

# Chapter 6

## Regulatory Coherence: The Case of the Philippines

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# Chapter VI

## Regulatory Coherence: The Case of the Philippines

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### Part 1: The Evolution of Regulatory Management in the Philippines

This chapter examines the case of a regulatory management system for the Philippines and recommends specific measures for its institutionalisation in the Philippine policy space. The chapter has three parts. Part 1 describes the overall experience of the country in regulatory reform, highlighting the challenges in its journey towards regulatory quality and coherence, and identifying the steps in constructing a responsive regulatory management system (RMS). It comprises four subsections: (i) introduction and country context, (ii) recent regulatory reform, (iii) the current state of the RMS, and (iv) an assessment of the regulatory management system. Parts 2 and 3 discuss two successful case studies of regulatory reform at the national and the local government levels. The first case study (Part 2) reviews the experience of the National Competitiveness Council (NCC), in a public–private partnership mode, in working with various national government agencies and local government units to establish policies and procedures to reduce the time and cost of doing business in the country in order to improve the overall business and investment climate. The second case study (Part 3) narrates the reforms undertaken by the Quezon City local government in business permit and licensing procedures to reduce the time and cost of doing business and attract more private sector investment to the city. The two case studies demonstrate that regulatory reform at the national and local levels can be effectively implemented through a formal, deliberative reform process.

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## 1. Introduction and Country Context

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

Modern societies need effective regulations to support growth, investment, innovation, and market openness. Governments use regulations as an instrument to influence or direct cognitive and behavioural changes in consumers ( e.g. taxing tobacco and liquor) and firms ( e.g. permitting and licensing regimes) in order to achieve certain policy goals (OECD, 2010). These policy goals range from economic to political to social policy objectives. Government use regulations to mediate diverse competing interests in complex, evolving societies. Effective regulation is necessary both at the macro level and at the level of firms and consumers. The ultimate objective of such government intervention is to uphold public interest and the general welfare. In many developing countries, where institutions tend to be weak and missing markets result in inefficiencies, regulation is one of several policy tools wielded by government to address failures of the market to produce desirable social outcomes. This view of regulation rests on standard public interest theory that in turn rests on two assumptions pointed out in Shleifer (2005): (i) unhindered markets often fail because of the problems of monopoly or externalities, and (ii) governments are benign and capable of correcting these market failures through regulation.

However, there are also concerns, especially among business firms, over the deleterious impact of poor and inefficient regulation. Poor regulatory environments undermine business confidence and competitiveness, erode public trust in government, and encourage corruption in public institutions and public processes (OECD, 2010). Cases of regulatory failure and capture, which could be very costly and detrimental to the affected parties and to the economy as a whole, are well documented in the literature. Several causes of regulatory failure have been cited: over-regulation that stifles business productivity and creativity to innovate; under-regulation that enables firms to produce shoddy products and services, thereby impairing consumer welfare; and poorly designed regulation and faulty implementation compounded by weak institutional capacities that create a regulatory burden on businesses. Regulatory capture contradicts the assumption of a benevolent and competent government (Stigler, 1971). With regulatory capture, firms can continue with monopoly pricing and, even in cases where the regulators try to promote social welfare, they are incompetent and rarely succeed (Peltzman, 1989). Thus, the scope for government regulation is minimal at best, and such intervention is futile and dangerous even in the rare cases where there is scope (Shleifer, 2005).

These two views of regulation indicate the desirability of having an efficient and effective RMS. According to the public interest theory of regulation, regulations should be continuously reviewed and improved, and a functional RMS will be a good instrument to achieve this objective. Under the regulatory failure and capture theory, a functional RMS could be a strategic instrument to avoid such capture in view of its deliberative and transparent process of reviewing proposed or existing regulation, consulting, and publication of the approved regulation.

