revenues, SRA and all other agencies use NSW to provide the electronic facility to their respective agencies. When inspecting goods, manual coordination is common amongst agencies. As the pilot agency that implemented the NSW e-payment module, SRA is the only agency that uses e-payment of NSW.

Table 3 presents the major ports/border posts where NSW is operational or to be implemented. About 87 percent of total import transactions are processed at three Metro Manila ports in 2013.

Table 3. Major Ports/Border Posts: NSW Operationalization

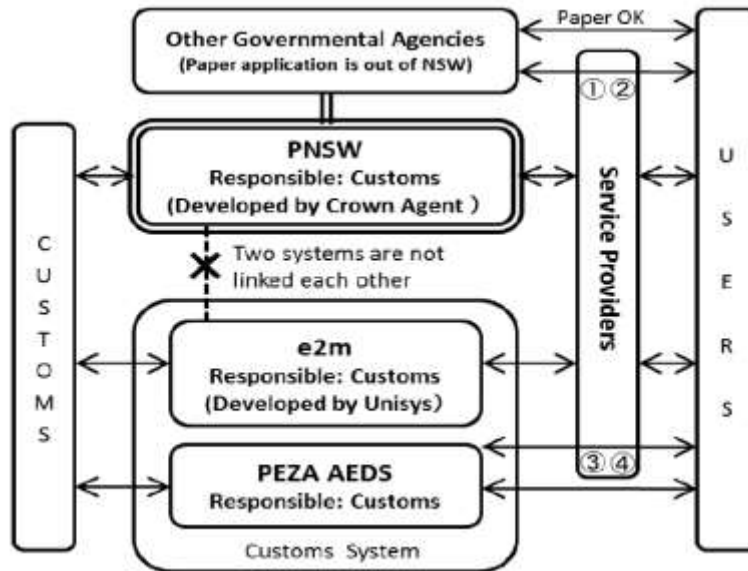
Name of Port or Border Post	Full operational integration with NSW (indicate Y/N)	Year of integration (or year of planned integration)
Manila Int'l Container Port	Y	2011
Ninoy Aquino Int'l Airport	Y	2011
Port of Manila	Y	2011
All other ports	N	3Q 2015

To date, the following aspects of the NSW implementation process have been completed: (1) preparation and planning; (2) process analysis; (3) single window rollout; (4) user testing; (5) staff training; and (6) communication and sensitization on NSW. Processes expected to continue to be carried out are the provision of Helpdesk/user support and publication of regulations and requirements. Process and document simplification and harmonization will be covered in NSW Phase 2 project.

Operationally, most technical infrastructure of key NSW functions are planned or under way as part of NSW Phase 2. Common inspection is still manually coordinated although automation is considered in Phase 2. Initiatives related to ASW will likewise be part of Phase 2. In sum, NSW Phase 2 is composed of the (1) implementation of the network infrastructure and (2) linkage between NSW and the BOC's e2m system, which computerizes the customs clearance process. It involves government-wide rationalization, standardization, and harmonization of all trade data and enhancement of trade portals. It will also link the NSW to the ASW as part of the country's commitment to the ASEAN integration as outlined in the AEC 2015 Blueprint.

Figure 1 shows the current structure of NSW Phase 1. There are two customs systems: One for economic zone; and the other for outside the economic zone. Many systems of the other government agencies (OGAs) are linked to NSW, and users are mostly transacting trade-related procedures with PNSW. Meanwhile, with regard customs declaration, users are obliged to use another system provided by the BOC. This means that from BOC's view point, the agency is attending to two customs systems as well as to the PNSW (for other information on permissions by other government agencies) simultaneously.

Figure 1. Current Structure of NSW Phase 1



Source: (JASTPRO, 2012)

The supposed flow of data, based on the NSW concept, starts when users input all necessary data and information solely to the NSW, and such data are transferred to various government agencies systems as a one-stop service. However, in the case of PNSW, users in some cases apply directly or through VASPs, to various individual systems of OGAs first, instead of to PNSW altogether. Later on, such information is transferred from the OGAs' systems to PNSW in reverse direction (JASTPRO, 2012).

Despite this situation, there are already positive developments from NSW Phase 1: Some agencies have seen a reduction in their processing time as well as documentary requirements (Table 4).

Table 4. Positive Developments from NSW Phase 1

Agency	Prior to NSW Implementation	During NSW Implementation
Fertilizers and Pesticide Authority (FPA)	1.5 days	1 day
Bureau of Product Standards (BPS)	10	3
Board of Investments (BOI)	7	2
Sugar Regulatory Administration (SRA)	5	2
National Telecommunications Commission (NTC)	3	½

Source: Accomplished Questionnaire for ASEAN Member States on Trade Facilitation: National Single Window (Respondent: Management Information System and Technology Group, BOC).

Agency	# of Import Documents	
	Prior to NSW Implementation	During NSW Implementation
FPA	1.5 days	1 day
NTC	10	3
PDEA	7	2
PNRI	5	2
SRA	3	1/2

Unfortunately, Phase 1 was partially terminated in March 2013 following the expiration of the BOC contract with Crown Agents (the implementer of NSW Phase 1). The system maintenance was then handled by the BOC's Management Information System and Technology Group. Likewise, the NSW Phase 2 implementation, which was originally scheduled to be rolled out in early 2013, has been stalled due to some compliance issues related to government procurement processes and requirements. Reforms within BOC and changes in the BOC leadership further contributed to the delay.

As of this writing, the current BOC officials are reviewing the terms of reference of the Customs Modernization project and the NSW Phase 2 to make sure that the technical specifications of NSW Phase 2 will be compatible with the main project. At the time of the interview (July 2014), BOC respondents said that NSW Phase 2 procurement process would start in August 2014 with the contract expected to be awarded by October 2014²⁸.

Due to these setbacks, some traders indicated that the process has reverted to manual transaction – i.e., submission of original documents and hard copies is still required by BOC for verification even as some issuing regulatory agencies are all set to go paperless.

In fact, as of October 2014, according to PhilExport News and Features, only half of the 40 government agencies involved in the issuance of import and export licences, permits, and clearances are connected to the PNSW. Of the 20 agencies that are linked to NSW, only 11 are completely connected, whilst the remaining nine are only partially linked. Amongst the 20 non-users, seven have stopped using the PNSW whilst 13 were never connected at all (See Annex).

This varying level of NSW compliance can be attributed to the varied technology readiness of the OGAs – e.g., different legacy systems, processes, and adoption of NSW technology solutions. Related to this is the pressing requirement for the harmonization, standardization and simplification of data/documents amongst OGAs. The continuing administration of the NSW would require continuous maintenance/upgrade and interconnectivity (IT infrastructure upgrade).

²⁸ As an update, the Department of Budget and Management–Procurement Service (DBM-PS) calls for the submission of eligibility documents for the Selection of System Integrator for Design, Implementation, Operation and Maintenance of Integrated Enhanced Customs Processing System and National Single Window. Deadline for the submission of eligibility documents is 28 October 2014.

Another issue is the absence of a strong legal framework that will mandate agencies to actively participate in the NSW. Constant organisational movement, specifically in the top management, leaves a vacuum, which most of the time leads to sustainability/continuity issues. Still another concern is the lack of a firm, consistent directive from top management, including the Steering Committee.

c. National Trade Repository

As earlier mentioned, the creation of the PNTR is in compliance with the country's international commitments particularly under the ASEAN Trade in Goods Agreement and WTO-Agreement on Trade Facilitation. The ASEAN Trade in Goods Agreement, in turn, provides for the establishment of the ASEAN Trade Repository (ATR) that would serve as a gateway of regulatory information at regional and national levels. Through the ATR, the PNTR will connect and inter-operate with national trade repositories of ASEAN member states.

The PNTR is envisioned as a comprehensive, one-stop reference point in a web-based platform of all tariff and non-tariff measures applied to goods entering, exiting and transiting the Philippines, including domestic regulations and procedures administered and enforced by customs and by other government agencies.²⁹ According to DTI Undersecretary Adrian Cristobal, the PNTR is an important component of the government's trade facilitation strategy since it will provide businesses easier access to information and help their compliance with prescribed regulations. It will create a more transparent environment for trading and reduce the amount of transaction time and costs.

As chair of the Committee for ASEAN Economic Community (CAEC), the country's DTI held a roundtable discussion on 27 May 2014 to brainstorm on possible action points and to set the mechanism (e.g., action plan, terms of reference) for the establishment of the PNTR. A Technical Working Group was formed with the BIS³⁰ as the lead agency together with all trade-related government agencies.³¹

The rationale/mandate for the establishment of the PNTR, scope and coverage, list of trade policy and trade-related government agencies, draft terms of reference of the Ad Hoc Technical Working Group, memorandum of agreement on information sharing and draft action plan were presented and discussed during the first ad hoc Technical Working Group meeting on 18 June 2014.

²⁹ Lifted from Rationale/Mandate for the Establishment of Philippine National Repository (PNTR) from DTI-BIS.

³⁰ Bureau of Import Services falls under the DTI structure and is mandated to facilitate imports, administer import regulation on selected items, and monitor the importation of liberalized and sensitive items. It initiates and conducts preliminary investigations on dumping, countervailing, and safeguard protests.

³¹ There are 36 agencies identified as members in the draft TOR.

Majority of the NTR's features and functions are already under way except for manifest information and requirements, exchanges rates, trade simulation and best practices and recommendations. Implementation of the remaining features will be considered in the further enhancement of the PNTR.

The Information and Communications Technology Office of the Department of Science and Technology offered to support the PNTR by providing technical maintenance and hosting the website/web portal. Furthermore, the country's development partner, United States Agency for International Development (USAID) through the Trade-Related Assistance for Development (TRADE) Project, together with the Information and Communications Technology Office, is working on the technical aspect of the PNTR. Amongst the planned activities are regular technical working group workshops and launching of the portal towards the end of 2014. The country's trade repository is expected to be operational in time for the target establishment of the ATR in 2015.

Key problems so far include late submissions of data/information that will be included or published through PNTR (scope and coverage); some agencies' failure to send representatives to the two meetings; and other trade-related government agencies' inability to designate point persons.

In general, the Philippines is on track with its ASEAN commitments. It has agreed to implement 439 measures under the AEC Blueprint and gained a rate is at 87.2 percent, which is at par with other ASEAN members. Amongst these measures, trade facilitation is a key component of the economic integration agenda.

Based on the earlier Economic Research Institute for ASEAN and East Asia (ERIA) studies on the progress of the AEC 2015 implementation and the current survey, there have been significant developments in trade facilitation specifically on customs modernization, NSW and NTR. There are systems in place but full automation of customs and related processes has yet to be achieved. In the end, full automation is the ideal scenario if one were to eliminate face to face contact and thus minimize corruption.

Amidst all the attempts to modernize the customs processes, there are still gaps in the areas of inspection management, Customs Bonded Warehouses (CBW) management, post-clearance audit, AEO management and raw materials liquidation system. These features should be considered in the upgraded BOC customs processing system (whether e2m or a different system). Only then would there be full automation of customs administration programmes and NSW integration. Likewise, there is a need to automate the Transit Cargo Tracking System and to implement Track and Trace of goods which will support cargo tracking. On customs integration initiatives, the work on compliance to Protocol 2 (frontier posts) and Protocol 7 (customs transit system) of AFAFGIT to facilitate regional connectivity should be revived.

The private sector has been actively pushing for the passage of the Customs Modernization and Tariff Act³², an important legislation to further facilitate trade. The proposed bill seeks to amend the Customs and Tariff Code of the Philippines, to set international standards in customs operations and to make import trade transactions faster, predictable, efficient and transparent. It aims to comply with the Revised Kyoto Convention (the Convention on the Simplification and Harmonization of Customs Procedures) of the World Customs Organization, where the Philippines is a signatory.

Meanwhile, the NSW Phase 2 implementation should be completed, particularly as far as linking the NSW with the BOC custom system, including OGAs' system interface or interchange of trade processes with NSW. Although the NSW (Phase 1) performance degraded substantially due to issues on system maintenance and administration at one point, it was operationally responsive to the requirements of BOC on entry lodgement, import assessment and permits processing. As such, there is an urgent need to address this (missing) link between the NSW and the BOC e2m system. In awarding the contract for the new system, one important consideration should be compatibility between BOC's upgraded e2M system and NSW, given that it had suffered considerable delays already.

In addition, there is a need to amend Executive Order 482 so as to strengthen the implementation of NSW. Although it provided the basic framework for cooperation and coordination between participating government agencies, a stronger commitment to the single window initiative is needed. One suggestion is to appoint a high-level official who will champion the NSW and enjoin the commitment/support of the nation's president. In one of the NSW fora, there was another proposal to enact a law that will sustain the NSW implementation and define the governance model, including roles and responsibilities – both functional and technical – of member agencies. Provisions for funding of the operation and maintenance of the system are certainly essential to maintain and support NSW. Meanwhile, on the legalities of paperless transactions and exchange of electronic information under NSW, there are equivalent provisions in the E-Commerce Act that authorize electronic transactions and processing as well as recognize the validity of electronic documents. However, there are legal interoperability issues and gaps that need to be addressed as discussed in detail in USAID Final Report in Legal Analysis for Implementation of Philippine National Single Window (2012).

As for the NTR, there is a need for (1) a stronger mandate (e.g., via an executive order) that could enjoin trade-related government agencies to commit and support the implementation of the PNTR; (2) an institutional arrangement that is defined to support the conceptual development and sustainable implementation of the PNTR, particularly the decision-making process (e.g., could be a steering committee or a government body higher than the agencies involved, supplemented by sub-working groups); and (3) funding for IT infrastructure upgrade, technical maintenance, and identification of sustainability strategies.

³² The bill also aims to promote and secure international trade, protect and enhance government revenue, prevent smuggling and other fraud against customs and modernize customs and tariff administration.

Finally, in all these, the private sector's support and participation is crucial in furthering the implementation of the above trade facilitation measures.

In his letter dated 15 October 2014, Customs Commissioner John Phillip Sevilla assured the Joint Foreign Chambers of the Philippines of the agency's resolve to push for the immediate implementation of the PNSW Phase 2 as well as of the Integrated Enhanced Customs Processing System.

As for the NSW, there is a NSW Technical Working Group under the National Competitiveness Council (NCC)³³ that is tasked to identify strategies, activities, and steps that would facilitate the implementation of the NSW and thus eventually (1) increase transparency in cargo processing; (2) provide a more accurate, timely and cost-efficient exchange of trade information; (3) reduce customs operational costs; (4) streamline processing of import and export clearances and permits; and (5) improve revenue collection. The NCC works closely with the BOC in implementing the project on goods entry and exit procedures as well as with other government agencies on initiatives pertaining to business entry and exit procedures, regulatory impact assessment and red tape reduction, amongst others.

The NCC also formulates implements, and track projects and policies that facilitate the ease of doing business in the country. The Philippines was reported to have climbed 13 notches from No. 108 to No. 95 of 189 economies in the 2015 World Bank - International Finance Corporation Doing Business Report. The country has gained 53 spots in the Doing Business report since 2011, the largest gain in the region. However, at the indicator level, specifically on 'Trading Across Borders', the country's performance significantly dropped (down 23 notches, from No. 42 to No. 65) in terms of ranking (Table 5). These can be attributed to the setbacks encountered in BOC's implementation of e2m and NSW (NCC website).

Table 5. Ease of Doing Business Philippines (2014-2015)

INDICATORS	2015 (189)	2014 (189)	Change 2014-2015	Performance 2011-2015
OVER-ALL RANKING	95	108	↑ 13	↑ 53
1. Starting a business	161	170	↑ 9	↓ 5
2. Dealing w/ construction permits	124	99	↓ 25	↑ 32
3. Getting electricity	16	33	↑ 17	↑ 37
4. Registering property	108	121	↑ 13	↓ 6
5. Getting credit	104	86	↓ 18	↑ 24
6. Protecting investors	154	128	↓ 26	↓ 22
7. Paying taxes	127	131	↑ 4	↓ 3

³³ A Public-Private Task Force mandated to promote and develop national competitiveness (originally created in 20016.) . In June 2011, President Aquino issued EO 44 amending E.O. 571, renaming the Public-Private Sector Task Force on Philippine Competitiveness as the National Competitiveness Council, and expanding its membership.

INDICATORS	2015	2014	Change	Performance
	(189)	(189)	2014-2015	2011-2015
8. Trading across borders	65	42	↓ 23	↓ 4
9. Enforcing contracts	124	114	↓ 10	↓ 6
10. Resolving Insolvency	50	100	↑ 50	↑ 103

Source: National Competitiveness Council

To improve the country's performance in the trading-across-borders indicator, BOC has identified the following enabling initiatives:

- Full automation of BOC processes by June 2015.
- Integration of customs procedures with Free Trade Agreement partners.
- Implementation of the WTO's Trade Facilitation Agreement.
- Full implementation of the AEO programme.
- Enhanced advance ruling system.

B. Services Liberalisation

In the analyses of the survey results, the interview questions for this particular sector were guided by the four modes of consumption covering six services sectors: (1) telecommunications; (2) health services; (3) medical professions; (4) tourism; (5) maritime transport; (6) banking and insurance.

A comparison of the current results with that in 2010/2011 showed that there have been, in general, no major policy developments geared towards integration. The country has moved towards liberalisation with the enactment of RA No. 10641---which allows full entry of foreign banks in the Philippines---but the constitutional limitation on foreign equity participation remains as the most challenging issue in services liberalisation, especially in maritime transport, telecommunications, and tourism. Other problems are rooted in the regulatory agencies themselves, and in the existence of conflicting policies (i.e., on health facilities and medical professions). These are reasons the services sector can be considered as one of the most problematic areas of the integration that need immediate attention.

The eight package of commitment under the ASEAN Framework Agreement on Services was signed by member states last 28 October 2010 in Hanoi, Viet Nam. This provides for the consolidated schedules of each ASEAN member state's Horizontal Commitments, Schedule of Specific Commitments and the List of Most Favoured Nation Exemptions. In this light, this section will provide information and insights on the progress the Philippines has made in terms of actualizing its commitments in the services sector since 2010.

1. Telecommunications

a. Brief Overview

To determine the current restrictions in the telecommunications industry, an interview was conducted with the NTC as the industry regulator. The NTC was established on 23 July 1979 by virtue of Executive Order No. 546. Such executive order also effectively abolished the Telecommunications Control Bureau and the Board of Communications and integrated their functions into the NTC. The Commission's primary mandate is to regulate all telecommunications and broadcast facilities and services in the country. It also manages the radio spectrum of the country. In general, it has jurisdiction over the licensing, pricing, adoption of standards of reliability and interoperability, frequency allocation and assessment, dispute resolution, and consumer protection (Patalinghug and Llanto, 2005).

Prior to the reforms that led to a more open and competitive market structure starting in 1987, the telecommunications industry was under a monopoly. However, during this period, services in rural and urban areas were unbalanced. To address industry issues, a major move towards liberalisation was done in 1993 through Executive Order 59. Such executive order integrated the nationwide telecommunications network by mandating compulsory interconnection of authorized public telecommunications carriers. Executive Order 109 also mandated all cellular mobile telecommunications services operators to install at least 400,000 telephone lines, and international gateway facility (IGF) operators to put up 300,000 lines. Both executive orders support the government's vision of universal service in the telecommunications industry.

In 1995, RA 7925 (or the Public Telecommunications Policy Act) was signed into law, thus providing the policy framework governing the telecommunications industry. The law aims to develop and improve the delivery of telecommunications services in the country. It effectively liberalised the telecommunications industry and laid down the principles for the administration, conduct and direction of the telecommunications industry. It also mandated the privatization of government-owned and operated telecommunication facilities and removed the 12 percent cap on rate of return.

The next section of this paper details the restrictions and corresponding regulations in the telecommunications industry. The policies included in the discussion are the same issues covered by the survey questionnaire. Also, the current industry survey results are compared with those of the 2010 industry survey. In gist, although the current survey have respondent answers that differed with the answers given in the 2010 survey, one finds that there have been no major policy developments in the telecommunication industry.

b. Policies and Regulations in the Telecommunications Industry

One of the deviations from the past survey results is the latest response of the NTC regarding the market entry restrictions on new facilities-based suppliers of telecommunication services. Although there were no recent policy developments nor amendments, the interview's respondent argued that there are barriers to entry for both domestic firms and firms with foreign participation.

Basically, there are three requirements from new facilities-based suppliers (regardless of whether they are domestic or foreign): (1) a congressional franchise; (2) a specific authority from NTC; and (3) the 60-40 constitutional limitation on ownership, especially by firms with foreign participation.

According to RA 7925, new facilities-based suppliers must secure a congressional franchise, which is a privilege conferred upon a telecommunications entity by the Congress. A franchise needs to go through the whole legislative process, where the length of time to secure a congressional franchise will depend on a myriad of factors. The NTC stated that unless an application for a franchise is certified as an urgent legislative bill, it may take a long time before it is acted upon by lawmakers.