Thus, recent literature has made a strong case of reviewing and improving RMSs. Improving regulatory frameworks has become a major interest of policymakers since the mid-1990s, with governments increasingly becoming concerned not only about specific regulations in certain sectors, such as telecommunications and railways, but also about the overall quality of institutions and processes where regulations are set and implemented (Jakobi, 2012). The regulatory reform agenda has been a work in progress since the 1970s, when it had spawned different waves of regulatory reform: de-regulation, re-regulation, and the creation of independent regulatory agencies (Radaelli and Fritsch, 2012). These reforms seem to be the response to over-regulation, poorly designed regulation, and faulty implementation of regulation. Thus, across Europe, where the impulse

to reform regulations has been strongest, regulatory reform 'has become considerably more complex' (De Francesco and others, 2011, p. 2) but at the same time, major innovations to reform regulations have emerged. A major innovation is regulatory impact assessment described by De Francesco and others (2011) as 'an administrative obligation to follow a set of rules for the definition of policy problems, the appraisal of the status quo, the identification of regulatory options, consultation of stakeholders and the economic analysis of feasible options'.

The emphasis of regulatory reform agendas has been on improving or ensuring the 'quality of regulation' (Radaelli and Fritsch, 2012), developing 'smart regulation' (Baldwin, 2005; Jensen et al., 2010) or installing 'regulatory oversight' (Alemanno, 2007; Weiner and Alemanno, 2010).<sup>1</sup> Regulatory reform includes both 'better quality' regulation through more effective alignment of regulatory means to achieve policy goals, and 'regulatory relief' through administrative simplification and deregulation to reduce the burden of regulation (Gill, 2011).

The Organisation for Economic Co-operation and Development (OECD) has pioneered reforming regulatory policies and practices. A good RMS helps identify the best choice of policy options and reduces unnecessary burdens on citizens and firms (OECD, 2009). Related to this, most OECD countries have introduced burden-reduction programmes to counteract the growing layers of red tape (OECD, 2009). Reform of RMSs looks critically at 'processes by which new rules are made and existing rules are reviewed and reformed. Such processes aim to produce effective and efficient regulations; that is regulations that achieve the stated policy objectives and optimise economic benefits' (OECD, 2009).

Gill (2014) points out that every country has a unique regulatory system to make laws, regulations, and rules and to review them. Countries are introducing changes in their respective RMS and strengthening institutions to make their regulatory systems more effective. The RMS is a system comprised of four elements: (i) regulatory quality tools, (ii) regulatory processes, (iii) regulatory institutions, and (iv) regulatory policies (OECD, 2007).<sup>2</sup> Gill (2014) makes a distinction between the *formal* RMS ('what is in place') and the *requisite* RMS ('what is required for an ideal or high-performing regulatory system'). The

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<sup>1</sup> Cited in Radaelli and Fritsch (2012).

<sup>2</sup> Cited in Gill (2014).

requisite RMS is understood as having a 'full set of functionality that is needed in a high-performing or ideal system', with the following four elements: 'the policy cycle, supporting practices and institutions, and a regulatory strategy' (Gill, 2014).

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

This perspective informs the discussion in this chapter of the Philippines' experience with regulatory reforms, the current state of regulations in the Philippines, and the steps being taken to improve regulatory quality. At the outset, it is useful to point out that there is no formal, coherent RMS in the country, much less the requisite RMS, but the basic elements of such an RMS are already present. The challenge is to pull these together to form a formal RMS.<sup>3</sup> This chapter identifies gaps and outstanding issues that policymakers and the private sector should address to develop a formal RMS in the Philippines.

A formal and requisite RMS will be an important policy tool to achieve the inclusive growth agenda of the Philippine Development Plan, currently covering the period 2011–2016. The Philippines has embarked on a number of policy, regulatory, and institutional reforms in recent decades and the hard work has paid off in terms of the economy's recent remarkable performance amid the lingering slowdown in the global economy, and the devastation brought about by natural disasters. The economy grew at 7.2 percent in 2013, and 6.1 percent in 2014. With gross domestic product (GDP) growth averaging 6.7 percent over the past 3 years, the Philippines is one of the better performers among developing economies.<sup>4</sup> Strong macroeconomic fundamentals (low and stable inflation, moderate interest rates, a stable banking system, sustainable fiscal and external positions, political stability, and good governance) underpinned this performance

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<sup>3</sup> There is a need to establish first a formal RMS; making it requisite is a process over time.