In securing the franchise, part of the process is to invite stakeholders (including existing telecommunications companies) during hearings on a franchise. Existing stakeholders also have a right to raise questions and objections during the hearings (Lucas, 2014). However, aside from the above-mentioned requirements, the NTC views the market as competitive. Thus, there are no restrictions for facilities-based companies to operate in another market segment.

In the case of new resale-based facilities, domestic firms do not need a congressional franchise. All they need is a specific authority from the NTC so as to commence operations. Unlike in the case of facilities-based suppliers, the resale-based sector is fairly unrestricted. A congressional franchise is only needed when a company wishes to establish its own network for the consumption of the public. Firms with foreign participation, however, still need to abide by the 40 percent limit on foreign equities as provided by the Philippine Constitution.

According to the NTC, the telecommunications industry is a deregulated industry; thus, acquisition of the specific authority from NTC is very easy. The only reason NTC requires companies to register and acquire a specific authority from the NTC is for accountability and consumer protection. Just as in the facilities-based service suppliers, there are no restrictions for resale-based suppliers to operate in another market segment whilst operating in another market segment.

Companies in the country are permitted to operate a private network of own facilities or leased lines between their various premises. No prior authorization from NTC is required provided that the services are internal and not for public use. However, if the business involves radio equipment, there are necessary permits and licences under the radio laws. In addition, the NTC does not regulate the types of affiliated firms connected to the private network as long as they remain within their private sector premises. Once the private network is connected to the public network, it is now considered as public and thus requires authorization from NTC.

There are no developments with regard restrictions in cross-border trade for own-facilities supplier and resale-based suppliers. Cross-border supply or consumption of telecommunication services over the networks such as call back, dial back and similar schemes are prohibited by Rule 940 of NTC Memorandum Circular No. 8-9-95. Consistent with the results in the previous survey, there are also no routing restrictions for both own-facilities and resale-based service suppliers.

In terms of licensing, NTC considers the authority it gives to service providers as a general licence. Service providers can offer all services. If they wish to offer additional services, they simply need to register with the NTC. As previously hinted, the NTC maintains that registration is needed to keep track of the identity of service providers in the market.

A general licence is granted if the applicant is financially, legally and technically qualified. To make the provision of services competitive, the NTC has set no restrictions to the number of players. It is the natural market forces that will limit the entry of service providers. Also, the NTC maintains that the licences are technology-neutral and do not require additional registration. This interpretation of licensing is different from that of the 2010 survey results. It is important to note, however, that there were no policy developments in this regard; rather, there was only a categorical change in NTC's answer.

On the other hand, the process of allocating spectrum licences consists of examining the capacity of the service provider and setting up an auction. Republic Act 7925 states two basic principles governing spectrum allocation and assignment: (1) allocation shall be given to the best qualified entity; and (2) when the demand for specific frequencies exceeds the availability, an open tender bidding process shall be used. The previous survey result indicated that spectrum licences are allocated via auction. Open tender bidding is only applicable if the interested service providers are considered qualified and if demand for specific frequencies by interested service providers exceeds the available licences.

In consonance with the previous survey, any licence granted by the NTC does not confer exclusive rights as the industry is considered to be open and competitive. Service providers do not need a separate licence to establish branches in each province. A service provider planning to expand is simply required to update the original application with the NTC. Service providers pay around PHP150 for each city/municipality covered by the application. There are no restrictions on a firm's ability to sell, dispose of or transfer the allocated licences although the sale of the facilities and transfer of the authority are subject to the approval of the NTC. This measure on the part of NTC ensures that the buyer of the licence is qualified to operate.

The main problem that continues to hound the industry today pertains to the pricing of interconnections amongst service providers (Seráfica, 2001). Such price of interconnection is not regulated by NTC. Instead, the rates are bilaterally negotiated between parties, whilst the regulator (NTC) simply mediates whenever the concerned parties fail to reach an agreement.

According to the NTC, that there is a problem with how the NTC's authority as the regulator in interconnection has been defined. Specifically, section 18 of RA 7925 states that 'access charge/revenue sharing arrangements between all interconnecting carriers shall be negotiated between the parties and the agreement between the parties shall be submitted to the Commission.' Service providers thus take this to mean that the agreed terms need only be submitted to NTC and not 'subject to approval of the Commission'. Whilst the NTC had released a Memorandum Circular on Reference Access Offer, which includes guidelines on price setting and fair interconnection between service providers, the Commission cannot implement such because of an ongoing case filed by service providers questioning its legality. As Patalinghug and Llanto (2005) discussed, this provision in RA 7925 has reduced the role of NTC in regulating

interconnection prices as well as tends to incentivize dominant market players to delay the price-setting process until negotiations are in their favour.

There are also no relevant developments with regard the end-user tariffs. Prior to RA 7925, a 12 percent cap on the return on investments was used to set the end-user tariffs. Republic Act 7925 has deregulated the determination of the end-user tariff but NTC has the residual power to set average price caps only when there is an indication of cartelized pricing as provided by Article VI, Section 17 of RA 7925. Also, tariffs in the Philippines have never been rebalanced despite some efforts in the past. According to NTC, rebalancing is not a significant issue anymore due to the competitive market and the advances in technology.

Finally, in pursuit of universal service in the telecommunications industry, a roll-out obligation in the telecommunications service licences is the main policy instrument. Whilst Executive Order 109 has required cellular mobile telecommunications service operators to install at least 400,000 telephone lines and international gateway facility (IGF) operators to put up 300,000 lines, the advent of modern mobile telephony has rendered these requirements obsolete.

2. Health Services

The key informant was a representative of the Bureau of International Health and Cooperation of the Department of Health (DOH). The interview aimed to assess the readiness of the country for a more liberalised trade in the health services sector.

a. The use of telemedicine services

In the Philippines, many stakeholders have advocated the use of telemedicine and other forms of electronic transfer of healthcare services. Telemedicine is actually explored as a potential strategy to address healthcare service delivery gaps such as misdistribution and scarcity of basic and specialized healthcare services in rural areas. To date, most of the existing telemedicine models are in roll-out stages. However, these models are for intra-country or domestic use. According to the DOH, there is no recorded cross-border telemedicine model in the Philippines.

Despite the aggressive promotion of telemedicine in the Philippines, there is no available guidelines or any legal documents (e.g., administrative guidelines, clinical practice guidelines) that outline the practice, consumption, development and promotion of telemedicine, whether for intra-country or cross border use. Likewise, there are no guidelines on the specific kind of telemedicine that is allowed in the country. The DOH and regulatory agencies are yet to come up with a policy stand on the use of telemedicine.

This lack of a clear policy stand and regulation hinders the growth of the telemedicine market. Accountability, medical practice, clinical practice guidelines, and skill certification are some of the issues that need to be resolved.

b. Consumption abroad

The Philippines is one of the top medical tourist destinations in ASEAN next to Thailand, Malaysia, and Singapore. In fact, the Philippines has one of the most competitive costs for some medical procedures such as specialized and aesthetic surgeries relative to other countries. To push for inbound medical tourism in the country, then-President Arroyo launched in 2004 the Philippine Medical Tourism Programme and issued Executive Order 372, which aimed to develop the country's communications, logistic and health and wellness industries. The Board of Investments also approved the guidelines for registration of medical tourism in special economic zones (Picazo 2014). The DOH and the Department of Tourism, joined by other government agencies, are coming up with a national roadmap to firm up the medical tourism industry in the country.

The growth of medical tourism in the country is very palpable in the supply side. Many private hospitals and clinics are joining international certification and accreditation bodies for their health facilities to be tourist-ready. However, one of the concerns of some stakeholders with the promotion of medical tourism is medical inflation and the potential shift to more heavy intensive hospital care, which might increase medical expenses and affect domestic healthcare consumers.

With regard to outbound medical tourism, Filipino nationals are not prohibited to seek medical care outside the country. There are no law or regulation (e.g., special taxes or fees) discouraging people to consume health services abroad. A general travel tax is imposed to all outbound Filipino tourists.

c. Flow of foreign investments

Although the Philippine Constitution guarantees limited foreign participation and ownership of enterprises in the Philippines, 100 percent foreign ownership is guaranteed under RA 7042 (Foreign Investments Act) unless the investment area is included in the Negative List. Health services are not included in the Negative List. Hence, foreigners are technically allowed to own all forms of healthcare service enterprise in the country.

However, existing laws suggest two bottlenecks in the free movement of foreign investments:

- The law encourages foreign-owned healthcare enterprise to abide with the 60-40 percent rule for the composition of the company's board of directors. At least 60 percent of the board of directors should be Filipino citizens.
- Foreigners are not allowed to practice medicine and allied healthcare in the Philippines. The practice of healthcare profession is included in the Negative List. Hence, all health workers in a health facility should be Filipino citizens.

There is no law or regulation that prohibits foreign nationals from setting up specific healthcare enterprises. Likewise, there is no law that stipulates a specific number or proportion of foreign or domestic consumers that the health facilities need to accommodate (except for health economic zones, which encourages higher foreign consumers/patients as part of the country's medical tourism programme).

Neither is there any special regulation in the setup foreign-owned health facilities in the country. As mandated by law, all health facilities, regardless of ownership, should get their licence to operate from the DOH and local government units. The accreditation and licensing standards of the DOH is applied to all health facilities. There is also no law that regulates hospital fees.

d. Flow of transient workers

Amongst all the modes of services trade, inbound movement of transients is the most restrictive. As noted in an earlier section, all health workers in the country should be Filipino citizens. Executive Order Number 98 specifically stipulates that the practice of medicine and allied healthcare (medicine, medical technology, pharmacy, radiologic technology, midwifery, optometry, dentistry, nutrition, physical therapy, radiologic technology) is solely for Filipino citizens only.

In special cases, selected foreign health workers are allowed for a limited practice in the Philippines. However, they need to secure a Special Temporary Working Permit from the Philippine Regulatory Commission (PRC), which is renewable upon PRC's evaluation.

Meanwhile, as far as the outbound movement of healthcare professionals is concerned, there is no regulation that prohibits Filipinos to work overseas. Transient migrant health workers are regulated and monitored by the Philippine Overseas Employment Agency.

3. *Medical Professionals*

a. Overview

In this study, an interview with the Professional Regulatory Commission (PRC) tackled the existing policies and activities relevant to the country's AEC commitments regarding medical professionals. Actual interviews were conducted with board representatives for doctors and dentists. The board representative for nurses sent an accomplished questionnaire. Interviews primarily pertained to individual practices. For questions related to the establishment of firms, existing policies set by the national government, particularly by the Securities and Exchanges Commission, were used as cross reference.

A brief meeting with the president of the Philippine Nurses Association was also conducted. However, the president explained that the association does not have regulatory or licensing powers over the practice of nursing. Moreover, it was noted that the association, as a recognized group of nurses, is being consulted and informed of any change in policies or regulations that pertain to the professional practice of Filipino nurses.

The PRC is a government agency established in 1973 under the Presidential Decree No. 223. Its primary role is to regulate and supervise the practice of professionals or skilled manpower in the country. Its mandate covers formulation of policies and rules on practice of various professions. It has to administer, implement and monitor the implementation of policies so as to maintain the

occupational standards and ethics related to professional practice. Consequently, it also has the authority to investigate any cases or violations of related law or policies. However, it should be noted that during the interview, the PRC respondent clarified that the Commission is not involved in the regulation and monitoring of the establishment of firms by medical professionals.

The questionnaire for medical professionals is composed of nine parts, namely: (1) commercial presence (mode 3); (2) inward movement of natural persons (mode 4); (3) outward movement of natural persons; (4) inward movement of natural persons – intra-corporate transferees (mode 4); (5) cross-border trade (mode 1); (6) consumption abroad (mode 2); (7) ownership; (8) regulations on licensing; and (9) regulations on operations.

b. Policies governing practice of medical professionals

Individual Practice of Medical Professionals

The Foreign Investments Act (RA 7042 as amended by RA 8179) provides the Negative List--- the list of areas or activities that are not open to foreign investors. Based on this list, no foreign equity is allowed in the practice of medicine and allied professions. This limitation on foreign nationals to practice in the country is based on Article 12, Section 14 of the Philippine Constitution, which states that:

The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State. The State shall encourage appropriate technology and regulate its transfer for the national benefit. The practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.

Practice of medical professionals may be allowed as provided by RA 5181, which specifies permanent residence and reciprocity as qualifications for any examination or registration in relation to the practice of profession in the Philippines. Specifically, it says that no person shall be allowed to practice unless:

He has complied with the existing laws and regulations, is a permanent resident therein for at least three years, and, if he is an alien, the country of which he is a subject or citizen permits Filipinos to practice their respective professions within its territories.

Although there is total restriction on the professional practice by foreign nationals, 100 percent foreign equity is allowed for professional service firms. For general partnerships and sole proprietorships whose managers and executives are also the professionals, all managers and professionals should be citizens. The main point is that despite the permission for a 100 percent foreign equity for professional service firms, the professionals and other staff who will work under these firms should be Filipino nationals.

Issuance of Special Temporary Permit

There are specific Philippine laws that allow the issuance of Special Temporary Permit (STP) to foreign medical professionals. These laws that provide specific conditions under which foreign medical professionals may be given STPs are: the Philippine Dental Act of 2007 (Section 24, RA 9484), the Philippine Nursing Act of 1991 (Section 21, RA 9173), and the Philippine Medical Act of 1959 (Section 12, RA 2382).

The PRC evaluates or even processes all applications for STP. Its PRC Resolution No. 2012-668, Series of 2012 requires foreign professionals who intend to practice a regulated profession to secure an STP under the following circumstances: (1) under reciprocity or other international agreements; (2) when engaged by the government as consultants in foreign-funded, joint ventures or foreign-assisted project; (3) when employed by local and foreign private firms or institutions pursuant to law; and (4) for humanitarian mission for a limited period of time. An STP is also given to an invited foreign professional when specialization/skills needed are limited in the country. The STP may be renewed after the period provided by the existing STP is over.

Restrictions on advertisements

The Code of Ethics for physicians and the Philippine Dental Act state the limitations on advertisement. According to the results from the survey, nurses are found to be prohibited to advertise their professional practice.

The following are the provisions for the promotion of medical practice of doctors: (1) use of professional cards, classified advertising, publications, internet, directories and signboards (1x2 metres only); and (2) use of the name of the physician, field of specialty, office hours or office or residential addresses may appear (for internet websites). However, a physician shall not commercially endorse any medical or health product.

Likewise, the Philippine Dental Act stipulates that dentists shall use newspaper announcements only when opening a new clinic, or when changing location, or limiting the character of his/her practice. Announcements in print, website, e-cards, and other electronic form of communication shall be posted within 30 days from the date of opening. Announcement cards may be sent when there is a change in location, or an alteration in the character of practice, to other dentists, members of the health profession, and patients-of-record.

c. Other related activities

Changes in policies

Changes in policies and regulations are initially consulted with relevant stakeholders. The PRC informs and consults representatives from the respective boards for any developments that pertain to the regulation and improvements in the standards of practice of medical professionals.

Moreover, policy changes are disseminated through PRC's website and websites of concerned institutions.

Purchase of medical services abroad

Based on the interviews, there are no specific policy restricting or limiting the purchase of medical services of domestic residents whilst abroad.

Provision of services of medical professionals abroad

As mentioned in the interviews, there is no specific regulation on the provision of medical services of foreign professionals abroad to domestic residents in the country (e.g., tele-medicine). Although medical consultations are somehow provided electronically within the country by local medical professionals, the interviews indicated that cross-border trade (i.e., the provision of services by foreign professional) is not yet widely practiced in the country.

4. Tourism

a. Overview

This section summarizes the survey result from the Department of Tourism (DOT) and this study's cursory evaluation of the tourism sector based on available secondary data³⁴. The survey questionnaire asked about the different trade barriers to the various sub-segments of the tourism services industry—hotels and resorts, other accommodations, food services, beverage services, travel agencies and tour operators, and tourist guides. The questionnaire was divided into three parts. The first part pertained to market access and tackled restrictions in the four modes of supply in services trade; the second part probed into the ownership restrictions; and the last part dealt with the overall regulatory framework, including licensing and operations of regulation.

The DOT is the primary planning, programming, coordinating, implementing and regulatory government agency in the development and promotion of the tourism industry, both domestic and international, in coordination with attached agencies and other government instrumentalities (Section 5, RA 9593). The department has been gaining media attention of late for its aggressive 'It's more fun in the Philippines' campaign, hailed as one of the world's best according to Warc 100, a global annual ranking of marketing campaigns (Ehrlich 2012).

b. State of the Philippine tourism sector

Admittedly, the tourism sector has always been amongst the top money makers in the country and a major contributor to the Philippine economy. In 2013, despite the series of calamities that

³⁴ Survey questionnaires were disseminated to several industry associations from tourism-related subsectors such as the (1) Philippine Travel Agencies Association; (2) Hotel and Restaurant Association of the Philippines; and (3) Travel-Related Incentives Programmes Services but all were unavailable and declined repeated requests for interview.

hit the country, total revenue from inbound tourists increased by 15.1 percent (US\$4.40 billion) as the volume of tourist arrivals jumped from 4.27 million in 2012 to 4.68 million in 2013. The DOT expects brighter prospects for 2014 and foresees greater opportunities as a prime destination for tourists in the years ahead.

On top of these is the new marketing strategy that tackles the negative perception and the image problem of the Philippines. Launched in 2012, the 'It's More Fun in the Philippines' campaign, according to Tourism officials, is a competitive argument for choosing the Philippines as one of the top tourist destinations in the world (Gatdula 2014). The surge in visitor arrivals was credited to massive campaigning and officials are hopeful that this will be sustained with the introduction and implementation of the National Tourism Development Plan. According to the plan, the tourism department is targeting 10 million international visitors, 35.5 million domestic tourists and 17 percent and 8.1 percent contribution to domestic employment and the GDP, respectively, in 2016.

c. Tourism-related laws and policies

The anticipated surge in international and domestic tourists is expected to bring about greater demand for tourism superstructures, facilities and services. In response, the current government vowed to improve the tourism infrastructure in the country by encouraging investments in tourism estates and economic zones, as well as ecotourism, agri-tourism, historico-cultural and health and wellness projects.

To do these, the Philippine government has set in place the following investment laws³⁵:

- Executive Order No. 63

Executive Order 63 grants incentives to foreigners investing at least US\$50,000.00 in tourism-related projects, including a Special Investor's Resident Visa for as long as the investment subsists. It also has provisions for remittance earnings and repatriation of capital, where foreign investors are allowed to remit their investment earnings in the currency of their original investments, and full repatriation of investment proceeds in case of liquidation.

- Omnibus Investments Code (EO 226)

Executive Order 226 allows the Board of Investments to grant fiscal and non-fiscal incentives to local and foreign investors engaged in tourism-related activities that are listed under the current Investments Priorities Plan (IPP). Incentives include income tax holiday (four years for non-pioneer and six years for pioneer projects), duty-free importation of capital equipment and employment of foreign nationals.

³⁵ Draws heavily from the DOT Tourism Investment Primer.

For 2013, almost all tourism and tourism-related enterprises are listed under the IPP mandatory list, which includes transport services used by tourists, establishment and operation of tourism facilities (i.e., accommodation facilities; convention, sports and recreation centres; theme parks; health and wellness facilities), development of retirement villages, and restoration and preservation of historical sites and structures. Excluded from the income tax holiday incentive are casinos and golf courses.

- Foreign Investments Act of 1991

This law establishes allowable investment areas for foreigners. Foreign nationals are allowed to own (100%) and operate new or existing economic activities in the Philippines except those industries reserved for Filipino nationals as determined by the Constitution.

In terms of tourism-related enterprises, up to 40 percent foreign equity participation is allowed in the operation and management of utilities---i.e. land, air and water transport for tourists, travel agencies, tour operations as well as other accommodation facilities such as pension house, tourist inn and apartment-hotels. Full foreign ownership, however, is allowed for establishments with paid-up capital of US\$ 200,000 and above, except for hotel development, where the required minimum capitalization is US\$2.5 million.

Based on the survey response, foreign investments on food and beverage activities are restricted and should be confined as part of an integrated operation of tourism enterprise such as hotel chains and resorts. However, according to other sources, 100 percent foreign equity is allowed for specialty restaurants, full restaurant services or beverage serving services (without entertainment) enterprises provided that the paid-up capital is above US\$2.5 million.

As a general rule, only Filipino citizens are allowed to work in tourism-related enterprises. However, for multinational hotel chains and resorts, intra-corporate transferees can work and stay subject to the requisite labour market tests. For instance, only hotels, resorts and specialty restaurants accredited by the DOT are allowed to engage the services of foreign nationals. Aliens may occupy a maximum of four managerial positions in a hotel or resort. In the case of specialty restaurants, only one alien Specialty Chef may be employed for a maximum period of two years.

- Build-Operate-Transfer Law

Tourism estates including related infrastructure facilities and utilities are amongst the priority projects eligible for Build-Operate-Transfer (BOT) implementation. Under the BOT law, national agencies and local government units may engage and enter into partnership with local and foreign companies in the financing, construction and operation of critical infrastructure projects, including tourism estates.

- Special Economic Zone Act of 1995

This Act provides the legal framework for the creation and establishment of Special Economic Zones in the Philippines. In October 2002, the DOT and the PEZA signed a Memorandum of Agreement granting all tourism development zones and tourism estates the 'Special Economic Zone' status upon registration with PEZA and endorsement by the DOT. Philippine Economic Zone Authority locators are entitled to Bureau of Investments incentives, including the 100 percent foreign ownership of locator enterprises, Income tax holidays, Special Investor's resident visa, duty-free importation of capital equipment and other incentives as may be determined by the PEZA Board.

- Retail Trade Liberalization Act of 2000

This act helps liberalize the Philippine retail sector, allowing for full foreign ownership of business enterprises, including restaurants with a minimum capital requirement of US\$2.5 million.

In 2009, the importance of the tourism industry to the country's socio-economic development was enshrined with the passage of RA 9593. Republic Act 9593 (also known as the Tourism Act of 2009) declares a national policy for tourism as an engine of growth and national development. It empowers the DOT, and supports the establishment of the Tourism Infrastructure and Enterprise Zone Authority (formerly Philippine Tourism Authority) and the development of Tourism Enterprise Zones as drivers of development and investments in tourism.

The series of reforms plus the ongoing initiatives to further liberalise tourism investments and improve tourism services trade are not without results. The progress made in these areas is reflected in this study's survey response, which validates that the Philippine tourism sector is fairly open to foreign investments especially when it comes to market access.

All legal forms of establishments are allowed and encouraged to invest in tourism enterprises. Subsidiaries, branches or representatives of foreign corporations may engage in the provision of general tourism services in the country such as but not limited to hotels, travel agencies as well as tour operations and tourist guides, provided the paid up capital is US\$200,000 and above.

However, in terms of market access, some restrictions are observed in the provision of food and beverage services because as discussed earlier, these are reserved for accredited hotels and resorts that are part of integrated tourism enterprises.

The DOT respondent also reported that foreign-invested tourism providers are allowed to build up, expand and open outlets anywhere in the Philippines but are subject to pertinent laws (e.g., Foreign Investments Act, Retail Trade Act) and constitutional provisions. For instance, under the Constitution, foreign corporations can acquire or own land in the Philippines provided that it is a privately owned land, and that the foreign equity in the corporation does not exceed 40 percent. However, as per RA 7652 (or the Investor's Lease Act), foreign corporations with over 40 percent foreign equity can still enter into a lease agreement with Filipino landowners for a period of 50

years, renewable for another 25 years. For tourism projects, the lease shall be limited to projects with a minimum capitalization of US\$5 million.

The survey response likewise confirmed the existing restriction on the practice of professionals (or Mode 4) for tourism services, indicating that foreign intra-corporate transferees—i.e., executives, managers, skilled and unskilled workers—are allowed but subject to labour market tests and visa requirements. Moreover, tourists and foreign tourism personnel with visitors' visa are allowed a short-term stay of from 21-30 days up to a maximum of one year and 59 days. For those seeking employment, foreign nationals, according to survey result, must secure a one-year Alien Working Permit from the Department of Labor and Employment, which can be renewed subject to Department of Labor and Employment's approval.

The country is also a signatory to the ASEAN-Mutual Recognition Arrangement on Tourism Professionals, which aims to facilitate the mobility of tourism professionals in the ASEAN member countries. Once fully integrated in 2015, interested ASEAN tourism professionals are qualified to work in other ASEAN member countries after passing the common competency standards and some basic requirements. For now, tourism professionals may find employment in any of the six labour divisions across the ASEAN region: (1) Front office; (2) Housekeeping; (3) Food production; (4) Food and beverage services (for hotel services); (5) Travel agency; and (6) Tour operations (for travel services division).

Even prior to the signing of the ASEAN MRA, the DOT had already allowed interested foreign tourist guides to practice in the country, provided they have complied with the required training hours at the DOT and have completed the necessary visa and work permits from the labour department.

To a large extent, the country has already set in place all the basic legal and policy requirements to boost tourism. However, the needed solutions to the challenges facing Philippine tourism go far deeper than simply rehashing old tourist pitches (Ehrlich 2012) and giving out incentives.

One major constraint that most people easily recognize is inaccessibility – the limited mobility to and within the Philippines. Flight frequency and capacity, and airport infrastructure are important in attracting tourists but unfortunately, the Philippines rates poorly in all of these (Ibid).

There are many other factors and issues confounding the industry but one study was able to sum it up in one but hypercritical statement, 'the basic product is uncompetitive, the quality of infrastructure support being below par compared to those found in other parts of the region. Amount and quality of accommodations, access to destinations, level of security, quality of environment, and number of activities offered compared to competing destinations in the region are inferior' (Lagman 2008).

Whilst the DOT is right to brag about the country's destinations, bathing the issues with colorful adjectives and cheerful slogans is not going to wash away the woes (Ibid).

5. Maritime Transport

a. Overview

The maritime transport industry plays an important role in the economy as it serves as the major means for moving goods and passengers, not only within the country, but also in international trade (i.e., exports and imports). The Philippine Ports Authority (PPA) reported that in 2012, the total cargo throughput reached 198.9 million metric tons (mmt), which is composed of the following: 75.8 mmt (38.1%) for domestic trade; 117.9 mmt (59.3%) for foreign trade, and; 5.2 mmt (2.6%) for transit cargo (NSCB 2013). Also, around 49.5 million passengers were transported during the same year. Given this, it is evident that having an efficient maritime transport industry is highly needed, especially for the AEC Integration in 2015.

This section discusses the results of the AEC Scorecard Phase 4 project as compared with findings in Phase 2 (in 2010) and Phase 3 (2013). It identifies policy developments in the sector and identifies the issues and bottlenecks that hinder the country's move towards a more liberalised maritime transport industry.

To provide proper context on the overall picture of the sector, it is important to note that there are several regulatory agencies governing the industry. These are: (1) Maritime Industry Authority (MARINA), an attached government agency to the Department of Transportation and Communications (DOTC), which was created to 'integrate the development, promotion and regulation of the maritime industry in the country'; (2) PPA, a government-owned/controlled corporation attached to the DOTC, which was mandated 'to establish, develop, regulate, manage and operate a rationalized national port system in support of trade and national development' (PPA website); and the (3) Philippine Shipper's Bureau, a regular bureau attached to the DTI, which is mandated to promote and protect the common interests of all commercial users of water transport and carry out policy measures to develop trade through 'economical and efficient carriage of merchandise' (Department of Trade and Industry 2008).

The questionnaire covers the following sectors:

- (i) Sea-going shipping;
- (ii) Internal waterways;
- (iii) Port operation (wharves, terminals, etc.);
- (iv) Container station and depot services;
- (v) Storage and warehousing;
- (vi) Cargo handling;
- (vii) Freight forwarding;
- (viii) Pilotage towing and tying; and
- (ix) Maintenance and repair.

In the survey, respondents answered only those questions where they are exclusively involved in. In the case of MARINA, officials answered questions on the following subsectors: (i), (ii), (viii), and (ix). The PPA, although it does not serve as the overall regulatory authority of port-related

services³⁶, covered questions (iii) to (vi). Lastly, the Philippine Shipper's Bureau replied to questions on freight-forwarding services. The Securities and Exchange Commission also played an essential role in answering questions on the legal forms of establishments that are allowed for foreign maritime transport companies. Likewise, the Philippine Interisland Shipping Association, Inc. (PISA) provided substantial information that helped the research team validate regulatory agencies' responses³⁷.

A comparison of results showed that, in general, there has been no policy development in the maritime sector. The changes in answers across comparative survey periods were merely caused by the varying interpretations/perspective of respondents.

b. Survey results

In general, the entry of foreign maritime companies is still restricted by the constitutional rule on the 40-percent foreign equity limit. This applies to all subsectors except for maintenance and repair, where the entry of 100 percent foreign-owned firms is allowed by virtue of Presidential Decree No. 666.

As for the new domestic providers, policy restrictions still exist in cargo handling, port operations, and container stations and depot services. In particular, as noted in the 2010 results, there is only one winning bidder for port superstructures, subject to RA 9184, whilst there exists only one operator per terminal for cargo-handling services. Since foreign providers are subject to the foreign equity rule, they are required to engage in a joint venture with a domestic company to penetrate the market. They are allowed to form subsidiaries, branches and representative offices except in the internal waterways sector, where only representative offices³⁸ are allowed.

Overall, the Philippine cabotage policy still remains as the main issue for the inland waterways sector. Articles 5 and 6 of RA 9295, which is also known as the Domestic Shipping Development Act of 2004, states that: (1) 'No franchise, certificate, or any other form of authorization for the carriage of cargo or passenger, or both, in the domestic trade, shall be granted except to domestic ship owners or operators'; and (2) 'No foreign vessels shall be allowed to transport passengers or cargo between ports or places within the Philippine territorial waters, except upon the grant of Special Permit by the MARINA when no domestic vessel is available or suitable to provide the needed shipping service, and public interest warrants the same'.

³⁶ This will be discussed further in the latter part of this section.

³⁷ The Securities and Exchange Commission (SEC) is a government agency mandated to implement the following laws: (1) Securities Regulation Code (RA 8799); (2) Corporation Code of the Philippines (BP 68); (3) PD 902-A as amended (except for sections repealed by RA 8799); (4) Investment Houses Law (PD 129 as amended by RA 8366); (5) Investment Company Act (RA 2629); (6) Financing Company Act (RA 5980 as amended by RA 8556); and (7) Credit Information System Act (RA 950). Meanwhile, the PISA is a maritime association of domestic shippers.

³⁸ As stated by the SEC, the representative office only acts in a limited capacity (i.e., information dissemination and promotion of company products) and could not in any way engage in the activities of its parent company. It is for this reason that it is not subject to the nationality laws. Thus, to cite, a foreign corporation organized abroad and engaged in domestic/internal waterways could establish a representative office in the Philippines since it will not engage in domestic or internal waterways in the country, where said activity is subject to foreign equity restrictions.

In a recent study, Llanto and Navarro (2014) explored the possible impacts of the cabotage policy in the maritime industry. They identified the following impacts: (1) high domestic shipping costs, which is one of the reasons exporters and importers support the lifting of the cabotage policy; (2) lack of meaningful competition as ‘more cost-competitive foreign vessels’ are restricted from providing services in inland waterways; and (3) weak motivation to modernize despite the incentives provided by the Domestic Shipping Act of 2004. A case in point is the continued use of smaller and even older vessels in domestic shipping despite the fact that the country is the world’s fifth largest shipbuilder (Llanto and Navarro, 2014).

During one consultation session with the PISA³⁹, one of the groups that opposed the lifting of the cabotage policy explained why the government must not pursue the said proposal. The officials argued that high domestic shipping cost is not the result of lack of competition (i.e., cabotage policy); rather, it is due to various converging factors such as: (1) ‘lack of economies of scale resulting in small parcels of goods transported’; (2) ‘imbalance of trade between South (Harbor) and North (Harbor), between consumer and production areas’; (3) ‘lack of road and port infrastructure that causes downtime and makes delivery system turnarounds inefficient; truck bans; local government units’ informal toll fees or accommodation fees’; and (4) ‘high costs of port operations’ (arrastre charge and other fees).

Overall, the PISA claimed that it is open to the idea of competing with foreign-flag vessels provided that the government will level the playing field for the Philippine-flag vessels (i.e., apply the ‘same tax regimes such as duty and tax-free fuel, parts and supplies as well as remove the restriction under Presidential Decree 1221 for domestic ships to undergo repairs with MARINA-registered shipyards only⁴⁰).

Thus, they recommended the following policy actions in response to the high domestic shipping costs and cabotage issue: (1) create a national development plan to cluster manufacturing and production centres around port and airport infrastructure; and (2) lower the operating costs of domestic ships (i.e., leveling the playing field in terms of tax regime, ‘reducing manning complement of domestic ships’, providing domestic ships the option to dry dock their vessels either in the Philippines or outside (which is generally cheaper).

Acknowledging that there are also other factors significantly contributing to the high domestic shipping costs, Llanto and Navarro (2014) posited that apart from the lack of competition, there is also a need to address the port-related problems such as inadequate or inefficient port practices. Relatedly, there is also the issue over the PPA’s ‘dual’ function as both port regulator and port operator. Likewise, the ‘one port, one operator’ policy still existing in some ports remains a significant barrier in the upcoming economic integration.

³⁹ Based on a meeting conducted between the Philippine Institute for Development Studies (PIDS) and the PISA to express the latter’s thoughts on the published PIDS Policy Notes, entitled, ‘Toward relaxing the cabotage restriction in our maritime transport’ on 22 April 2014.

⁴⁰ PISA’s letter to the PIDS containing explanatory notes on cabotage policy (2014).

As for restrictions on operations, the same restriction on cargo reservation (PD 1466) still applies. That is, the Philippine Shipper's Bureau requires that all government cargoes and those cargoes owned by private entities with government loan, credits and guarantees be loaded on a Philippine-flag vessel; otherwise, a waiver must be secured.

In the case of terminal handling costs, the current situation reflects the 2013 Phase III result, although there is a need to differentiate terminal handling cost as charged by international shipping lines from the PPA-imposed vessel charge and other port charges. These PPA charges are non-negotiable. The PPA only imposes a tariff ceiling, which can go down provided that the interests of the government are not prejudiced. Also, terminals are 'restricted' in the activities that they undertake based on the management contract between the PPA and the private operator. Private operators are not prohibited from handling general cargo but it is important to note that private operators can be classified into two types: commercial and non-commercial private ports. As defined by the PPA, private commercial ports⁴¹ offer port services to the public whereas the non-commercial ones are established primarily to service their own requirements and generally do not offer port services to the public. Finally, private ports are generally able to handle cargo and required a supervision fees for the PPA. The PPA's authority over supervision fees stems from its charter, Presidential Decree No. 857.

c. Some remarks

To realize the benefits of the upcoming AEC 2015 integration, the Philippine government needs to implement reforms and policy actions that are geared towards a more liberalised and competitive maritime transport services industry. In doing this, it is equally important to take into account the arguments of those who are against the lifting of the cabotage policy. Thus, as proposed by Llanto and Navarro (2014), the phased lifting of the cabotage law may be the most preferable action since the immediate blanket removal of cabotage restrictions could be disruptive.

Overall, it is apparent that the major issue rests on the 60-40 rule on foreign equity. Such challenge calls for the amendment of the Philippine Constitution, which is a highly contentious issue and requires tedious legislative process. Thus, addressing the cabotage issue significantly depends on the political will of legislators, regulatory agencies, and other concerned stakeholders. This entails not only the amending of the Constitution, but also the review of other policies (e.g. 'one port one operator' policy) that govern the sector.

⁴¹ Commercial private ports are allowed to contract out the loading/unloading of cargoes to an independent cargo handling operator, which must be duly accredited by PPA. The rates of the cargo handling charges must be in accordance with PPA approved rates.

6. Banking and Insurance

The Philippine financial sector experienced notable milestones in recent years. Banking and insurance laws were amended to accommodate further liberalisation in these industries. Other than the major banking and insurance statutes, rules and regulations were likewise revised to support the bid to further liberalise the financial sector.

The Philippine government's amendments, such as the enactment of RA No. 10641⁴², aim to prepare the banking industry for further regional liberalisation. The country recognizes the benefits from liberalisation under General Agreement on Trade in Services and recent agreements of the Philippines with other countries under the AEC. For the banking sector in particular, the Philippines is preparing to deliver its commitment under the ASEAN Banking Integration Framework.

Moreover, amendments were introduced on securities rules and regulations in preparation for the integration of the capital markets in the region. This particularly relates to the ASEAN Multi-currency Bond Integration Framework for the fixed-income market and the ASEAN Capital Markets Framework, which covers the equities market.

As the industry opens up to other economies, previous foreign investment restrictions for banks were lifted. Correspondingly, the Bangko Sentral ng Pilipinas has undertaken various stages of foreign exchange liberalisation to ease the flow of capital in the country. Notably, Philippine banks were required to comply with the Basel III requirements ahead of other ASEAN countries. This is part of the regulator's initiative to ensure that the Philippine banking system is strong, resilient and competitive as the country moves towards a more liberalised economy.

The same intent is deemed consistent with the provisions of RA 10607⁴³ (otherwise known as The Insurance Code) on an already liberalised insurance industry. Under this Code, insurance companies are required to upgrade their capitalization to further boost the competitiveness of the insurance sector. One other development from the enactment of RA 10607 is the removal of the required equity ownership of a bank in an insurance company for the former to perform cross-selling activities. This effectively allows a fully owned foreign-invested company to perform bancassurance activities in the Philippines. However, whilst this is allowed by law, the insurance industry continues to advocate for a rule that will implement this provision as current regulations only provide for insurance companies that belong to the same financial conglomerate to undertake cross-selling activities with the bank.

⁴² Entitled 'An Act Allowing The Full Entry of Foreign Banks In The Philippines, Amending For the Purpose RA 7721', which takes into consideration Senate Bill No. 2159 and House Bill No. 3984 approved on 15 July 2015.

⁴³ 'An Act Strengthening The Insurance Industry, Further Amending Presidential Decree No. 612, Otherwise Known as The Insurance Code, As Amended by Presidential Decree Nos. 1141, 1280, 1455, 1460, 1814 and 1981, and Batas Pambansa Blg. 874, And For Other Purposes', taking into consideration House Bill No. 4867 and Senate Bill No. 3280 approved on 15 August 2013.

C. Investment Liberalisation

1. *The Foreign Investment Act of 1991*

From a restrictive and complicated investment regime, the Philippines' investment policy has changed considerably over the last two decades, embracing a more open and liberal view on foreign investments. The main laws regulating investments in the Philippines rest with the 1991 Foreign Investment Act (FIA) and its amendment, RA 8179, and their respective implementing regulations.

Hailed as a major reform that will improve transparency for foreign investors, the FIA allowed foreign equity participation in all areas of investments, except for those reserved for Filipino nationals as prescribed or specified under the negative lists (i.e., List A, B, C). The law provides for the formulation of negative lists of business activities where foreign investors are restricted or would be allowed to invest less than 100 percent equity. List A enumerates the investment areas identified by the Constitution and all applicable legislations to be exclusive to Filipino nationals such as mass media, cooperatives, and small-scale mining. List B defines those areas reserved for locals for reasons of national security, and moral and health risks and for the protection of small- and medium-scale enterprises, whilst List C identifies all the 'adequately investment areas', which are industries where there already exists an adequate number of enterprises to serve the needs of the economy and where foreign investments are no longer needed.

Although the lists have been reduced over the years, and List C was abolished in 1996, the Joint Foreign Chambers maintain that there have been little changes only in most of these laws. Restrictions particularly in critical areas such as mass media, land ownership and public utilities remain (Table 6). And whilst Lists A and B are reissued every two years, the Joint Foreign Chambers argued that these have become static, with only two substantive changes made over the last decade: (1) the Retail Trade Liberalization Act of 2000, which opened retail trade to foreigners investing not less than US\$2.5 million; and (2) Executive Order 158 in 2010, which allowed 100 percent foreign ownership of gambling establishments and casinos in economic zones.

Table 6. Foreign Equity Restrictions, Philippines

List A	Sector
No foreign equity	(1) Mass Media except recording; (2) Practice of all professions; (3) Retail trade enterprises with paid-up capital of less than US\$2.5 million; (4) Cooperatives; (5) Private Security; (6) Small-scale Mining; (7) Utilization of Marine Resources in archipelagic waters, territorial sea, and exclusive economic zone as well as small-scale utilization of natural resources in rivers, lakes, bays, and lagoons; (8) Ownership, operation and management of cockpits; (9) Manufacture, repair, stockpiling and/or distribution of nuclear weapons; (10) Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personnel mines; (11) Manufacture of firecrackers and other pyrotechnic devices.
Up to 20%	(12) Private radio communications network

foreign equity	
Up to 25% foreign equity	(13) Private recruitment, whether for local or overseas employment; (14) Contracts for the construction and repair of locally-funded public works; (15) Contracts for the construction of defense-related structures
Up to 30%	(16) Advertising
Up to 40%	(17) Exploration, development and utilization of natural resources; (18) Ownership of private lands; (19) Operation and management of public utilities; (20) Ownership/establishment and administration of educational institutions; (21) Culture, production, milling, processing, trading excepting retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and by-products; (22) Contracts for the supply of materials, goods and commodities to government-owned or controlled corporation, company, agency or municipal corporation; (23) Project proponent and facility operator of a BOT project requiring a public utilities franchise; (24) Operation of deep sea commercial fishing vessels; (25) Adjustment companies; (26) Ownership of condominium units where the common areas in the condominium project are co-owned by the owners of the separate units or owned by a corporation
Up to 60%	(27) Financing companies regulated by the Securities and Exchange Commission; (28) Investment houses regulated by the SEC.
List B	
Up to 40%	(1) Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police clearance; (2) Manufacture, repair, storage and/or distribution of products requiring Department of National Defense clearance; (3) Manufacture and distribution of dangerous drugs; (4) Sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks posed to public health and morals; (5) All forms of gambling, except those covered by investment agreements with PAGCOR and operating within PEZA zones; (6) Domestic market enterprises with paid-in equity capital of less than the equivalent of US\$200,000; (7) Domestic market enterprises which involve advanced technology or employ at least 50 direct employees with paid-in equity capital of less than the equivalent of US\$100,000.