<sup>4</sup> The recent economic performance was a striking contrast to past chronicles of the Philippine boom-bust growth record. Some analysts observed that while Philippine growth record in the 1960s and 1970s was comparable to that of its ASEAN neighbours, a pronounced divergence from that growth path occurred in the 'lost decade' of the 1980s until the early 1990s (Balisacan and Hill, 2003).

(Llanto and Navarro, 2014). **Table 6.1** compares recent GDP growth performance across ASEAN members.

**Table 6.1. GDP Growth Rates in ASEAN, 2010–2015**

	2010	2011	2012	2013	2014 <sup>f</sup>	2015 <sup>f</sup>
Brunei Darussalam	2.6	3.4	0.9	-1.8	1.1	1.2
Cambodia	6.0	7.1	7.3	7.5	7.0	7.3
Indonesia	6.2	6.5	6.2	5.8	5.3	5.8
Lao PDR	8.1	8.	7.9	8.0	7.3	7.4
Malaysia	7.4	5.1	5.6	4.7	5.7	5.3
Myanmar	9.6	5.6	7.6	6.8	7.8	7.8
Philippines	7.6	3.7	6.8	7.2	6.2	6.4
Singapore <sup>a/</sup>	15.2	6.1	2.5	3.9	3.5	3.9
Thailand <sup>b/</sup>	7.4	0.6	7.1	2.9	1.6	4.5
Viet Nam	6.4	6.2	5.2	5.4	5.5	5.7

ASEAN = Association of Southeast Asian Nations.

Notes:

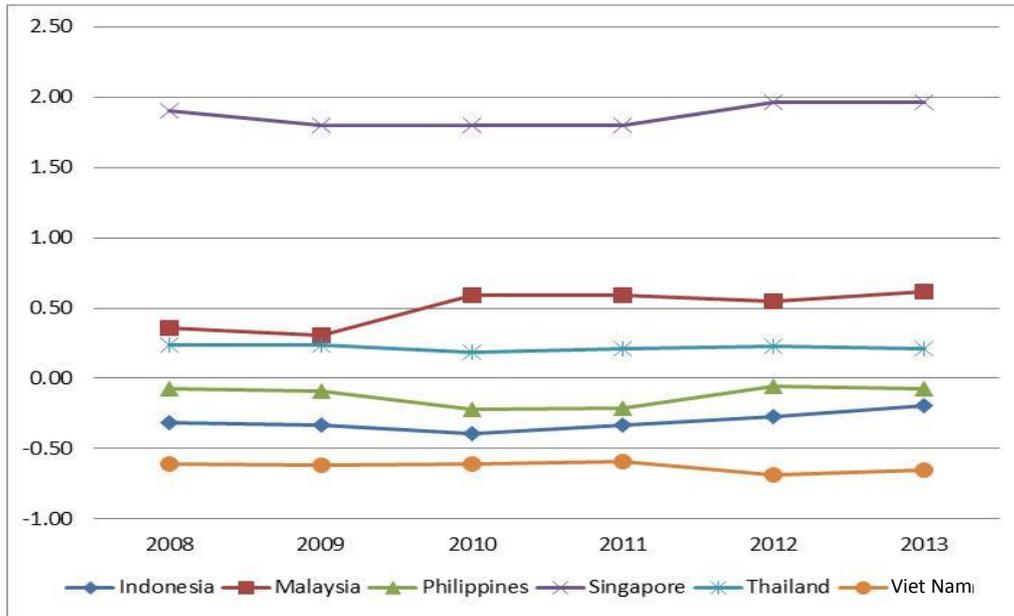
a The GDP estimates at constant prices are chain-linked at the base year to preserve the price structure. Additivity prior to the base year may be lost in the process.

b In 2012, Thailand changed its concepts, methods, and practices for compiling its national accounts to comply with relevant international standards. The national accounts compiled on the revised basis are available only for 1990–2012. In the absence of the 2013 estimates, selected key national accounts aggregates were derived by ADB using growth rates from Thai National Accounts compiled based on the old series. Users should be cautious when using the ADB-derived estimates for 2013. The growth rate for 2013 is preliminary and is based on the old national accounts series.

f - forecast based on Asian Development Bank (ADB) (2014).

Sources: ADB (2014); ADB Statistical Database System.

The Philippines is a democratic republic with a vibrant market economy. The private sector and civil society have actively engaged and collaborated with government on economic policy and regulatory reforms. In the past, regulatory reform has largely been the effort of government, but now with ample democratic space, dialogues and consultations with private business and civil society have become an indispensable process in regulatory reform. The enormous challenges in regulatory reform are illustrated in **Figure 6.1**.

**Figure 6.1. Regulatory Quality in the Philippines, 2008–2013**

Note: Governance Score (-2.5 to +2.5).

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

## 2. Recent Regulatory Reforms

Regulatory reforms happen within the context of a country's political framework. To understand the evolution of regulatory reform initiatives in the country and focus on a strategy for developing an RMS, this section briefly explains the country's political framework and the relative roles of the executive and the legislature in regulatory reform,<sup>5</sup> before providing the highlights of the regulatory reform experience in the country.

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

<sup>5</sup> I thank Derek Gill for this idea.

provincial, municipal, and city levels enjoy local autonomy following the enactment of the 1991 Local Government Code that decentralised and devolved certain powers and responsibilities, such as the delivery of health care services, to local governments. Local officials – for example, provincial governor and city or municipal mayor – are elected at the local level.

The bicameral legislature or Congress is composed of the larger House of Representatives, where representatives are elected by congressional districts, and the (smaller, with fewer members) Senate, whose members are elected nationwide. An independent Supreme Court has jurisdiction over the judicial branch of government and supervises all types of courts, including regional trial courts, the Court of Appeals, etc. The country has an independent judicial infrastructure and independent constitutional bodies (Commission on Audit, Commission on Elections, and the Civil Service Commission) and a fairly well-developed civil society.

At the local level, municipal, city, and provincial governments enjoy autonomy but have remained partly dependent on the national government's fiscal transfers to finance local development expenditure. The 1991 Local Government Code devolved and decentralised taxing, borrowing, and service delivery powers to local governments. With respect to regulation, local governments impose tertiary rules or regulations such as licences and permits on firms through local ordinances presented and approved at local councils.

The form of government has a bearing on how a regulatory reform process can be implemented in a country. In the Philippines, the executive implements the laws enacted by Congress. It can broadly issue regulations in the form of executive orders (EOs), circulars, and presidential proclamations, which direct the behaviour of firms and individuals concerned, but these issuances may be revoked, amended, or changed by the succeeding President (Chief Executive). On the other hand, laws enacted by Congress have the full force of law and they are implemented by the Chief Executive, who neither can amend nor revoke them. Laws can only be changed, revoked, or amended by an act of Congress. In the Philippine context, 'regulations' are executive issuances to implement particular executive decisions or laws enacted by Congress. In the latter case, the government issues implementing rules and regulations (IRRs), which are the legal

instruments used to implement a law enacted by Congress.<sup>6</sup> The IRRs seem analogous to the ‘secondary regulations to implement primary laws’ mentioned by OECD (2010) as a type of regulation under its comprehensive definition. As mentioned below, the other ‘types’ in the OECD’s list are primary laws and subordinate rules, administrative formalities, and decisions that give effect to higher-level regulations and standards. Gill (2014) lists the different types of regulations as primary laws, secondary regulations, and tertiary rules.

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

Thus, in the Philippine context, certain regulations can be issued through executive fiat, which are implemented by the concerned government department (ministry). Local government regulation passes through an approval process at local councils. On the other hand, other regulations (laws) can only be issued by Congress but are implemented by the government. This is an important distinction because in the former case, the executive has a wide latitude for regulatory reform, whereas in the latter case the government has to work with and through Congress to change, amend, or revoke existing regulation (laws), or enact new regulation (laws).