Source: Executive Order 858 (8th Regular Foreign Investment Negative List, 5 February 2010).

On 29 October 2012, the government released the ninth revision to the foreign investment negative lists. But instead of cutting down the lists, the presidential directive expanded the list of investment areas, prohibiting non-Filipinos from working in the field of real estate and healthcare, in particular respiratory therapy and psychology.

As a general rule, foreigners are prohibited from practicing any occupation or profession in the country, and the Philippine Constitution also sets a 40 percent limit on foreign participation in certain primary sectors. Foreigners are also not allowed to purchase and own a land, but can lease for a maximum of 75 years. Table 7 summarizes the various government restrictions and regulations on certain industries, particularly those under the services sector. Table 8 meanwhile looks at the existing government policies on market access and other modes of supply of services trade, including screening and licensing requirements for some professional, scientific and technical activities.

Whilst the Philippines may be generally considered as relatively open according to Urata and Ando (2010), the country's policies on foreign equity ownership and participation in mining, oil and gas, agriculture and forestry, telecommunications, electricity, banking, transportation and media have been found to be most restrictive. The World Bank Group (2010, quoted in Asia Sentinel 2013) notes that of the 87 countries they surveyed, 'the Philippines imposes foreign equity ownership restrictions on more sectors than most other countries and puts more informal roadblocks in the way of what investment could take place.'

Table 7. Government Restrictions on the Services Sector

Sector	Government Restrictions/Regulations
Wholesale and retail trade	<ul style="list-style-type: none"> • Foreigners are not allowed to own land but can lease for a maximum of 75 years. • Foreign investment is not allowed in certain categories such as retail trade enterprises with paid-up capital of less than US\$2.5 million or less than \$250,000 or retailers of luxury goods. Full foreign participation is allowed for retail trade enterprises with paid-up capital above these levels. • Foreign investors are required to comply with performance requirements: the Retail Trade Liberalization Act 2000 requires foreign retailers, for 10 years after the bill's enactment, to source at least 30 percent (for retail enterprises capitalized at no less than US\$2.5 million) or 10 percent (for those specializing in luxury goods) of their inventory, by value, in the Philippines.
Telecommunications	<ul style="list-style-type: none"> • The Philippine Constitution limits foreign ownership to 40 percent • Foreigners are restricted from serving as executives or managers of telecommunications companies • The proportion of foreign directors in telecommunications companies may not exceed that of the foreign component of a company's capital stock • Foreign equity in private radio communications networks is constitutionally limited to 20 percent • Operation of cable television and other forms of broadcasting and media are also reserved for Philippine nationals.
Maritime	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent • Monopolistic structure of public ports controlled by the Philippine Ports Authority
Air Transport	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent
Road	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent
Electricity	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent
Water	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent
Health services	<ul style="list-style-type: none"> • Foreign equity ownership limited to 40 percent for hospitals (full foreign ownership allowed for HMOs)
Postal services	<ul style="list-style-type: none"> • Government monopoly
Education	<ul style="list-style-type: none"> • Foreign equity limits to 40 percent

Source: Dee, P. in Urata and Okabe, 2011

Anecdotal reports posit these restrictions were imposed to promote independence and protect national patrimony from foreign encroachments. It was assumed that by controlling foreign investments and property rights of foreigners, the country could attain economic strength and

dominance. These views, thought to serve nationalist interests at that time, now seem arcane, if not counter-productive especially under a highly integrated regional economic environment.

Table 8. Restrictions on Trade in Services

Sector	Commercial Presence (Mode 3)	Movement of Natural Persons (Mode 4)
Banking	<ul style="list-style-type: none"> • Policy restrictions on new entry of foreign banks • Entry of foreign banks restricted by screening or needs test • Restrictions on ability of foreign banks to lend • Restrictions to expand operations (street branches, offices & ATM) for foreign banks 	<ul style="list-style-type: none"> • Nationality requirements for executives, managers, etc. employed by locally established foreign banks • Intra-corporate transferees' entry & stay subject to labour market test
Insurance	<ul style="list-style-type: none"> • Policy restrictions on new entry of foreign insurance providers • Restrictions on ability to reinsure (foreign firms) • Restrictions on insurers' placement of assets (domestic & foreign firms) 	<ul style="list-style-type: none"> • Nationality requirements for executives, managers, etc. employed by locally established foreign insurance company • Intra-corporate transferees' entry & stay subject to labour market test
Accounting	<ul style="list-style-type: none"> • Policy restrictions on new entry of foreign firms • Prohibitions on accounting firms from incorporating • Prohibitions on foreign firms from establishing a joint venture 	<ul style="list-style-type: none"> • Restrictions on new entry by foreign individuals • Nationality or citizenship requirement • Foreign individuals prohibited from/limited in undertaking certain services
	<ul style="list-style-type: none"> • Prohibitions on foreign firms from undertaking/limited in certain services 	<ul style="list-style-type: none"> • Intra-corporate transferees: requirements to have nationals/residents; subject to labour market test; managerial personnel required to be locally licenced as a professional & required to be locally domiciled
Medical		<ul style="list-style-type: none"> • Restrictions on new entry by foreign individuals • Nationality or citizenship requirement • Residency or local presence requirement • Intra-corporate transferees: Requirements to have nationals/residents; subject to labour market test; managerial personnel required to be locally licenced as a professional & locally domiciled
Health	<ul style="list-style-type: none"> • Foreign health services firms restricted in scope of services they can provide • Foreign health services firms restricted in the number of clients they can service 	<ul style="list-style-type: none"> • Intra-corporate transferees: Minimum requirements to have nationals/residents; subject to labour market test; managerial personnel required to be locally licenced as a professional

Sector	Commercial Presence (Mode 3)	Movement of Natural Persons (Mode 4)
Maritime Transport	<ul style="list-style-type: none"> • Port, Waterway Operations: Commercial presence of foreign firms is allowed through joint venture with 40 percent foreign equity • Other maritime transport services: 100 percent foreign equity is allowed 	<ul style="list-style-type: none"> • All Philippine-registered ships must be manned by Filipino national crew • For specialised vessels used in international passenger and freight transport, aliens may be employed as supernumeraries only for a period of six months • The CEO and COOs of shipping companies shall be citizens and permanent residents of the Philippines. • At least two of the principal officers shall have at least five years of experience in ship management, shipping operations and/or chartering; • Any change of principal officers shall be approved by MARINA.
Road Transport	<ul style="list-style-type: none"> • Establishment through joint venture is allowed with 40 percent foreign equity limit. • For maintenance and repair of road transport equipment: Operation is limited only to Filipino citizens or to corporations organized under Philippine law with at least 60 percent of capital belonging to Filipino citizens. 	<ul style="list-style-type: none"> • Qualified aliens may hold technical positions only for the first five years of operation of the enterprise. • Each employed alien should have two Filipino understudies.
Freight Forwarding by Sea	<ul style="list-style-type: none"> • Establishment through joint venture is allowed with 40 percent of foreign equity limit. • For international freight forwarding by sea: 100 percent foreign capital is allowed if paid-in equity capital is not less than US\$200,000. 	

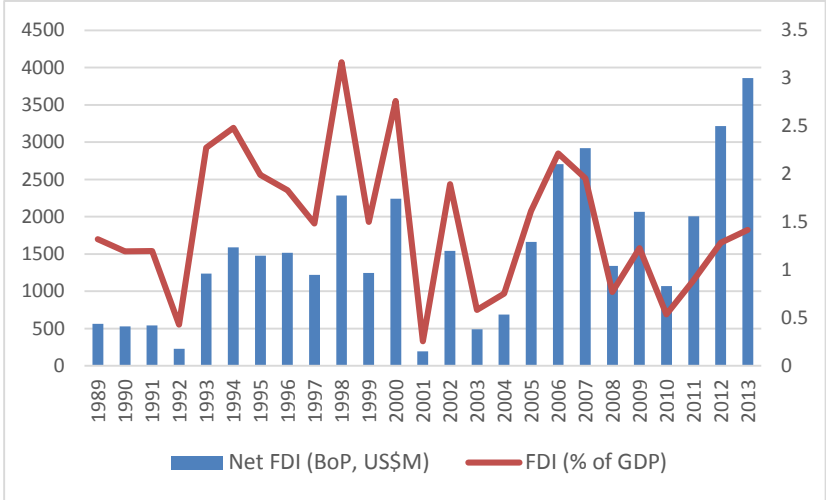
Source: Dee, P. in Urata and Okabe, 2011. As cited in Aldaba and Gundaya (unpublished).

2. FDI Trends

Although the investment policy reforms introduced in recent decades that opened up more sectors to foreign investors had led to more investments flowing into the country, these are still way below the regional average. Figure 2 shows the country's performance in terms of attracting foreign direct investments (FDIs), whilst Figures 3 and 4 compare the FDI trends of selected ASEAN countries from 1990 to 2012. Data show that investments increased sharply shortly after the reforms in the early 1990s. From an average of less than US\$500 million during the tumultuous 1980-1989 period, the net FDI of the Philippines averaged US\$1.2 billion between 1990 and 1999, the years encompassing the reforms. The subsequent years saw continuous improvements in FDI inflows, with sharp increases in 2006, 2007 and 2009, as well as 2012 and 2013.

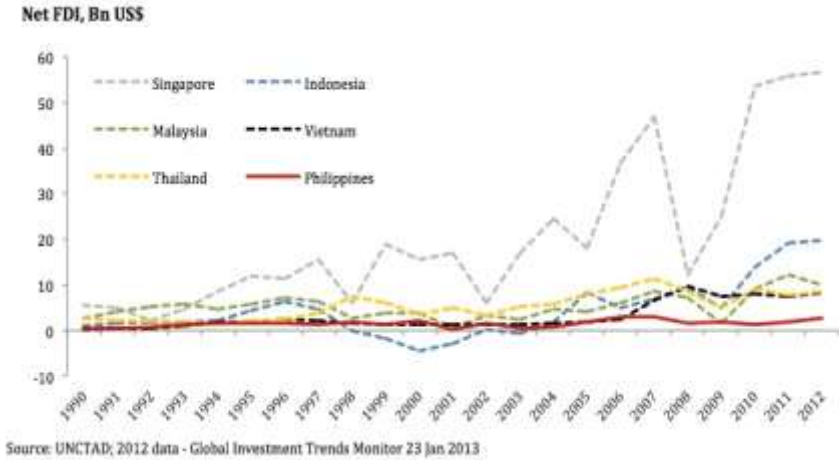
From a regional standpoint, however, the Philippines' overall FDI performance has lagged behind its regional counterparts. Figure 3 shows that the Philippines received relatively smaller FDIs than four other countries in the ASEAN. And perhaps with the exception of Indonesia, the Philippines has the lowest net FDI-to-GDP ratio—averaging less than 2 percent for much of the 1995-2013 period (Figure 4).

Figure 2. FDI Performance, 1995-2013



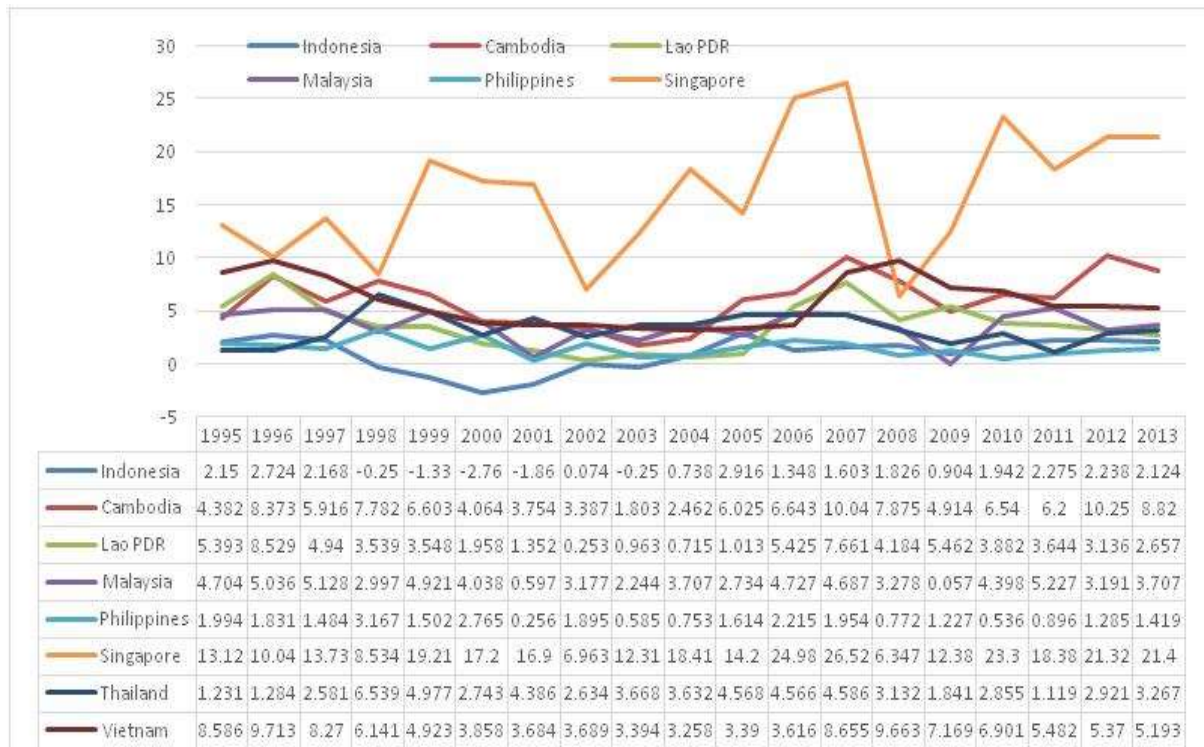
Source: World Bank, World Development Indicators.

Figure 3. Net FDI inflows in ASEAN



Source: JFCCP (2010).

Figure 4: FDI Inflows to ASEAN (as % of GDP)



Source: World Bank, World Development Indicators.

3. FDI Determinants

Considering the comparative advantage of the Philippines—availability of English-speaking, highly skilled workforce with strong cultural affinity to the United States, excellent geographical location and rich natural resource---FDI flow in the Philippines remains rather weak even after the initiated reforms and incentives. The literature offers several explanations for this, where the most frequently cited reasons are weak institutional and regulatory mechanisms, and poor infrastructure.

Opening up the economy and allowing greater foreign ownership and control are not enough to attract investments. In the Philippines' experience, neither are economic liberalisation and investment policy reforms sufficient to generate much-needed investments nor can they make up for the country's weak economic fundamentals.

Studies on FDI, in fact, show that countries' ability to attract investments actually depends on their overall investment climate (i.e., FDI regime and effectiveness of FDI promotions), economic competitiveness, and growth prospects. The World Bank group (2010), in particular, maintains that although necessary, simply removing foreign equity restrictions is not sufficient to attract and retain foreign investments. It must be 'complemented by other requirements such as good

regulations, strong investment climate fundamentals, well-functioning institutions, economic and political stability and respect for rule of law' (Aldaba and Gundaya undated).

4. Philippines and ACIA

One of the core elements of the AEC is to liberalise and facilitate investment and encourage greater participation in regional production networks. This is done through the implementation of ASEAN's principal investment cooperation programme – i.e., the ASEAN Investment Area, which has been expanded into the ASEAN Comprehensive Investment Area (ACIA) to cover international best practices and adopt the key pillars of liberalisation, protection, facilitation and promotion.

As with most countries in the ASEAN, the Philippines also adopted a relatively 'open' investment model and tendered to ACIA a remarkably liberal reservation or exclusion list, which was noted to be far more indulgent than what actual investment policies are back home.

Implementation-wise, the government is deeply constrained from legislating policies that would facilitate trade because of certain provisions in the country's 1987 Constitution. Whilst amending the Constitution is expected to prove difficult, there had been several attempts to reform some of these Constitutional provisions. Most recently, the Resolution of Both Houses sought to add the phrase 'unless otherwise provided by law' so as to make the provisions more flexible and responsive to changing economic environment (Gutierrez 2014).

Hence, since the last AEC Blueprint Review, there have been no major changes in the country's general or institutional framework, nor in the way its investment policy is formulated or implemented. Much of the work done in terms of advancing and implementing the nation's ACIA commitments is in the area of investment promotion. Investment incentives and ease of doing business are still the most important investment determinants, according to the AEC Midterm Review, and the country has achieved significant progress in terms of streamlining and simplifying business procedures and harmonizing government promotion strategies and incentives.

Although ACIA by itself does not guarantee FDI flows, it can be an important mechanism for vertical integration of multinational firms and development of regional value chain. Hence, it would do well for member countries such as the Philippines to implement reforms in line with ACIA: i.e., improve domestic business environment, economic regulations, and corporate governance, and labour laws; develop logistics infrastructure, stable legal and economic systems, and adjustment measures (Aldaba, 2012). On the issue of constitutional restrictions particularly on land ownership, Aldaba (2012) recommended advocating for stronger lease rights with provisions that allow lessees to sublease, subdivide, transfer or use lease rights as collateral. Indeed, whilst a review of the constitutional restrictions is still warranted, Gutierrez (2014) maintained that the government has to press on and continue implementing measures that encourage competition and strengthen institutional and regulatory framework, especially in public utilities.

D. Non-tariff measures

1. *Non-tariff measures (NTMs) survey results*

a. Overview

As a follow-up to the Mid-Term Review of the AEC Blueprint, the Philippine Institute for Development Studies (PIDS) and ERIA set out another batch of surveys and a scorecard mechanism to monitor the progress of the Philippines in meeting its AEC commitments. To obtain a more balanced and holistic view of the progress and achievements attained thus far, the surveys were administered through interviews with representatives of manufacturing establishments that have trade transactions outside the Philippines, whether that be importation or exportation of products, or both. This section summarizes the results of the interviews with five business establishments and the cursory evaluation of available secondary data.

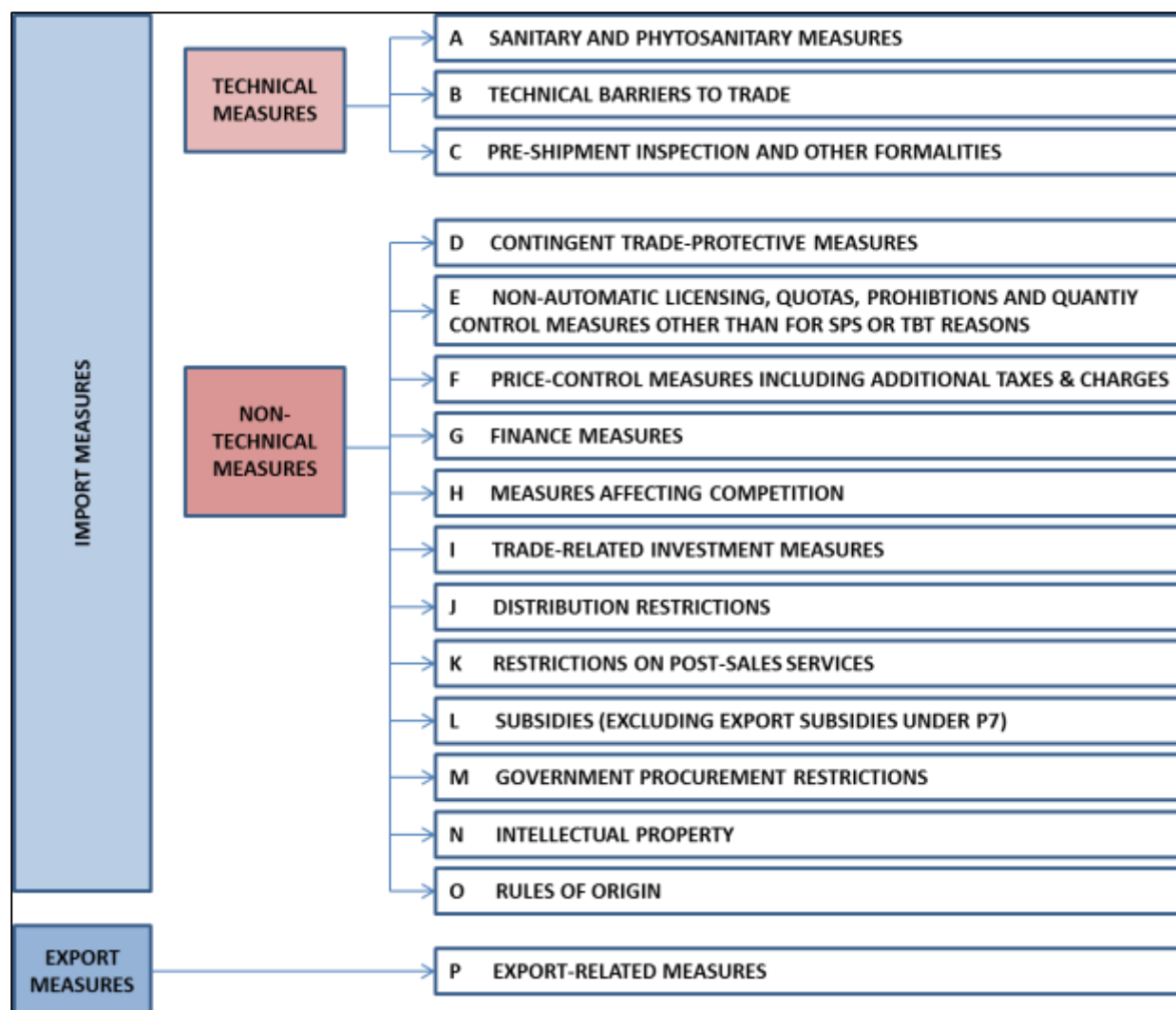
The survey questionnaire asked about the different types of non-tariff measures that firms frequently encounter and for which type of product. The first part gathered information on the company's profile, including the nature of capitalization, major export products and major inputs imported from abroad. The second part probed into the non-tariff measures encountered by product or input type, the difficulty of complying with the requirements, as well as the attendant costs—official processing fees, costs of maintaining technical regulations and standards, and the 'facilitation' fees that must be paid, if any. The likely impact of these NTMs on production costs, output and prices were likewise determined. Finally, respondents were asked to specify the most important reasons that make compliance to these NTMs challenging and difficult, and to suggest practical ways to address the top three most pressing issues.

b. Brief background on non-tariff measures (NTMs)

The United Nations Conference on Trade and Development (UNCTAD) defines NTMs as those 'policy measures other than customs tariffs that can potentially have an economic effect on international commodities trade, change the prices or quantities traded or both' (UNCTAD, 2010).

In practical terms, NTMs are domestic rules and regulations designed supposedly to serve legitimate public policy goals but can have trade distorting effects on environmental protection and consumer welfare and can increase costs. They can vary from country to country and cover a wide spectrum of policy instruments from technical regulations, export and import restrictions, customs surcharges, to safeguard measures and procedural obstacles. Figure 5 shows UNCTAD's taxonomy of all these measures broadly classified into technical and non-technical measures, and hard (i.e., price and quantity control measures) and threat (i.e., safeguard) measures.

Figure 5. Classification of non-tariff measures by chapter



Source: UNCTAD (2013).

Although they had always accompanied trade, NTMs have grown in importance in recent years as tariffs have come down and more and more countries become more liberalised. Regardless of the motives underlying them, NTMs will always have trade effects and their rise to prominence is feared to supersede tariffs as barriers to trade, and to nullify and offset the gains obtained from freer trade. Whilst they are not necessarily meant to be protectionist or discriminatory (in which case, they simply become ‘non-tariff barriers’ or NTBs to trade), there are indications that NTMs are being used by governments as tariff substitutes so as to restrict trade and favour domestic industries (WTO 2012). As a result, attention has progressively shifted towards NTMs, and minimizing their trade-impairing effects has now become the next frontier in trade policy debates (Pasadilla 2013).

c. NTMs in ASEAN

Despite the ASEAN's success in eliminating tariffs, questions remain about how NTMs or NTMs with NTB effects may affect intra-regional trade in the same way as tariffs. The analysis of NTMs in the ASEAN, according to Cadot et al. (2013) is limited by the fact that very few countries participate in the multilateral collection of data. Nonetheless, in its 2012 AEC Mid-term Review, ERIA was able to identify 'tariffs and non-tariff measures' as one of the top 10 priority measures that need to be dealt with as they are deemed very critical in the realization of AEC 2015 economic integration.

Whilst there are now ongoing initiatives to resolve these issues, the ERIA report enumerated important challenges that persist: (1) the need to have a complete and updated database of NTMs in the region; (2) the importance of a regular submission of notifications of new NTMs not only to the WTO, but also to the ASEAN Secretariat; and (3) the need to establish a robust mechanism that will address the NTB effects of NTMs since its proliferation may be too easily justified for 'legitimate reasons' or of scientific basis.

Table 9 presents the prevalence, coverage rates and the overall restrictiveness index of core NTMs amongst the ASEAN member states. According to ERIA, core NTMs are most likely candidates for NTBs and are enterprise-specific and further exemplified by non-automatic licensing, quantitative restrictions, prohibitions, single-channel for imports, and foreign exchange market restrictions.

Table 9. Core-NTM Prevalence Rate, Coverage Rate, and Restrictiveness Index

Country	Total Tariff Lines	Prevalence Rate	Coverage Rate	Core-NTM Restrictiveness Index
1 – Brunei	5224	0.17	0.15	0.16
2 – Cambodia	5224	0.05	0.04	0.05
3 – Indonesia	5224	0.90	0.44	0.67
4 – Lao PDR	5224	0.05	0.05	0.05
5 – Malaysia	5224	0.61	0.42	0.52
6 – Myanmar (A)	5224	0.08	0.07	0.07
6 – Myanmar (B)	5224	0.17	0.10	0.14
7 – Philippines	5224	0.03	0.03	0.03
8 – Singapore	5224	0.04	0.04	0.04
9 – Thailand	5224	0.03	0.03	0.03
10 – Viet Nam	5224	0.24	0.22	0.23

Notes:

1. Myanmar B (Myanmar A) includes (does not include) use of multiple exchange rates as reported in the 2009 ASEAN NTM database.
2. Prevalence rate is the number of core NTMs as a ratio of total tariff lines.
3. Coverage rate is the number of tariff lines with core NTMs as a ratio of tariff lines.
4. Core NTM restrictive index is the simple average of the prevalence rate and the coverage rate.

Source: ERIA (2012).

As can be seen from the above table, the overall restrictiveness indices of core NTMs vary tremendously amongst ASEAN member countries, with Indonesia and Malaysia registering the two highest restrictiveness indices at 0.67 and 0.52, respectively. The Philippines, on the other hand, posted a relatively low prevalence rate, coverage rate and an overall restrictiveness index of 0.3, as did Thailand. But whilst the country is shown to be relatively less restrictive in terms of NTM effects, available studies connote there are still NTM issues that need to be addressed. On the whole, the 2012 ERIA study finds that necessary steps must be taken to lessen or phase out, if possible, core NTMs and NTBs in ASEAN countries. In addition, there must be (1) 'deeper but more productive private sector participation' in the decision-making process on NTMs; (2) intensive regulatory reform efforts; (3) the creation of a 'third party monitor and technical resource' that will oversee the ASEAN members states' progress in mitigating the effects of NTMs on trade; and (4) attempts to 'minimize the NTB effects of "core NTMs" in agriculture products' (ERIA 2012).

d. NTMs in the Philippines

In the case of the Philippines, the MTR indicated that the core NTMs are mostly in the form of quantitative restrictions that cover mainly weapons and arms and a few 'sensitive' commodities such as rice and sugar. As in most countries, there are also NTMs in the country that come in the form of technical barriers to trade (TBTs) and sanitary and phytosanitary (SPS) requirements, which are imposed for reasons of health and safety, including environmental protection, and are deemed to be WTO consistent (Milo 2013).

This finding is not too far off from the results of a study conducted by Okabe (2012), which showed some ASEAN countries, including the Philippines, having the highest residual values from the gravity modelling estimation for HS 87 (automobile) and HS 85 (electric shavers and hair clippers; and electronic sound recording equipment) products. This suggests that NTM effects are strongest for these types of imported goods. High residual levels are also found for HS 8713 (invalid carriages and wheelchair) and HS 8715 (baby carriages and parts) commodities. Going a step further, the study also explored the determinants of NTMs and found positive correlation between the estimated residuals and the tariff rate and export competition, suggesting that the quantity of NTMs serves as substitute for tariff. It seems that when it comes to imposing NTMs, most ASEAN countries are more concerned with the quantitative aspects of NTMs and not so much with the reduction or elimination of tariff protection. This is especially true in the case of highly competitive products such as automotive and electrical equipment.

An UNCTAD (2010) report also disclosed the predominance of SPS and TBT measures applied in the Philippines, mostly in agriculture commodities (particularly live animals and meat products, fruits, and dairy products). Although many of these NTMs are WTO-compliant, the report raised concerns over the implementation and the long delay because of the involvement of numerous regulatory agencies. The study also discussed some of the areas of difficulty in collecting NTM data in the Philippines such as in the identification of relevant sources of NTM information, coordination with government regulators, cost of accessing the information, as well as classification of appropriate NTM measures in the database. A deeper analysis of the cases revealed that domestic NTMs---even the simple certification, licensing, testing and inspection regulations---could be very burdensome to exporters and importers alike.

Pasadilla (2007) also provided one of the earlier documentations of NTM regulations experienced by local industries. The study showed that the incidence of NTMs mostly fell on agricultural products, and that the European Union (EU) imposed the most stringent rules on 'health and sanitation standards, veterinary checks, and plant regulations for disease and pesticide control, amongst others'. These EU regulations affected nearly 6.6 percent of Philippine agricultural exports, with an estimated trade value equivalent to about US\$34 million. Table 10 below summarizes some of the NTM measures imposed on Philippine agricultural exports as documented by Pasadilla (2007).

Table 10. NTMs faced by Philippine Agriculture and Fish Exports

European Union (EU)	<ul style="list-style-type: none"> • Authorization to protect wildlife • Labeling requirements to protect human health • Non-automatic license • Prior surveillance • Prohibition for human health protection • Product characteristic requirements for human health • Technical requirements • Testing, inspection, and quarantine requirements
East Asia (China, Japan, Korea)	<ul style="list-style-type: none"> • Authorization • Authorization for wildlife protection • Global quotas • Product characteristics • Quotas to control drug abuse • Tariff quotas • Test for human health • Test for animal health • Test for plant health

Source: UNCTAD TRAINS Database as quoted in Pasadilla (2007).

In another study, Pasadilla and Liao (2007) identified the lack of infrastructure as one of the underlying causes for the Philippine's failure to comply with EU's technical and legal requirements. Many laboratories in regional offices of the National Pesticide Analytical Laboratory and the National Meat Inspection Service lacked the necessary International Organization for Standardization (ISO) certifications and hence, could not be accredited by the country's trading partners. Another issue raised was the country's trade laws and regulations, which were deemed outdated and not up-to-date with the international trade rules.

To conclude, the authors advocated for the following: (1) the crafting and implementation of clear mandates (i.e., role and function) of concerned agencies as these may contribute to the negative impact of NTM regulations in the country; and (2) improvement of infrastructure for electronic certification, accreditation of laboratories, and development of satellite laboratories.

e. Survey results

There is currently no single authoritative source of NTM data. Available data on NTMs were obtained basically from either private-sector surveys or the regulating government agency/agencies. The recently concluded AEC Scorecard Survey is part of the multiple efforts to collect regional data on NTMs. Results of this private-sector survey summarized the subjective understanding of both exporters and importers on the effects of NTMs on market access and cost of doing business. The subjective nature of the data is important because whilst official NTM data may appear legitimate on paper, the actual application could be discriminatory and thus, pose significant barrier to trade. This type of information cannot be captured by official data sources. Hence, business perception surveys are acknowledged important additional information that can help identify non-tariff barriers (Pasadilla 2013).

In the case of the Philippines, this study's survey was administered to representatives of five business establishments from the following manufacturing subsectors: wood/furniture (2 respondents), shoes/leather (1), automotive-electronics (1), and food/tuna-processing (1). Except for one wood manufacturer that exports most of its wood products to Japan, majority of the surveyed firms are 100 percent owned by Filipinos with export market destinations across Asia, Europe, and the Americas.

As shown in Table 11, it appears that technical measures---in particular TBT and SPS---are the NTMs widely experienced by surveyed firms, further confirming the findings of earlier studies. Of the TBT and SPS measures indicated, technical regulations---largely in the form of import permits and other safety or precautionary requirements---are easily the most visible and widespread. Hence, most of the complaints are hurled against domestic procedural regulations and not so much on market destinations. Only two firms raised the issue on conformity assessment.

Table 11. Types of NTMs Encountered by Survey Respondents

Company Name	Type	NTM Type [single letter, single digit] (1A)	Nature of NTMs & Compliance Requirements (1F)
Firm 1	Importer/Exporter	B15	Registration requirement
		B15	Registration requirement
Firm 2	Importer/Exporter	B15	Registration requirement
Firm 3	Importer/Exporter	B15	Registration requirement
		B22	Restricted use of certain substances
Firm 4	Importer/Exporter	B15	Registration requirement
		B14	Authorization requirement for TBT reasons
		B22	Restricted use of certain substances

Company Name	Type	NTM Type [single letter, single digit] (1A)	Nature of NTMs & Compliance Requirements (1F)
Firm 5	Importer/Exporter	A85/B851	Registration requirement Prohibitions other than for SPS or TBT reasons
		E3	

Traditionally, it used to be only the BOC that issued import permits, with some additional documents or clearances to be sought from the Bureau of Product Standards, National Meat Inspection Service (for meat imports), National Plant Quarantine Service (for imported plants and in the case of wood importers), and Bureau of Plant Industry (i.e., for fumigation certificate). At the very least, these were the agencies that traders needed to deal with. Recently, however, the Bureau of Internal Revenue (BIR) also decided to join the long list of regulators. That is, customs brokers and importers were required to be accredited with the BIR before they could transact with the BOC. This directive was issued to curb smuggling and ensure that customs brokers and importers are involved in legitimate businesses.

However, whilst most of those interviewed acquiesced and agreed with the BIR's noble intentions, all five respondents found securing the requirements difficult. Aside from the BIR clearance, traders were also required to secure a National Bureau of Investigation clearance and certified true copy of firm registration from the Securities and Exchange Commission, amongst others. In some cases, business owners were made to personally appear before, and obtain some the requirements from, the regulating authorities.

Although many customary import requirements are not difficult to comply with and entail minimal costs, the general sentiment is that these procedures are redundant and excessive (Table 12). Many government agencies require almost the same set of documents, and most firms find it very inconvenient to prepare separate copies for each concerned agencies. In the case of wood/furniture industry, respondents insisted that the combination of tight timber importation procedures and a total log ban policy not only constrains the furniture sector, but also disincentivizes the use of locally grown plantation wood and puts higher value on illegally obtained timber. Hence, for most, the imposition of additional requirement from the BIR is burdensome and oppressive.

Firms also complained of unpredictable and arbitrary implementation of NTMs. Many domestic regulations are subject to the discretionary interpretation of regulating authorities, and majority of the respondents aver that different officials tend to have different application of the procedural requirements, often leading to long delays and bottlenecks. It has been noted that NTM applications, in particular TBT and SPS and similar forms, are most prone to intentional misuse and abuse. One respondent even alluded to some government agencies' practice of collecting 'facilitation fees', which are values beyond the rates indicated on official records.

Table 12. Cost and Problems in NTM Compliance

Company Name	NTM Type [single letter, single digit] (1A)	Cost of Compliance		What do you consider to be the most important reasons that make it difficult for your firms to comply with the selected NTMs (Please rank 1:highest....7:lowest)
		Processing time for certificates, permits or licences	Official fees that must be paid	
Firm 1	B15	short duration	low cost	1 - Arbitrariness or inconsistency in implementation; 2 - Non-transparency; 3 - Excessive documentation
	B15	short duration	low cost	
Firm 2	B15	long duration	low cost	1 - Lack of infrastructure; 2 - Excessive documentation; 3 - Arbitrariness; 4 - Non-transparency; 5 - testing; 6 - Discriminatory behaviour; 7 - Unusually high fees
Firm 3	B15	moderate duration	low cost	1 - Arbitrariness or inconsistency in implementation; 2 - Excessive documentation; 3 - Discriminatory behaviour
	B22	long duration	low cost	
Firm 4	B15	long duration	low cost	1 - Excessive documentation; 2 - Lack of infrastructure; 3 - Arbitrariness or inconsistency in implementation; 4 - Testing or other services; 5 - Unusually high fees; 6 - Discriminatory behaviour; 7- non-transparency/inadequate information on laws
	B14	long duration	moderate cost	
	B22	long duration	low cost	
Firm 5	A85/B851	moderate duration	low cost	1 - Excessive documentation; 2 - Arbitrariness; 3 - Discriminatory behaviour; 4 - Non-transparency/inadequate information on laws; 5 - Unusually high fees; 6 - Testing; 7 - Lack of infrastructure
	E3	long duration	low cost	

Another interesting point raised was the cost of maintaining and complying with the NTMs. Importers of chemical adhesive for shoes, for instance, reported that to legally import the chemical adhesive, one requirement was to set up a separate warehouse for the imported commodity. Whilst this does not pose a real problem despite the cost requirements in building the structure, a bigger and perhaps more annoying issue, according to the respondent, is the condition mandating regulatory authorities to monitor the use of the chemical. This excessive regulation causes delay and adds cost to the production.

For most respondents, streamlining or simplifying import permit and accreditation requirements is the most logical and effective strategy to resolve procedural delays and obstacles. They welcome efforts to automate all customs transactions and procedures, even the creation of a simple database of all traders. One even argued and advocated for the completion and full implementation of the NSW. For them, limiting the face-to-face transactions with customs officials is an important step to curb and avoid corruption at the BOC. Thus, from business' standpoint, the crucial areas for reforms would still be in trade facilitation measures. This is consistent with the result from the MTR, strongly suggesting that between the year the MTR was conducted and the present, there was hardly any progress or steps ever taken to address the issues indicated in the MTR report.

Although the above survey results support the findings from earlier research works, it stands apparent that studies relating to the effects of NTMs on Philippine traders are still very limited, especially in the context of the upcoming AEC integration in 2015. It is hoped that the survey of firms done for this undertaking will contribute to the greater understanding of NTMs and NTM effects in the Philippines.

E. Standards and Conformance

With the reduction in tariffs across the globe, increasing attention has shifted to NTMs or NTBs as major impediments to international trade (i.e., can prevent market access). They adversely affect the global and regional production chains by unnecessarily increasing the cost of doing business.

The ASEAN has been working towards the free movement of goods in the region by removing non-tariff barriers to trade since 1992. It established the ASEAN Consultative Committee for Standards and Quality (ACCSQ) to reduce and, if possible, eliminate these TBTs. To facilitate trade, regional efforts have been directed towards harmonizing standards, technical regulations, and conformity assessment procedures, particularly since the realization of the AEC draws closer.

This section thus provides an update on the implementation status of the Standard and Conformance in the Philippines with focus on five ASEAN Priority Investment Sectors: automotive, electrical and electronic equipment, cosmetics, pharmaceuticals, and medical devices. Thus, five sets of ERIA survey questionnaires were used. For automotive, and electrical and electronic equipment, respondents were from the Bureau of Philippine Standards (formerly, the Bureau of Product Standards [BPS] under the DTI). For pharmaceuticals, medical devices, and cosmetics sectors, respondents were from the Food and Drug Administration⁴⁴ (formerly Bureau of Food and Drug or BFAD under the Department of Health).

⁴⁴ Specifically the Center for Drug Regulation and Research, Center for Device Regulation, Radiation Health and Research (specifically Medical Device Licensing and Registration Division), and Center for Cosmetic Regulation and Research, respectively.

The discussion on standard and conformance is organized into three parts: Part 1 summarizes the early assessments on standards and conformance in the Philippines. Part 2 provides the update, challenges and analysis on the implementation. Finally, Part 3 summarizes the findings and suggests policy recommendations on how to address the bottlenecks and move forward with the AEC measures on Standards and Conformance into 2015 and beyond.

1. Review of Philippine Standards and Conformance Measures: Summary of Early Assessments⁴⁵

The discussions below are based on the findings of the Standards and Conformance component of earlier ERIA Studies on AEC Scorecard Monitoring System and Mechanism (Phase II) and MTR on the Implementation of the ASEAN Economic Community Blueprint.

As reported by Ledda (2012 and 2013), the Philippines has been developing national standards for majority of the priority integration sectors covered in the ERIA Phase Two Study and Mid-Term Review. Results of the scorecard exercise showed that the country is making good progress in the ASEAN standards and conformance roadmap for the eight priority investment sectors. The Philippines has a high degree of conformance of national standards with international benchmarks across the surveyed sectors and openness to conformity assessment procedures and harmonized technical regulations.

Overall, the survey results show that the Philippines is committed to aligning national standards with international benchmarks and has achieved significant progress in most sectors through measures that include the amendment of relevant laws and regulations.

2. Progress in Implementation of Standards and Conformance: Results of 2014 Survey

The Philippines supports the ASEAN's standards and conformance agenda and is an active⁴⁶ member in various regional working groups. Within the ASEAN Consultative Committee on Standards and Quality (ACCSQ), which is the committee on standards and conformance in the ASEAN, the following are the working groups:

- Standards and Mutual Recognition Arrangements (WG1)
- Accreditation and Conformity Assessments (WG2)
- Legal Metrology (WG3)

⁴⁵ Drawn heavily from Ledda (2012), with some portions directly lifted.

⁴⁶ Chaired the working groups in the cosmetics and electrical and electronic equipment sectors in 2012.