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

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<sup>6</sup> Usually, through a committee composed of government departments, that is, ministries.

the allocation of permits), and standards'. The definition of regulation by the OECD and Gill are comprehensive and generic.

Applying this generic definition to the Philippine setting,<sup>7</sup> regulation covers (i) laws enacted by the legislature, the 'primary laws'; (ii) regulations normally issued by the national government or a governmental regulatory body to implement a law enacted by Congress; and (iii) local government permits and licences, the 'tertiary rules' in Gill's (2014) taxonomy.

Regulations as commonly understood in the Philippine setting cover the following circulars, memorandum orders, or EOs issued by the national or local government to influence or direct private behaviour towards certain policy goals. This narrow definition of regulation is adopted for the simple reason that this is the type of regulation that is effectively controlled and implemented by the government. For example, the government can issue by executive fiat an EO to implement a particular policy. The EO can be modified, sustained, revoked, or amended by the incumbent Chief Executive without going through the tedious process of legislation. Under this narrow definition, regulations implemented by regulatory bodies as mandated by the laws and local government permits and licences are also included.

In tracing the country's journey in regulatory reform, this section highlights only some of the major regulatory changes or reforms of the recent past. The big policy changes occurred in the late 1980s until the decade of the 2000s. During at least 3 decades in the post-war period, trade and industrial policy supported an inward-looking import substitution strategy that was supported by an elaborate system of import controls, fixed exchange rates, licensing and permitting regimes.<sup>8</sup> There were attempts to liberalise trade in the early 1980s, but the major effort in achieving greater openness of the economy and more vigorous trade liberalisation only started in the late 1980s under the administration of Corazon Aquino. From that time onwards, trade and industrial policies were geared towards trade liberalisation, privatisation, and deregulation (Medalla, 1986; Medalla, 1998; Llanto, 2014). The main driver of economic and regulatory reform

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<sup>7</sup> Judicial review/decisions of the Supreme Court and regulations issued by the Securities and Exchange Commission have the force of law.

<sup>8</sup> This episode in Philippine economic history is well told by Bautista, Romeo, John Power, and Associates (1979) and Tecson (1996).

in the post-Marcos period, after 1986, was the desire to return to a growth trajectory and make this stable after years of patchy economic performance.

The foremost change following the demise of the Marcos regime in 1986 was the ratification of a New Constitution (1987) that returned the democratic framework of representative government and introduced a Bill of Rights that ensures the protection of the rights and welfare of the people. The Constitution called upon the State, among others, to promote industrialisation and full employment through industries that are competitive in domestic and foreign markets. Protection of Filipino enterprises against unfair foreign competition and trade practices was also incorporated in that basic law (Section 1, Article XII, 1987 Constitution). The 1987 Constitution provided democratic space for a rising dense network of various interest groups representing civil society, church groups, labour, and academia that competes with the traditional economic elite (supported by vested politicians) in influencing regulatory decisions and implementation, which was unthinkable under a restrictive governance framework of martial rule.<sup>9</sup>

The general tenor of post-Marcos reforms was reliance on private enterprise as the main engine of growth, with government providing the proper policy and regulatory framework. However, the irony was that certain economic provisions of the New Constitution restricted or limited foreign capital participation in the economy by explicitly favouring Filipino ownership and control of certain economic activities and resources. Later in the 2000s, the restrictive economic provisions of the 1987 Constitution, e.g. land ownership, were identified by some local commentators and foreign chambers of commerce as a constraint on attracting more foreign investment into the country.<sup>10</sup>

The Corazon Aquino administration pursued an aggressive regulatory reform programme by dismantling monopolies in certain industries such as sugar and coconut oil, and reducing tariffs on industrial products. In 1991, the Foreign

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<sup>9</sup> This is not to say that there were no such interest groups representing labour, church, and other stakeholders during the martial law regime. In fact, there were but they operated at great peril to life and property. The difference under a democratic framework is that dissent and protest can be more openly expressed and pursued without fear of retribution from an authoritarian state.

<sup>10</sup> There was policy inconsistency in wanting greater openness of the economy and trade liberalisation and, at the same time, maintaining a studious effort to limit and, in some instances, shut out foreign capital.

Investment Act was enacted into law; it allowed foreign equity in Filipino enterprises to exceed 40 percent, provided the firm seeks no investment incentives and does not engage in activities appearing in the negative list of the Foreign Investment Act. The second phase of the Tariff Reform Program under EO No. 470, series of 1991, reduced the effective protection rates for industry. The third phase of the Tariff Reform Program implemented through EO No. 264 further reduced tariffs for industrial products to within the 3 percent and 10 percent range by 2000 (Medalla, 1996; Medalla, 1998; Llanto, 2014). The Ramos administration unilaterally put in place a profound tariff reduction and import liberalisation programme geared for long-term industrial restructuring (Canlas, 1996), but this happened mainly because of the support and cooperation of a political coalition hammered out in Congress. Other significant reforms in the 1990s covered central banking, energy, telecommunications, shipping, and water. Monetary policy, financial stability, and regulation of banks were strengthened through the creation of the *Bangko Sentral ng Pilipinas*, which replaced the debt-ridden Central Bank of the Philippines that had threatened to become a drag on the economy. The Public Telecommunications Policy Act enacted in 1995 provided a regulatory framework for the telecommunications industry, which had just emerged from a monopoly.<sup>11</sup> Water distribution in Metro Manila was privatised. This substantially improved coverage and delivery of water to millions of households and solved perennial problems of underinvestment and low quality service. A regulatory office was established to oversee the performance of the two private water concessionaires tasked with water distribution in Metro Manila. The regulatory reforms strengthened the market-oriented and outward-looking stance of the economy.

Several other important reforms took place in the 2000s – the General Banking Law of 2000 and the Retail Trade Liberalization Act, which opened retail trade to foreign investments, albeit with certain restrictions. The energy sector was reformed through the Electric Power Industry Reform Act of 2001 (EPIRA), which unbundled the electricity sector into generation, transmission, distribution, and retail supply, and introduced competition in the generation, distribution, and retail supply segments. Transmission was privatised through a grant of a concession agreement to a private operator. It is noted that the EPIRA took at least 10 years to pass and only under some political compromises covering

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<sup>11</sup> President Ramos and his close advisor, General Almonte, were staunchly against monopolies in certain sectors.

generation and distribution, and condonation of debts of defaulting electric cooperatives.

At the local level, devolution and decentralisation under the 1991 Local Government Code shifted the responsibility of basic public service delivery to local government units (LGUs), such as (municipalities, cities, and provinces), and expanded the taxing and borrowing powers of local governments.<sup>12</sup> Those LGUs have a large role to play in simplifying local regulations and lightening the regulatory burden faced by firms that have located in their jurisdictions. Local governments are highly heterogeneous, with varying capacities for governance. Some local governments, such as those with better educated and reform-minded local chief executives, have managed to turn their localities into local growth centres by providing a local environment supportive of investments and business. Examples of this can be seen in Cebu City, Iloilo City, San Fernando City, Lipa City, and a few others. Others have lagged behind and have depended on fiscal transfers and financial assistance coming from legislators ('pork barrel' funds) to fund local development expenditures.

However, despite the raft of economic policy and regulatory reforms, poor governance weakens the impact of those reforms. The weaknesses and incompetence of some Philippine institutions have much to do with the overall poor quality of Philippine governance (Kauffman, Kraay, and Mastruzzi, 2007; Llanto and Gonzalez, 2010). **Figure 6.2** shows governance indicators for the Philippines, which were responsible for the relatively low ranking in investment climate assessments and global competitiveness reports. Indeed, the Asian Development Bank (ADB) (2007) opined that the regulatory burden was more acute in the Philippines than in its neighbours.