In addition, below are the sectors identified in the ASEAN Framework Agreement for Integration of Priority Sectors (PIS) and the corresponding specific initiatives on standards, technical regulation and conformity assessment procedures:

1. Joint Sectoral Committee for ASEAN Sectoral MRA for Electrical and Electronic Equipment (JSC EEE)
2. ASEAN Cosmetic Committee (ACC)
3. Pharmaceutical Product Working Group (PPWG)
4. Prepared Foodstuff Product Working Group (PFPWG)
5. Automotive Product Working Group (APWG)
6. Traditional Medicines and Health Supplements Product Working Group (TMHSPWG)
7. Medical Device Product Working Group (MDPWG)
8. Rubber-Based Product Working Group (RBPWG)

The discussion below continues the study on the institutional arrangement by focusing now on the role of the Philippines' lead agency in the ACCSQ. Next, the progress in the harmonization of standards, conformity assessments and technical regulations are analysed. The challenges and issues encountered by these regulatory agencies are likewise examined.

Note that information here was basically taken from the survey-interview responses of BPS and Food and Drug Administration (FDA) officials and some secondary sources.

a. Institutional arrangements

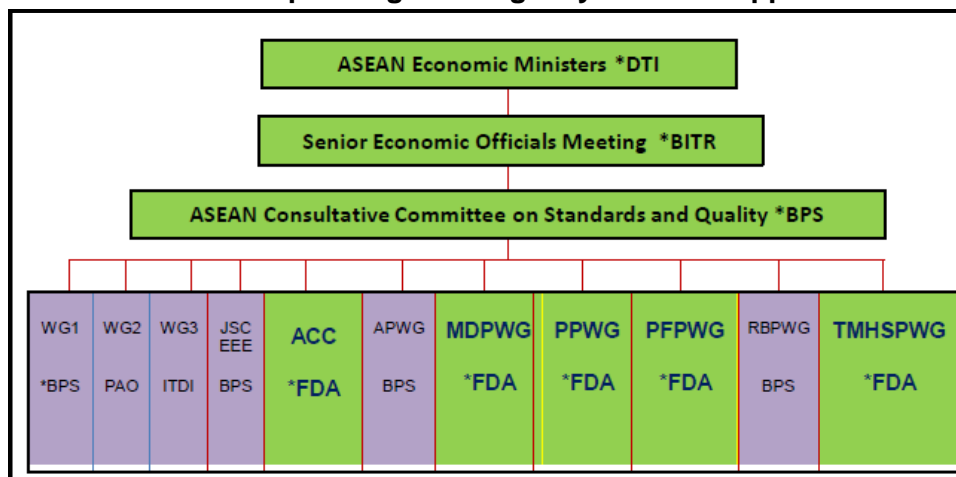
The BPS⁴⁷ represents the Philippines in the ACCSQ Working Group 1 as well as in the following product working groups: Automotive Product Working Group, Joint Sectoral Committee for ASEAN Sectoral MRA for Electrical and Electronic Equipment, and Rubber-Based Product Working Group. The Philippine Accreditation Bureau (PAB)⁴⁸ participates in the Accreditation and Conformity Assessments working group whilst the Industrial Technology Development Institute

⁴⁷ The agency designated as the National Standards Body of the Philippines. It was established by RA No. 4109, also known as the Philippine Standardization Law, and Executive Order (EO) No. 133. The BPS, through the technical staff of the Standards Development Programme, also known as Action Team 1 (AT1), participates in the international standardization activities of the International Organization for Standardization (ISO) and International Electro-technical Commission (IEC) and in the harmonization of standards to international standards in Asia Pacific Economic Cooperation (APEC), ACCSQ and Asia European Meeting (ASEM).

⁴⁸ Formerly called the Philippine Accreditation Office (PAO). It was created and mandated to handle the accreditation of certification bodies, inspection bodies, testing, and calibration laboratories by virtue of DTI Administrative Order (DAO) No. 04:2006. The PAB accreditation schemes conform to PNS ISO/IEC 17011:2004 or the General requirements for accreditation bodies, accrediting conformity assessment bodies (CABs) and other relevant ISO and international guidance documents. It is an MRA signatory to the Pacific Accreditation Cooperation (PAC), Asia-Pacific Laboratory Accreditation Cooperation (APLAC), International Accreditation Forum (IAF), and International Laboratory Accreditation Cooperation (ILAC).

(ITDI)⁴⁹ attends the Legal Metrology working group. The FDA⁵⁰ only represents in the product working groups on sectors under its regulatory mandate: the ASEAN Cosmetic Committee⁵¹, Medical Device Product Working Group, Pharmaceutical Product Working Group, Prepared Foodstuff Product Working Group, and Traditional Medicines and Health Supplements Product Working Group (Figure 6).

Figure 6. Structure and Organisation of Standards and Conformance in ASEAN and Corresponding Lead Agency in the Philippines



Source: Priagola (2014).

With reference to the above ASEAN priority sectors, the BPS directly oversees the following product sectors: automotive, building and construction, electrical and electronic equipment products, rubber-based and wood-based products. The FDA regulates food, drugs, medical devices, cosmetics, household hazardous substances, toys, urban pesticides, and radiation-emitting technologies, amongst other health products.

The BPS as the national standards body is mandated to develop, implement, and coordinate standardization activities in the Philippines. It is primarily involved in standards development,

⁴⁹It is under the Department of Science and Technology. The ITDI spearheads the review/evaluation of the National Metrology Act of 2003. Through ITDI's National Metrology Laboratory, the country's Calibration and Measurement Capabilities in the field of mass (21) have been registered in the BIPM database. It is a signatory to International Committee on Weights and Measures-Mutual Recognition Arrangement (CIPM-MRA).

⁵⁰ It is under the Department of Health (DOH) and was created in 1963 by RA No. 3720, also known as the Foods, Drugs, Devices and Cosmetics Act, and subsequently amended under RA No. 9711, otherwise known as 'The Food and Drug Administration Act of 2009'. The FDA Act of 2009 mandated the creation of four separate centres within the FDA focused on major product categories: Center for Food Regulation and Research, Center for Drug Regulation and Research, Center for Cosmetics Regulation and Research, and the Center for Device Regulation, Radiation Health and Research. The FDA earned ISO 9001:2008 Certificate of Accreditation for Quality Management System and ISO Laboratory Accreditation under PAO.

⁵¹ Meets regularly, twice a year. Usually in June and November with back to back meetings of the ASEAN Cosmetic Scientific Body (ACSB) and ASEAN Cosmetic Testing Laboratory Committee (ACTLC).

product certification, and standards implementation/promotion to raise the quality and global competitiveness of Philippine products. It also aims to protect the interests of consumers and businesses. The BPS is the WTO's Technical Barriers-to-Trade (WTO-TBT) Enquiry Point for the Philippines. In addition, it participates and represents the country in various standards-related activities worldwide.

The BPS approves and implements the Philippine National Standards (PNS)⁵² that are established by consensus through technical committees composed of representatives from the industry, trade associations, government, academe, and consumer groups. It maintains a Standards and Conformance portal that features standards, regulations, and conformity assessment activities in the Philippines, and provides a complete listing of published PNS classified both by International Classification for Standards (ICS) and Harmonized System (HS) (Ledda 2014).

For the automotive sector, the creation of a Committee on Harmonization of Vehicle Standards and Regulations⁵³ ensured that the relevant standards development body or agencies⁵⁴ in the Philippines are consulted on the commitments to be made at the regional level. Through the committee, the country has always been represented at Automotive Product Working Group (APGW) meetings. It provides information to all stakeholders⁵⁵ on the activities carried out at the regional level. For the electrical and electronic equipment sector, there are three technical committees; namely, on Lamps and Related Equipment, on Electric Wires and Cables, and on Electrical Wiring Devices. Representatives from sectors such as the academe, consumer, trade/industry, professional, government agencies, research institutions, and testing institutions compose the technical committees.

On the other hand, the Food and Drug Administration formulates rules, regulations, and standards for licensing and accreditation of processed foods, drugs, and other related products; conducts licensing and accreditation; as well as monitors, evaluates, and ensures compliance of manufacturers, distributors, advertisers, and retailers to these standards.

⁵² The BPS through the Standards Development Programme formulates Philippine National Standards (PNS) through its Technical Committee Method and Fast Track Method. As of this date, 69 BPS technical committees for various products have been established.

⁵³ Created pursuant to the Executive Order No. 628 (dated 20 June 2007). The Department of Transportation and Communications (DOTC) chaired the committee and DTI serves as the Vice-Chairman, while the DOE, Department of Science and Technology, Department of Environment and Natural Resources, Department of the Interior and Local Government, and representatives from the academe and private sectors are members.

⁵⁴ Bureau of Philippine Standards - DTI, Land Transportation Office-DOTC, Environment Management Bureau-Department of Environment and Natural Resources, Oil Industry Management Bureau-DOE, and recently, Industrial Technology Development Institute-Department of Science and Technology.

⁵⁵ Aside from government regulatory agencies, private sector or industry associations are involved---e.g., Philippine Automotive Competitiveness Council, Chamber of Automotive Manufacturers of the Philippines Inc., Motorcycle Development Programme Participants Association and Track Manufacturers Association.

For cosmetics, pharmaceutical and medical devices sector, linkages and mechanisms exist to ensure that the related agencies are consulted or informed of the commitments made at the regional level. The industry associations⁵⁶ are represented during pre- and post-meetings. The Philippines had been the Chair of the ASEAN Cosmetics Committee (ACC)⁵⁷ from 2012 to 2013. Currently, Singapore is the Chair.

In general, coordination and preparatory meetings were held prior to the working groups/product working groups' meetings to formulate a national stand on issues.

b. Harmonization of standards⁵⁸ or technical requirements

Automotive Sector. In terms of harmonization with international standards, of the 19 regionally agreed upon standards for automotive vehicles and motorcycle under Phase 1, 18⁵⁹ were adopted via modified adoption (Refer to Annex 1 for a complete listing). The remaining one standard is still in the process of adoption because it was not identified before as an industry priority. Under Phase 2, 26 out of the 32 standards were aligned with the ASEAN identified standards. This translates to a more-than-75 percent compliant rate in terms of the alignment of national standards with the identified United Nations Economic Commission for Europe (UN ECE) Regulations for harmonization at the regional level. The Philippines is not yet fully aligned because it is not a signatory to the 1958 Agreement⁶⁰. Given the current global trends of production, there might be a need to rethink the country's position with regard to acceding to the said agreement.

In terms of institutional capacity and linkages, a seminar on Internationalization of Automobile Regulation and Certification System was conducted by the Japan Automobile Standards Internationalization Center.

⁵⁶ For Cosmetics: Philippine Cosmetics Technical Assistance Center Foundation, Inc., Chamber of Herbal Industries of the Philippines, Chamber of Cosmetics Industry of the Philippines, Cosmetics, Toiletries and Fragrance Association of the Philippines, Philippine Society for Cosmetic Science, Philippine Wellness and SPA Association. For Pharmaceuticals: Philippine Pharmacist Association, Pharmaceutical and Healthcare Association of the Philippines, Philippine Pharmaceutical Manufacturers Association, Philippine Chamber of the Pharmaceutical Industry, and Philippine College of Pharmaceutical Medicine.

⁵⁷ The Philippines was scheduled to host the following meetings in 2014: 21th ACC Meeting (27-28 November 2014); 21th ACSB Meeting (25-26 November 2014); and 4th ACTLC Meeting (25 November 2014).

⁵⁸ According to DTI-BPS Officer-in-Charge Engr. Gerardo Maglalang, to date, there are 8,663 ready PNS at the BPS Standards Data Center and 79.54 percent (or 6,891) of these have been aligned with the international standards of the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), and the Codex Alimentarius (Codex). GMA Network News on *Economy and Business*: dated 16 February 2014 (date accessed 27 August 2014) <http://www.gmanetwork.com/news/story/348724/economy/business/dti-phl-adopted-417-new-standards-for-products-in-2013>

⁵⁹ One of which is the national transposition of regional agreements under the Department Administrative Order 6:1995 or the Mandatory implementation of PNS for Pneumatic tires covered by PNS 25:1994, Specification for pneumatic tires.

⁶⁰ Formally entitled 'Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or Be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions'.

Electrical and Electronic Equipment Sector. The country has 121 regionally agreed-upon standards for electrical and electronic equipment that were considered for harmonization with international standards. Out of these, 82 were already adopted by the Philippines via identical adoption of international standards, 11 were adopted via modified adoption and 22 were not yet adopted. One reason the 22 standards were not yet adopted is that there was no plan to adopt them as technical regulations since there are existing national standards that need to be modified. Another reason for the delay in the adoption of these standards is the lack of manpower and resources. But in case of future adoption, the process would be through the Technical Committee. Further, there are existing national standards that need to be modified. For instance, the local plug and socket-outlet configuration has already been harmonized with the International Electrotechnical Commission (IEC) standards' configuration whereas the local cable industry standards is still experiencing ongoing constraints in the adoption of the international standards. The expected full adoption of all the remaining standards will be in 2020.

Based on the interview-survey responses, Tables 13 and 14 show the summary on harmonization of standards for the Automotive and Electrical and Electronic Equipment sectors.

**Table 13. Harmonization of Standards or Technical Requirements:
Alignment with the identified International Standards**

	Automotive Products	Electrical and Electronic Equipment
Total number of regionally agreed-upon standards for automotive vehicles and motorcycle for harmonization with international standards	19	121
Total number of standards adopted in the country via:		
Direct use	--	--
Identical adoption of international standards	--	82
Modified adoption of international standards	18	11
Standards that are not yet adopted or in process of adoption	1	22

This information is consistent with what was presented by BPS during the Committee on the ASEAN Economic Community (CAEC) Roundtable Discussion on Levelling up PH Competitiveness through Standards and Conformance, Leveraging on AEC.

Table 14. Harmonization of Standards with International Standards and Practices

Priority Sectors	Reference Standards / International Standards	No. of PHL aligned / adopted standards	No. of ASEAN identified standards	Remarks
20 Priority Products, Safety and EMC	IEC/CISPR/ISO	38	38	In 1997, 20 products were identified as a priority for standards harmonization in ASEAN by the AFTA Council. Harmonization was completed in 2003.
Automotive Products	UN Regulations	Phase 1 – 13 Phase 2 – 26 Total – 39	Phase 1 – 19 Phase 2 – 32 Total – 51	Phase 1: 9 out of 19 UN Regulations have been harmonized at ASEAN level
Electrical and Electronic Equipment	IEC	93	121	Only 37 of the 93 PNS are mandatory standards

Source: Maglalang. (2014)

However, from the regional perspective, the Philippines' participation in international standardization exercises is minimal as compared to that of Malaysia, Indonesia, Singapore, and Thailand. It was only able to align 121 and eight standards with ISO and IEC standards, respectively (Table 15).

Table 15. ASEAN Standardization

Member State	ISO/TC/SC Participation	IEC/TC/SC Participation
Indonesia	225	64
Malaysia	280	102
Philippines	121	8
Singapore	150	83
Thailand	295	76
Viet Nam	77	4

Cosmetic Sector. The Philippine standards for the cosmetics sector are now 100-percent compliant with international benchmarks with the country's adoption of the ASEAN Cosmetic Directive (ACD) since 2008. Since then, various administrative orders⁶¹ were issued to implement the ACD.

Medical Devices Sector. The country does not have its own national standard for medical devices. The FDA, through the Center for Device Regulation, Radiation Health, and Research (CDRRHR), is the entity that continually reviews and directly adopts available international standards. To date, there are 11 regionally agreed standards for medical devices that were expected to be harmonized with international standards. All regionally agreed standards were adopted by the Philippines (10 adopted via direct use and one via identical adoption).

c. Conformity assessment procedures

Automotive Sector. The Philippines is yet to ratify the ASEAN MRA for Type Approval of Automotive Products. The ratification process will follow after the approval of the MRA at the ASEAN level, which is expected around the first to second quarter of 2015.

To implement the technical requirements, there is now a policy decision to adopt the terms and definitions prescribed in the ASEAN MRA for Type Approval of Automotive Products at the national level. In fact, a public consultation was already conducted, and the draft MRA posted at the BPS website for comments. Legal scrubbing is now in process. Moreover, there is now a policy decision to recognize the test reports (but not yet for certificates) issued by Listed Technical Services under the ASEAN MRA for Type Approval of Automotive Products. However, the process of recognition is still to be established; relatedly, Technical Services is yet to be recognized. Also, a competent authority responsible for identifying and monitoring the Listed Technical Services is yet to be determined. Most likely, it will be the PAB that will be appointed. Any list of technical regulations for the recognition of conformity assessment results is made available through the APWG.

To enhance the capability of regulators and the industry to meet the requirements of the ASEAN MRA for Type Approval of Automotive Products, the Philippines has an ongoing training for regulators and the industry through the help of bilateral partners such as the ASEAN – Japan and ASEAN – EU.

⁶¹Administrative Order No. 2005-0015: Adoption of the ASEAN Harmonized Cosmetic Regulatory Scheme and ASEAN Common Technical Documents, Administrative Order No. 2005-0025: Implementation of the ASEAN Harmonized Cosmetic Regulatory Scheme and ASEAN Common Technical Documents, Bureau Circular No. 2007-013: Updated Guidelines for the Implementation of the Association of South East Asian Nation (ASEAN) Cosmetic Directive and the Association of South East Asian Nation (ASEAN) Common Technical Documents, FDA Memorandum Circular No. 2013-011: Electronic Cosmetic Product Notification (E-Notification).

Electrical and Electronic Equipment Sector. The ASEAN Electrical and Electronic Equipment MRA has been ratified by the Philippines. Whilst regulations⁶² were issued to comply with this MRA in 2008, there remain some regulations that were not yet revised nor aligned with the provisions of the ASEAN EEEMRA. One example is that of building wires because of a conflict of standards or regulations between the IEC and the Philippine Electrical Code, which was basically adopted from the National Electrotechnical Commission. To address this bottleneck, it is recommended that the Philippine Electrical Code be harmonized with the IEC standard installation practices.

For the technical requirements of the ASEAN Electrical and Electronic Equipment MRA, the terms and definitions prescribed were adopted and communicated to interested parties through the BPS portal. Test reports and product certification issued by the currently Listed Test Laboratories and Certification Bodies under the MRA are acknowledged. Furthermore, BPS is the body designated to identify and monitor Listed Conformity Assessment Bodies (CABs), although the accreditation of Listed Test Laboratories and Certification Bodies is under the PAB. For transparency, the relevant information⁶³ has been made available to the ASEAN member states (through the JSC EEE) and the ASEAN Secretariat.

Additional details on the development and implementation of Automotive and Electrical and Electronic Equipment Sectoral MRAs on conformity assessments are presented in Annex 2.

Cosmetics Sector. As earlier noted, the ASEAN Cosmetic Directive has been fully adopted in 2008. The Center for Cosmetics Regulation and Research of the FDA is directly involved in the conformity assessment of cosmetic products. In 2012, the Philippines agreed to the terms of reference of the ASEAN Cosmetic Testing Laboratory Committee. The FDA is the identified test laboratory and accredited by PAB (under ISO 17025, which specifies the general competency requirements to carry out tests and/or calibrations, including sampling). Likewise, the FDA is the designated body responsible for identifying and monitoring Listed CABs for the cosmetic sector.

In terms of technical assistance, the country undertook initiatives to enhance the capability of regulators. These initiatives include the provision of 13 Modules of Good Manufacturing Practice (GMP) on cosmetics during a seminar for stakeholders, regular 'Kapihan at Talakayan' with dialogue partners, Qualified Personnel In Regulatory Affairs (QPIRA)⁶⁴ training, provision of consumer handbooks and read-a-label posters, conduct of seminar/workshop on Cosmetic Safety

⁶² Such as the Department Administrative Order (DAO) 3 on Rules and Regulations Concerning the Safety of Low Voltage Equipment (LVE); DAO 4 on Philippine Standards Quality and / or Safety Certification Mark Scheme and DAO 5 on Issuance of Import Commodity Clearance and Regulated Products.

⁶³ The details of the Listed Test Laboratories and Certification Bodies, list of technical regulations applicable for the conformity assessments results, the list of designating bodies that will be responsible for identifying testing laboratories and/or certification bodies and list of contact points responsible for the activities under the ASEAN Electrical and Electronic Equipment MRA.

⁶⁴ A training for the industry, it is a way of teaching them how to fill out and submit the requirements correctly as well as to understand the different requirements. It is an FDA initiative to help capacitate stakeholders.

Assessment and Product Information with ASEAN and a seminar on Electronic Notification to ASEAN member states with regional integration support from the EU.

Medical Devices Sector. The FDA's Center for Device Regulation, Radiation Health and Research is the regulatory body as well as the conformity assessment body for medical devices. As such, the registration of medical device products and licensing of medical device establishments is being done by the FDA. However, for the QMS/GMP compliance to ISO 13485 (or Medical devices - Quality management systems - Requirements for regulatory purposes), a conformity body will be formed and should be accredited with the PAB. The FDA has officially endorsed the draft ASEAN Medical Device Directive (AMDD) for signing but an issue remains regarding the signatory of the agreement (Priagola 2014).

Pharmaceuticals Sector. Although the ultimate aim is to implement the ASEAN Sectoral for GMP Inspection of Manufacturers of Medicinal Products, the Philippines is not yet a member of the Pharmaceutical Inspection Convention and Pharmaceutical Inspection Scheme (PIC/S). The FDA's application for accession as a member of PIC/S started way back in 2009 but the filing encountered delays due to FDA's restructuring (i.e., from BFAD to FDA). Since membership is an important requirement for the MRA on Good Manufacturing Practice Inspections, the country's FDA is currently complying with the requirements and expected to complete its membership by 2016.

Meanwhile, the country has yet to designate the entity that will be responsible for identifying and monitoring the Listed Inspection Services⁶⁵ as well as the body that will accredit the Listed Inspection Services.

To enhance the capability of regulators and the industry to meet the requirements of the ASEAN Common Technical Dossier, the FDA has undertaken the 'Expanded Kapihan' in 2013 to disseminate information on this new regulation. Other ongoing initiatives include the Qualified Person in the Industry Regulatory Affairs (QPIRA) and the GMP Licensing Seminar, which are held quarterly. Also, there are planned activities as well such the 'Quarterly Kapihan', a seminar that includes information updates on new regulations with the industry associations' representatives as participants.

According to the FDA, there was an increase in the number of listed testing laboratories and certification bodies⁶⁶. However, when compared with its ASEAN neighbours, the Philippine has the lowest number of accredited CABs (Table 16). In terms of the regional statistics on National Accreditation Bureaus, the Philippines has nine (a number higher than Viet Nam's) schemes being offered by National Accreditation Bureaus and four (the lowest) schemes in the MRA/MLA (Table 17).

⁶⁵As of August 2014, Listing of the Inspection Services (LIS) under the MRA is still ongoing but FDA is concentrating on getting the PCI/S Accreditation, after which application for LIS will no longer be necessary.

⁶⁶Listed four Philippine laboratories including BPS testing centre.

Table 16. Accredited Conformity Assessment Bodies (CABs)

	Indonesia	Malaysia	Philippines	Singapore	Thailand	Viet Nam
Testing labs	541	344	172	238	368	479
Calibration labs	142	69	27	68	194	58
Medical Testing labs	18	22	5	14	94	-
Products CBs	28	5	0	11	2	8
Inspection Bodies	25	4	3	54	9	19
QMS CBs	24	14	6	11	9	7
EMS CBs	8	8	3	-	8	3
FSMS CBs	5	4	1	1	2	1
HACCP CBs	6	3	2	7	2	-
Personnel CBs	4	-	-	-	-	-
OHSAS CBs	-	4	-	6	1	-
ISMS CBs		1	-	-	-	-
Timber legality	5	-	-	-	-	-
Sustainable Forest Mngt	11	2	-	-	-	-
BC Management	-	-	-	2	-	-
PT Provider	-	-	-	-	3	-

Source: Botor (2014)

Table 17. Benchmark with ASEAN National Accreditation Bureaus (NABs)

	Schemes being offered by NAB	Schemes in the MRA/MLA
Indonesia	11	8*
Malaysia	11	6*
Philippines	9	4
Singapore	10	8*
Thailand	11	7*
Viet Nam	8	7*

Source: Botor (2014)

d. Technical regulations

Electrical and Electronic Equipment's Sector. The ASEAN Harmonised Electrical Electronic Equipment Regulatory (AHEEERR) has been ratified by the Philippines, with the applicable legislation and/or regulations aligned and the amended national legislation made available to member states (through JSC EEE) and the ASEAN Secretariat. However, the implementation of the technical requirements of the AHEEERR---i.e., the ASEAN guidelines to determine the Type Conformity Assessment Regime based on Risk Assessment for electrical and electronic equipment (conformity assessment procedures and infrastructure)---has not yet been adopted because the guidelines are still in the evaluation stage of applicability. The expected date of adoption is end of 2015.

Likewise, the set of rules for the application of the ASEAN Conformity Mark has not yet been finalised as it is still under study by an external body. Nevertheless, the Philippines has a Listed CAB under the ASEAN Electrical and Electronic Equipment MRA, wherein its services is used to carry out the conformity assessment of Electrical and Electronic Equipment within the scope of AHEEERR. It should be noted that no CAB for Electrical and Electronic Equipment outside of the ASEAN Listed CABs is being utilized.

When it comes to post-market surveillance, the Guidelines for the Market Surveillance Regime in ASEAN specifically for the Electrical and Electronic Equipment sector is not yet adopted. The country's preparation for its adoption is expected to be completed by end of 2015. Annexes 2-3 highlight the status of the implementation of sectoral MRAs on conformity assessments and AHEEERR.

To enhance the capability of regulators and the industry in meeting the requirements of the AHEEERR, the country is leading an initiative in partnership with the European Union through the Trade-Related Technical Assistance 3 project from 2013 to 2016.

Cosmetics Sector. To support the enforcement of the ACD, the FDA issued relevant regulations. The ACD was fully adopted in the Philippines in 2008. All provisions of the Philippines' regulations are similar to the five harmonized aspects in the ACD, namely: definition and scope of cosmetics products; ingredients listing; labelling; product claims; and cosmetics GMP. It has also harmonized the template for the notification of cosmetic products and has shifted to electronic cosmetic product notification (e-notification). In compliance with the ASEAN Cosmetic Notification and to improve its services, the FDA Center for Cosmetics Regulation and Research launched in February 2013 the Cosmetic Product Notification e-notification scheme.

The national strategy for the post-market surveillance of cosmetics is coordinated with the Product Research Standard Development Division of the FDA. The FDA links with relevant industry groups⁶⁷ to ensure that the latter are consulted or informed about the commitments made at the regional level with regard harmonizing conformity assessment procedures. The assigned personnel always has to make sure that the Philippines' Post-Market Alert System for the cosmetics sector is available to member states and to the ASEAN Secretariat through corrective actions such as the issuance of an 'Advisory to the Public'.

In the implementation of the ACD, the main problem was that not all members of the ASEAN are into electronic notification. Second, there is still a problem in the implementation of the Safety Assessment region-wide. Third, the risk classification is not yet harmonized. Lastly, the micro, small and medium enterprises (MSMEs) have difficulty complying with the ASEAN Cosmetic Directives in terms of GMP. Should the ACD be implemented, the most noticeable benefits will be the uniform labelling of cosmetics products, making such products competitive. Also, the e-notification facilitates the flow of goods faster. To address the problems and enhance the benefits,

⁶⁷ Philippine Cosmetics Technical Assistance Center Foundation, Inc.; Chamber of Herbal Industries of the Philippines; Chamber of Cosmetics Industry of the Philippines; Cosmetics, Toiletries and Fragrance Association of the Philippines; Philippine Society for Cosmetic Science; Philippine Wellness and SPA Association.

an ASEAN member without an electronic notification capability yet should undertake a post-market surveillance system resource and technical training.

To solve problems in the implementation of Safety Assessment region-wide, trainings should be on management of product information files, safety assessment, and GMP. Likewise, trainings on areas in risk classification, where there remain a harmonization issue, are being proposed. Lastly, there is a need to strengthen the capabilities of those MSMEs that have difficulty complying with the ASEAN Cosmetic Directives in terms of GMP.

Medical Devices Sector. The country has ratified its adoption of the AMDD, and applicable regulations have been aligned with such directive's provisions. There are five major agreements in the AMDD: (1) Definition of Medical Device (already adopted under RA 9711 or the FDA Act of 2009); (2) Classification of Medical Device; (3) Common Submission Dossier Template (CSDT), which is the Common Technical Requirements for the Registration of Medical Device⁶⁸; (4) Post Market Surveillance (for AO preparation); and (5) Classification of *In Vitro* Diagnostics (IVD) (draft stage and for finalisation).

The draft guidelines for the registration of medical devices implementing the AMDD as well as the guidelines on the AMDD technical requirements are now being circulated for comments. The former is expected to be approved by 2015.

The Philippines has the same risk-based classification system as AMDD and applies the same differentiation of fees, processing times and clinical requirements. However, the country does not yet have an expedited registration channel. Plans are afoot to establish an expedited registration channel for products that are strictly for export and for products with previous approval from the five countries. The plan also includes products of ASEAN member countries wherein all products that will be processed using the CSDT will not be reviewed technically, only the legal requirement; nonetheless, the applicant needs to submit the whole technical documentation for later review. Note, however, that AMDD is not yet signed. Once it has been approved, an ASEAN Medical Device Committee will be created to monitor the compliance of member countries to the directive. The new Committee will devise implementation guidelines and monitoring tools. At present, the Philippines does not use third party providers for conformity assessments for AMDD.

The post-market surveillance is not yet in place in the Philippines. However, at the regional level, post-market surveillance is part of the AMDD, where the forms to be used for adverse event reporting and field safety corrective action are due to be finalised. At the national level, the FDA is in the process of establishing the post-market surveillance mechanism but voluntary reporting of adverse events and product recalls is being done. Meanwhile, to enhance the capability of

⁶⁸ Final draft of Administrative Order has been circulated for comments since August 2014. The comment period was up to 15 October 2014 to comply also with the WTO requirement since this guideline will affect the international market. All comments would be consolidated and three public hearings for different sectors would be scheduled to answer all the comments.

regulators and industry to meet the requirements of AMDD, the Philippines has been carrying out several initiatives⁶⁹.

Pharmaceuticals Sector. In July 2013, the Philippines has fully adopted the ASEAN Common Technical Dossier and ASEAN Common Technical Requirements (ACTR)⁷⁰ and has transposed this regional agreement into applicable national regulations on technical quality, safety and efficacy guidelines under the ACTR. Specifically, these cover (1) Analytical validation guideline; (2) Bioavailability and bioequivalence (BA/BE) studies guideline; (3) Process validation guideline; (4) Stability study guideline; and (5) ASEAN Variation Guideline. Other than the agreed guidelines under the ASEAN, the country also uses other international references such as those of the International Conference on Harmonization⁷¹ and World Health Organization⁷² for flexibility.

For post-market surveillance, there is a mechanism established that includes the linkage with the safety alert notification. The Philippines participates in this Post-Market Alert System and receives the statistics on unsafe pharmaceutical products. It then disseminates information to stakeholders and relevant agencies and applies appropriate corrective actions such as collection of fines/penalty, revocation of license and recall of product or revocation of Certificate of Product Registration (CPR). To date, the Post-Market Alert System has been ineffective due to limited resources available. There is still a need for additional manpower and a more robust IT infrastructure.

⁶⁹ Starting 2007, there have been a series of seminars introducing the new technical requirements per AMDD, which is the Common Submission Dossier Template (CSDT), and the new classification that will be implemented. In 2013, there was one formal training on CSDT participated by about 70 companies. Also in 2013, there was a one-day formal training on medical device regulation, including the awareness on the implementation of the CSDT participated by the regional medical device industry by PAMDRAP, where the CDRRHR is the resource speaker. There is a quarterly QPIRA Training for medical device industry and part of the QPIRA is the regular update on the ASEAN harmonization initiatives including the AMDD. At the regional level, there are capability programmes initiated by APEC and the ASEAN-US (US Department of Commerce). These are usually back to back trainings/workshops and the training are dovetailed during ASEAN TWG meetings. There is also ISO 13485, a local training together with TUV Rheinland. Other trainings include WHO trainings for WHO projects. Through these initiatives, Philippines was able to avail of a training programme for the medical device regulators to understand the different requirements of the CSDT. On 2015, another country training course is planned with the regulatory agency (CDRRHR) and the industry under the US Department of Commerce.

- A. ⁷⁰ DOH-Administrative Order No. 2013-21 (Adoption of the Association of Southeast Asian Nations (ASEAN) Common Technical Dossier and Common Technical Requirements (ACTR) for the Registration of Pharmaceutical Products for Human Use).
- B. ⁷¹ FDA Circular No. 2013-018 (Adoption of the International Conference on Harmonization [ICH] Safety and Efficacy Guidelines).
- C. ⁷² DOH-Administrative Order No. 2013-27 (Adoption and Implementation of the World Health Organization Annex 5 Guide to Good Distribution Practices (GDP) for Pharmaceutical Products, and Annex 9 Guide to Good Storage Practices for Pharmaceuticals); and DOH-Administrative Order No. 2014-16 (Adoption of the World Health Organization 'Guidelines on Evaluation of Similar Biotherapeutic Products [SBPs] for the Registration of Biosimilar Products').

3. Summary and Ways Forward

In the Philippines, harmonization of standards is mostly led by government, not by the private sector. The BPS and FDA are the lead agencies in Standards and Conformance that collaborate/consult with other relevant government bodies, industries/associations and other stakeholders.

Apart from their regulatory functions to oversee the activities of their respective sectors, both agencies are responsible for developing standards or technical requirements, establishing conformity assessment procedures and monitoring the status of implementation of the various ASEAN commitments relevant to standards and conformance.

On the whole, the Philippines is showing good progress in the ASEAN standards and conformance roadmap. To align its activities with ASEAN initiatives, the country's national standards are being harmonized with the identified international standards in the different product working groups. Eventually, these are either fully aligned with national standards (i.e., with the transposition of laws and/or regulations such as in cosmetics, pharmaceuticals) or almost completed aligned (e.g., automotive, electrical and electronic equipment and medical devices). A step-by-step approach is undertaken to align national regulations with ASEAN agreements, where the processes range from review and consultation to revision of national standards or technical requirements. There is also the recognition of test reports from testing laboratories accredited by accreditation bodies Asia-Pacific Laboratory Accreditation Cooperation (APLAC), International Laboratory Accreditation Cooperation (ILAC) MRA as well as accreditation of systems such as ISO 9001, ISO 17025 and ISO 17065 and implementation of capacity-building projects such as ISO Institutional Strengthening INS project, TRTA Project on National Quality Infrastructure.

However, when its international standardization status is compared with other ASEAN member states, the country's participation is minimal.

As regards the status of implementation of conformity assessment procedures and technical regulations, Tables 18 and 19 provide the summary:

Table 18. Status of Conformity Assessment Procedures

Sectors	Implementation of	Status
Automotive	ASEAN MRA for Type Approval of Automotive Products	For ratification; done with public consultation on the 11 th draft MRA (July 21, 2014)
Electrical and Electronic Equipment	ASEAN Electrical and Electronic Equipment MRA	Adopted in 2008
Cosmetics	ASEAN Cosmetic Directive	Adopted in 2008
Medical devices	ASEAN Medical Device Directive	Endorse the draft ASEAN Cosmetic Directive

Pharmaceuticals	ASEAN Sectoral MRA on Good Manufacturing Practice of Inspection of Manufacturers of Medicinal Products	Listing of the Inspection Services (Ongoing)
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Table 19. Summary Status of Technical Regulations

Sectors	Implementation of	Status
Electrical and Electronic Equipment	ASEAN Harmonized Electrical Electronic Equipment Regulatory (AHEEERR)	Ratified but needs to complete technical requirements
Cosmetics	ASEAN Cosmetic Directive	Fully adopted in 2008; implemented e-Notification
Medical devices	ASEAN Medical Device Directive	Ratified: (1) Definition of Medical Device (already adopted under RA 9711 or the FDA Act of 2009); (2) Classification of Medical Device and (3) Common Submission Dossier Template (CSDT) which is the Common Technical Requirements for the Registration of Medical Device ⁷³ ; (4) Post Market Surveillance (for AO preparation); and (5) Classification of In Vitro Diagnostics (IVD) (draft stage and for finalisation).
Pharmaceuticals	ASEAN Common Technical Dossier and ASEAN Common Technical Requirements (ACTR)	Full adoption in 2013

To ensure transparency, information on regulatory requirements, conformity assessment procedures and applicable standards are published online and publicly available either in the BPS portal or FDA website. For cosmetics, medical device and pharmaceuticals, information discussed

⁷³ Final draft of Administrative Order has been circulated for comments since August 2014. The comment period was up to October 15, 2014 to comply also with the WTO requirement since this guideline would affect the international market. All comments would be consolidated and three public hearings for different sectors will be scheduled to answer all comments.

at the regional level was disseminated to all interested parties through the QPIRA, an FDI initiative to cascade down information.

In terms of technical assistance, the regulatory authority in the Philippines gives adequate support to the industry to ensure the effective implementation of the ASEAN commitments to the standards of the ACD. The FDA makes the guidelines on how to understand and interpret technical documents available on its website and carries out training sessions for the industry's guidance. Similarly, both the BPS and FDA strengthened their capacities through technical assistance (e.g., trainings/workshops) provided by bilateral and/or regional counterparts, international organisations or funding institutions, etc.

Despite these developments, there still remain challenges that need to be addressed. One of the bottlenecks mentioned was the lack of financial resources and manpower. In the case of the FDA, the delay in the approval of the Five-Year Business Plan (2013-2017, based on RA 9711) hindered the establishment of adequate testing laboratories and field offices; upgrade of facilities and equipment as well as IT systems and databases; and hiring of human resource complement, amongst others. On its problem on lack of qualified human resources, the FDA had to resort to hiring through job orders⁷⁴ where commitment and continuity are questionable. Furthermore, there were cases where trained experts were poached by other employers within the same industry or outside the country. In general, there is also the need for more capacity building programmes for regulators.

The discussions above show that the standards and conformance initiatives of the ASEAN have influenced and continue to drive change in the Philippine policies on standards. Some initiatives involved amending the relevant laws and regulations. In addition, new regulations are being created to align national procedures to ASEAN agreements/policies agreed upon. It is therefore important that the government allocate financial resources, particularly to the BPS and FDA. Given the national budget's limitation, income retention appears to be the key to addressing concerns regarding the lack of funding for personnel, testing facilities, IT upgrade, IT databases, etc.

Another equally important aspect to consider, given the changing global environment, is the capacity building of relevant agencies. Cooperative activities with relevant government agencies/industry partners can further enhance BPS' and FDA's services, including data collection to be able to quantify the benefits accrued from ASEAN initiatives and information dissemination. Engaging with stakeholders through public consultations is also a necessary ingredient to make them aware and compliant with new regulations and requirements.

Finding solutions to strengthen the technical infrastructure and increase the technical expertise of the country's regulatory agencies will help the Philippines attain its standard and conformance obligations within the region. Once these are achieved, domestic firms engaged in manufacturing, trade, and distribution as well as foreign companies seeking to enter the local market will benefit

⁷⁴ Workers who are hired through job orders are paid on the basis of piece of work, or for intermittent work of short duration not exceeding six months and on a daily basis

from administrative and procedural efficiencies in terms of lower costs and faster speed to market. Meanwhile, regulatory agencies that are now fully equipped and well-functioning will easily be able to drive public awareness on product safety and quality, and generate greater understanding of the importance of standards in daily living and the practical utility of the ASEAN's standards-and-conformance initiatives (Ledda 2012).

In addition, an upgrade of systems and reforms for better services will help Filipino industries produce competitive health products and consumer goods in preparation for the open trade economy in the ASEAN region and the rest of the world.

Finally, to fully align with regional standards, the Philippines has to have National Action Plans and must support the National Quality Infrastructure Law⁷⁵ to address the competitiveness issue and to facilitate the development of a culture of quality. A critical aspect of technical development and market access is the capacity of the country to implement and show compliance with mandatory and voluntary technical requirements. The technical compliance is supported by a number of interlinked activities, many of them of voluntary nature that is usually referred to as the National Quality Infrastructure. This includes standardization, accreditation, and conformity assessment. Such need has been identified in the Philippines Development Plan 2011-2016, to wit: *'The government shall set up a National Quality Infrastructure to integrate and coordinate the series of activities involving metrology, standardization, testing, and accreditation and certification.'*

F. MRAs on Professional Services

1. Status of Implementation

There has been significant progress in the country's implementation of ASEAN MRAs since the last report in 2011.

a. Architectural services

- The Monitoring Committee for the implementation of MRA has been set up. The ASEAN Monitoring Committee on Architectural Services of the Philippines is composed of representatives from the PRC, the Commission of Higher Education and United Architects of the Philippines. It is chaired by PRC.

⁷⁵ A National Quality Infrastructure forum and workshop was held on 28 October 2014, where the draft bill was presented. The draft bill is also posted on the website of the National Competitiveness Council (NCC). The development of National Quality Infrastructure Law is a joint project between the Philippines (DTI) and European Union (EU) through Trade Related Trade Assistance 3.

- The Assessment Statement, which describes the mechanism for assessing architects seeking registration as an ASEAN architect, has been submitted and approved by the ASEAN Architect Council.
- As of September 2014, there were 40 Filipino architects registered as ASEAN architects by the ASEAN Architect Council.
- A system has been established to authorize foreign ASEAN architects as Registered Foreign Architects by the Professional Regulatory Authority (i.e., the PRC).
- To date, there are no Registered Foreign Architects registered in the Philippines.

b. Engineering services

- The Monitoring Committee for the implementation of MRA has been set up. The ASEAN Monitoring Committee on Engineering Services for the Philippines is composed of representatives from the PRC, Commission of Higher Education, Philippine Technological Council, and representatives from the Professional Regulatory Board of Engineering. It is chaired by PRC.
- The Assessment Statement, which describes the mechanism for assessing Engineers seeking registration as an ASEAN Chartered Professional Engineers, has been submitted and approved by the ASEAN Chartered Professional Engineering Coordinating Committee.
- As of September 2014, there were 38 Filipino Engineers registered as ASEAN Chartered Professional Engineers by the ASEAN Chartered Professional Engineering Coordinating Committee.
- A system has been established to authorize foreign ASEAN Chartered Professional Engineers as Registered Foreign Professional Engineers by the Professional Regulatory Authority (i.e., the PRC).
- To date, there are no Registered Foreign Professional Engineers registered in the Philippines.

c. Nursing services

Based on the Philippines Roadmap for the Implementation of the ASEAN MRA on Nursing Services, most of the requirements for achieving the objectives are in place. For example, to facilitate mobility of nursing professionals within ASEAN, a foreign nurse can practice in the Philippines by obtaining an STP. Currently, foreign nurses in the country are part of humanitarian medical missions and none is from the ASEAN. Another objective pertaining to the exchange of information and expertise on standards and qualifications has also been achieved.

The following information have been compiled and made available online: Recognized Basic Qualifications; List of Recognized Institutions (local and foreign); Domestic Laws and Regulations Pertaining to Nursing Education, Nursing Practice, Examination and Registration; Requirements for Post Basic Nursing Qualifications; Requirements for Credentialing for Specialization;

Continuing Professional Development requirements, etc. Activities under other MRA objectives – i.e., promoting best practices and providing opportunities for capacity building – are ongoing.

2. Information Campaigns

To help local professionals better understand the ASEAN MRA and the ASEAN Economic Community (AEC), roadshows and other forms of public outreach activities are conducted in the country. For Architecture, these are being conducted by the United Architects of the Philippines, the Philippine Association of Architects, and the Philippine Contractors Accreditation Board. In Engineering, the PRC along with professional regulatory boards and consultants are involved whilst for Nursing, the PRC works with various nursing partners (including different nursing associations) to conduct roadshows.

Since 2012, annual Philippine professional summits have been organized by the Philippine Association of the Regulatory Board Members Inc. and the PRC to gather stakeholders such as the PRC, the professional regulatory boards and accredited professional organisations, to create greater awareness on regional and international developments, and to discuss challenges faced by Filipino professionals. The 2013 Summit focused on 'Empowering Professionals Towards ASEAN Economic Community 2015'. In the lead up to the summit, a number of conferences were conducted across the country where participants raised the following issues and concerns regarding ASEAN MRAs: the absence of massive campaigns to disseminate information regarding ASEAN recognition for 2015; the degree of preparation for the AEC 2015; issue on equivalency amongst ASEAN members in terms of compensation, benefits and qualifications of practitioners; limited number of MRAs (not all professions/programmes have MRAs); attaining recognition of competencies and qualifications of engineers in international agreements; and information dissemination and advocacy regarding the registry of engineers. These inputs were used in developing the topics of the second summit. The need for more information on MRAs continues to be addressed by the PRC and professional regulatory boards through various outreach activities.

3. Moving Forward with the Implementation

As mentioned earlier, apart from the ASEAN MRA, there is a scheme by which foreigners can practice in the Philippines. Republic Act 8981 (or the 'PRC Modernization Act of 2000') requires foreign professionals who intend to practice a regulated profession in the Philippines to secure an STP from the PRC. Implementing guidelines for the issuance of STPs were established in 2012 with PRC Resolution No. 2012-668. The number of STPs issued to date for three professions are shown in Table 20.

Table 20. Number of STPs Issued for Select Professions, Philippines.

Profession	2013	2014
		(as of Sept. 23, 2014)
Architect	3	5
Engineer	1	18
Nurse	134	146

Source of raw data: PRC (2014)

The ASEAN MRA can be considered more facilitative since it involves less evaluation of the documentary requirements. The scheme would be especially beneficial to professionals who wish to practice in more than one ASEAN member state as it removes the need to prove that the requirements for registration or licensing from the country of origin are substantially the same as those required in other ASEAN members.

In addition to the requirements of the Professional Regulatory Authority (PRA), foreign nationals who are allowed to practice in the Philippines must apply for an Alien Employment Permit with the Department of Labor and Employment. Both the STP and Alien Employment Permit are submitted to the Bureau of Immigration to obtain a pre-arranged Employee Visa and an Alien Certificate Registration Identity Card. Some of the documentary requirements could be reduced to avoid duplication. For example, the Bureau of Immigration requires the submission of a 'curriculum vitae with the applicant's educational background, work experience(s) and educational degree, although this may no longer be necessary for someone who has already registered with the PRA. A copy of the contract is also required by the Bureau of Immigration even though this was already submitted to the Department of Labor and Employment as a requirement for the Alien Employment Permit. Streamlining regulatory requirements will help improve the mobility of professionals.

For the benefit of professionals and the general public, the national website for disseminating MRA-related information (handled by the International Affairs Division of the PRC) and the websites maintained by the respective accredited professional organisations should be further enhanced and constantly updated to make the MRAs more accessible and readily understandable. Data on the stock and flow not only of professionals participating in ASEAN MRAs but, more generally, of local and foreign professionals, should also be compiled for better monitoring and evaluation.

With the registration mechanisms in place, there must be more attention given to other important MRA objectives. Greater exchange of information to promote adoption of best practices on standards and qualifications, capacity building, and collaborative researches will further enhance the benefits of the ASEAN MRAs.

III. CONCLUSIONS AND RECOMMENDATIONS

This study reports the current compliance and status of implementation of key AEC measures that the Philippines has committed itself to. Overall, there has been significant progress in several sectors but compliance has somewhat slowed down in the rest. The Philippines appears on track in terms of actualizing the commitments specified in the AEC Blueprint. However, despite significant policy development in some sectors, it is apparent that much work still has to be done to attain full compliance.

Since this specific phase of the ERIA AEC Scorecard study series is more focused on the implementation of actual policies and the identification of the issues and bottlenecks to compliance, the following insights can be gleaned from the surveys conducted per sector, with corresponding recommendations:

A. Trade Facilitation

Overall, the Philippines has made some significant progress in complying with its commitments related to trade facilitation. Note though that whilst some systems are already in place, the full automation of customs and related processes has yet to be achieved. On customs modernization, there are still gaps in the implementation of inspection management, CBW management, post-clearance audit, AEO management and raw materials liquidation system. The full implementation of these features, whether it be through the e2m system or a different system, is necessary to attain full automation and integration to the NSW.

Whilst the implementation of the NSW has been stalled due to issues on system maintenance and administration, it has, at one point, been operationally responsive particularly in the execution of the following processes: entry lodgement, import assessment, and permits processing.

In terms of legislation, there is a need to pass the Customs Modernization and Tariff Act to further facilitate trade as it aims to apply international standards in customs operations and make import trade transactions faster, predictable, efficient, and transparent. The Act also aims to comply with the Revised Kyoto Convention of the WTO, where the Philippines is a signatory. Another area for firm action by the government, possibly by way of legislation, involves strengthening and fully actualizing the implementation of the NSW. Ideally, a high-profile champion coming from both the public and private sectors could help get the highest political authority in the land to support the full implementation of the NSW in view of its critical role in trade facilitation and customs administration.

In terms of the NTR, a stronger mandate (possibly through the passage of an Executive Order) in the implementation of PNTR can elicit trade-related government agencies' commitment and support. An institutional arrangement must be defined to support the conceptual development and sustainable implementation of the PNTR, particularly the decision-making process (possibly through a steering committee, or assigning a government body higher than the agencies involved

and creating sub-working groups); funding for upgrading IT infrastructure, technical maintenance, and identification of sustainability strategies.

B. Services Liberalisation

Under this sector, the major issues still relate to the constitutional limitations---i.e., foreign equity participation---and the need for other legislations and infrastructure to support the liberalisation of the services sector. The prospect of amending the economic provisions of the Constitution has not generated enough traction amongst the population in general and some stakeholders in particular. The immediate course of action is to focus on what the executive branch of government can do; this would require working with legislators in the crafting or amending of pertinent laws on the services sector. For example, in the telecommunications industry, the regulator (NTC) has no power over the setting of interconnection charges. It cannot intervene unless the parties had failed to reach an agreement. This is a major issue in the sector.

In the health sector, particularly on the use of telemedicine, one of the problems that have been identified is the lack---if not the absence---of a clear set of regulations that would stipulate what types of telemedicine could be allowed in the country. Another problem is the lack clear administrative and clinical practice guidelines.

Still another major issue is the seemingly contradictory policies of allowing foreign ownership of health facilities on the one hand; and the composition of the board of directors of a health facility company (which should be composed of Filipinos) and the restriction on the citizenship of the health service providers on the other hand. The Philippine Constitution allows for 100 percent ownership of health facilities. However, majority of the board must be Filipino citizens. The Constitution also restricts the practice of foreign medical professionals in the country. This policy somehow defeats the purpose of allowing full entry of foreign-owned hospitals/clinics in the country if the owners, who are also health practitioners themselves, would not be able to practice their profession in the country.

On tourism, responses from the relevant respondent-agencies reveal that the sector is fairly open to foreign investments although some restrictions are still observed in the provision of food and beverage services. The operation and management of utilities is still also restricted by the foreign equity rule (i.e., up to 40%). Other issues highlighted include the lack of accessibility in terms of flight frequency and capacity, and the airport infrastructure which has been lagging behind its ASEAN counterparts. These are areas requiring Philippine policymakers' closer attention.

In the case of maritime transport, the issues that hounded the industry in 2010, when Phase II of the survey was conducted, persist to this day. These pertain to the cabotage issue, the 60-40 foreign equity limit on other services, and the problematic regulatory structure of the ports authority.

On the cabotage issue, it is worth noting that the Philippine government is now making progress because of a recent move by the maritime regulator itself (i.e., MARINA) to lift the cabotage policy,

at least for the export sector. This is being pushed forward into a legislation so as to promote competition in the industry and thereby lower the high domestic shipping costs.

The opposition has been raising counterarguments, emphasizing that cabotage policy is not the main culprit but rather, other factors such as structural problems in the ports. The strong lobby by domestic shipping lines and domestic shipping owners and the willingness of the politicians to compromise are reasons behind the soft reform being pushed by MARINA.

The 60-40 rule that is still prevalent in other maritime services needs to be quickly addressed as the government had committed to liberalise up to 70 percent allowable foreign equity. The third issue concerns the regulatory structure of the Philippine Ports Authority, since it serves as both the operator and regulator of majority of the ports in the Philippines. Likewise, the 'one port, one operator' policy that is still in place has to be tackled. The government needs to address this coordination failure between the PPA and its mother agency, the DOTC.

Finally, the banking and insurance industries can be considered as the most progressive sector in terms of liberalisation as RA 10641 (which allows for the full entry of foreign bank in the Philippines), and RA 10607 (which requires insurance companies to upgrade their capitalization) were enacted recently. Nonetheless, the following has been recommended: (1) formalize a general rule that will implement the provision that allows fully owned foreign-invested company to perform bancassurance activities in the country; and (2) lift internal barriers, specifically the removal of mandatory credit allocations.

C. Investment Liberalisation

Several investment policy reforms in the past years have largely helped increase the flow of FDI in the country. This, however, remains low when compared to the regional average. Again, the restriction in the foreign equity participation has been a major bottleneck. Also, considering the comparative advantage of the Philippines—availability of English-speaking, highly skilled workforce with strong cultural affinity to the US, excellent geographical location and rich natural resource---and even after the initiated reforms and incentives, FDI flow in the Philippines remains weak. However, it should be noted that opening up the economy and allowing greater foreign ownership and control are not enough to attract investments.

Since the last AEC Blueprint Review, there have been no major changes in the general or institutional framework, nor in the way investment policy is formulated or implemented. Much of the work done in terms of advancing and implementing the ACIA commitments is in the area of investment promotion. Investment incentives and ease of doing business are still the most important investment determinants, according to the AEC Mid-term Review, and the country has achieved significant progress in terms of streamlining and simplifying business procedures and harmonizing government promotion strategies and incentives.

Although ACIA by itself does not guarantee FDI flows, it can be an important mechanism for vertical integration of multinational firms and development of regional value chain. Hence, it would do well for member countries such as the Philippines to implement reforms in line with ACIA: Improve domestic business environment, economic regulations, and corporate governance and labour laws; develop logistics infrastructure, stable legal and economic systems, and adjustment measures (Aldaba, 2012).

On the issue of constitutional restrictions particularly on land ownership, Aldaba (2012) recommended advocating for stronger lease rights with provisions allowing lessees to sublease, subdivide, transfer or use lease rights as collateral. Indeed, whilst a review of the constitutional restrictions is still warranted, Gutierrez (2014) maintained that the government has to press on and continue implementing measures that would encourage competition and strengthen institutional and regulatory framework, especially in public utilities.

D. NTMs

Results of the survey showed that the respondents support the belief that streamlining or simplifying import permit and accreditation requirements is the most logical and effective strategy to resolve procedural delays and obstacles. They welcome efforts to automate all customs transactions and procedures, even the creation of a simple database of all traders. From a business standpoint, the crucial areas for reforms would still be in trade facilitation measures. This finding is consistent with the result from the MTR, strongly suggesting that between that time and the present, there was hardly any progress or steps ever taken to address the issues indicated in the MTR report.

E. Standards and Conformance

On the whole, the Philippines is making good progress in the ASEAN standards and conformance roadmap. Alignment of activities with the ASEAN initiatives is being done by harmonizing the PNS with the identified international standards in different product working groups. Aligning national regulations with ASEAN agreements is required in every step of the process: review, consultation, revision of national standards or technical requirements to ensure alignment with agreed international standards and benchmarks. There is recognition of test reports from testing laboratories accredited by accreditation bodies Asia-Pacific Laboratory Accreditation Cooperation (APLAC), International Laboratory Accreditation Cooperation (ILAC) MRA; technical infrastructure accreditation of systems such as ISO 9001, ISO 17025 and ISO 17065; and implementation of capacity building projects such as ISO INS project, TRTA Project on National Quality Infrastructure.

However, when compared with the international standardization status of other ASEAN member states, the country's participation remains minimal.

In general to ensure transparency, information on regulatory requirements, conformity assessment procedures and applicable standards are published online and publicly available

either in the BPS portal or FDA website. However, despite these developments, as mentioned earlier, there are still remaining challenges that need to be addressed – one of which is the lack of financial resources and manpower.

Other equally important aspects to consider, given the changing global environment, are the capacity building of relevant agencies and the need to engage in cooperative activities with relevant government agencies/industry partners so as to further enhance BPS and FDA services. Engagement of stakeholders through public consultations is also a necessary ingredient to make them compliant to the new regulations and requirements.

F. MRA

In the case of the MRA, particularly those that are covered in this study (i.e., Nursing, Engineering, and Architecture), the following conclusions and recommendations can be made:

1) For the benefit of professionals and the general public, the national website for disseminating MRA-related information (handled by the International Affairs Division of the PRC) and the websites maintained by the respective accredited professional organisations should be further enhanced and constantly updated to make the MRAs more accessible and readily understandable;

2) Data on the stock and flow not only of professionals participating in ASEAN MRAs but, more generally, local and foreign professionals should be compiled for better monitoring and evaluation.

Now that the registration mechanisms are in place, attention should henceforth be redirected to the other important objectives of the MRA. Greater exchange of information to promote the adoption of best practices on standards and qualifications, capacity building, and collaborative researches will further enhance the benefits of the ASEAN MRAs.

Overall, it is evident that the Philippines needs to shape up in terms of actualizing its commitments and in preparing itself for the imminent AEC integration. Much of this would require clear actions from the national government when tackling issues on constitutional limitations, inappropriate laws and regulations, inadequate infrastructure, lack of effective information dissemination to the public and stakeholders, etc. Political will and strong leadership, and commitment by legislators and the bureaucracy are crucial if the Philippines is to attain its commitments to key measures under an integrated AEC, particularly in services liberalisation and trade facilitation – specifically NSW implementation, where the Philippines somewhat lags behind other countries.

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ANNEXES

1) Status of NSW Implementation as of October 2014

	COMPLETE	PARTIAL	STOPPED	NOT CONNECTED
1	Bureau of Animal Industry (BAI)	Bureau of Import Service (BIS)	Philippine Economic Zone Authority (PEZA)	Bureau of Customs
2	Bureau of Fisheries and Aquatic Resources (BFAR)	Bureau of Product Standards (BPS)	Philippine Coconut Authority (PCA)	Bureau of Export Trade Promotions
3	Bureau of Internal Revenue (BIR)	Forest Management Service (FMS)	National Meat Inspection Service (NMIS)	Philippine Ozone Desk
4	Bureau of Investments (BOI)	Sugar Regulatory Administration (SRA)	Department of Health (DOH)	Philippine National Police – Criminal Investigation and Detection Group
5	Bureau of Plant Industry (BPI)	Bureau of Quarantine (BOQ)	Environment Management Bureau (EMB)	Land Transportation Office
6	Fertilizer and Pesticides Authority (FPA)	Civil Aviation Authority of the Philippines (CAAP)	Food and Drug Administration (FDA)	Philippine Shippers Bureau
7	Philippine Drug Enforcement Agency (POEA)	Firearms Explosives Offices (FEO)	National Food Authority (NFA)	Bureau of Immigration
8	Dangerous Drugs Board (DDB)	Maritime Industry Authority (MARINA)		Bangko Sentral ng Pilipinas
9	Philippine Nuclear Research Institute (PNRI)	Environment Management Bureau		Intellectual Property Office
10	National Telecommunication Commission (NTC)			Insurance Commission
11	Optical Media Board (OMB)			One Stop Shop DOF
12				Fiber Industry Development Coordinating Agency
13				National Intelligence Coordinating Agency
Total	11	9	7	13

2. Mandatory Philippine National Standards for Automotive Products

Other automotive products under mandatory regulation
<ul style="list-style-type: none"> • Safety helmets for motorcycles (UNECE22) • Inner tubes • Brake fluids • Lead acid storage batteries • Auto-LPG cylinders and conversion shops

Development and Implementation of Sectoral MRAs on Conformity Assessments

Priority Sectors	Requirements to fulfill complete implementation	PHL status/ score	ASEAN status/ score	Specific PHL actions
Automotive	Establishment of Task Force for development of MRA for Automotive	Yes	Yes	
	Task Force to submit draft MRA to APWG	Yes	Yes	
	Final Draft MRA to be submitted to ACCSQ and related sectoral bodies for approval	No	No	The Philippines held its public consultation on the 11th draft MRA on 21 July 2014; the said MRA was also posted at the BPS website for comments; legal scrubbing at national level is in process
	Final Draft MRA to be submitted to SEOM for approval	No	No	
	MRA to be signed by Member States	No	No	
Electrical and Electronic Equipment	Listing of Conformity Assessment Bodies under ASEAN EE MRA	Yes	Yes	Two (2) PH Testing laboratories listed
	Alignment of national regulations to the ASEAN MRA	Yes	Yes	Issuance of DTI-DAO 3:2008 on Low Voltage Equipment
	Acceptance of test results issued by Listed Testing Laboratories under ASEAN EE MRA	Yes	Yes	Issuance of DTI-DAO 4:2008
	Acceptance /issuance of product certification by Listed Product Certification Bodies	Yes	No. TH yet to participate	

Source: Maglalang, J. (2014). PH Agencies Gearing for AEC Industrial and Consumer Products. Powerpoint presentation during CAEC RTD Discussion Levelling up PH Competitiveness through Standards and Conformance, Leveraging in AEC, August 2014.

3. Development and Implementation of Single Regulatory Regime

Priority Sectors	Requirements to fulfill complete implementation	PHL status/score	ASEAN status/score	Specific PHL actions
Electrical and Electronic Equipment	Ratification of the ASEAN Harmonised EEE Regulatory Regime (AHEEERR)	Yes	No - TH N/A - BN, LA	
	Transposition of ASEAN Harmonised Electrical and Electronic Regulatory Regime	Yes	No - TH N/A - BN, LA	
	Finalisation of the list of IEC Standards which meet the essential requirements of AHEEERR	Yes	Yes	
	Agreed conformity assessment procedure for regulated EEE	Yes	Yes	PH is the lead Member State for the development of the ASEAN Risk Assessment Guidelines for EEE
	Classification of products based on risk assessment guideline	Yes	Yes	Low risk products and medium risk products have been agreed to use Type1b. High risk products has been agreed to use Type 5
	Adoption of the classification of products based on risk	Yes	Yes	AMS agreed on the classification of products based on risk assessment
	Establishment of a regional safety alert system to support post market surveillance of EEE	No	No	Development on-going
	Participation in regional safety alert system	No	No	No discussion yet
	Identification of Conformity Assessment System for Electrical and Electronic Equipment for the implementation of the AHEEERR (related to classification of products based on risk assessment guideline)	No	No	The (common) product classification based on risk level has been identified for 10 EEE and anticipated additional EEE at the 18th JSC EEE Meeting.