Political and institutional factors play a pivotal role in ensuring regulatory quality and coherence, or in waylaying good regulations. Alignment of political and institutional interests with regulatory objectives, and the expected benefits arising from the regulation almost ensure support for and implementation of those regulations. For example, the passage of excise taxes on 'sin' products<sup>13</sup> and

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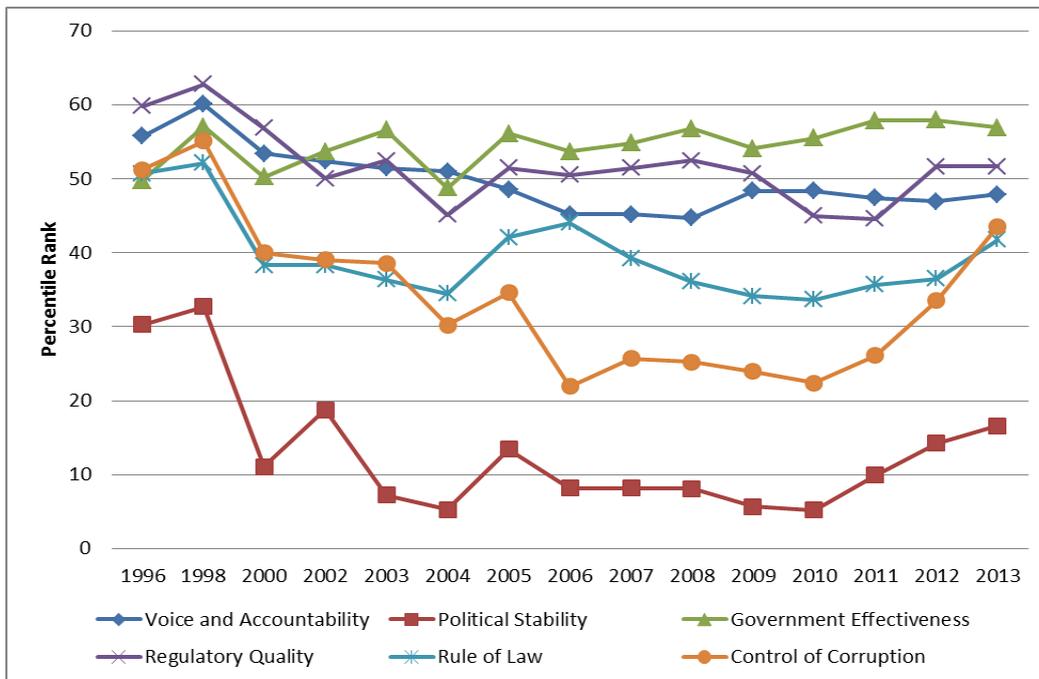
<sup>12</sup> The national government has retained major taxing powers (e.g. income taxation, value-added taxation) and shares national revenue collections with local governments through fiscal transfers, basically the internal revenue allotment.

<sup>13</sup> The 'sin' products are demerit goods such as tobacco and liquor.

spending of proceeds in support of health sector projects. Political support to excise taxes on tobacco and liquor, and earmarking the proceeds from the excise taxes on those 'sin' products project a good image of supportive politicians in the electoral space.<sup>14</sup>

In other instances, satisfaction of personal political objectives collide with regulatory reform efforts.<sup>15</sup> Tension exists between implementation of good regulations on the one hand, and weak capacity of Philippine institutions on the other, with the intervention of conflicted politicians who have no incentive to arbitrate among competing interests with the general welfare of society as ultimate objective.

**Figure 6.2. Governance Indicators for the Philippines, 1996–2013**



Source: World Bank’s Worldwide Governance Indicators.

The short narrative of the experience with regulatory reform in the country highlights a few salient points that are necessary to understand the Philippine regulatory review process described in Section 3 below:

<sup>14</sup> Lobby to dilute the sting of sin taxes is strong, nevertheless, the proposed taxation passed.

<sup>15</sup> A good example is crony capitalism under the Marcos regime, which political allies of the reigning strong man used to accumulate wealth at the expense of the common weal.

- In the past, critical regulatory reforms were vigorously undertaken under a reform-minded government (Corazon Aquino, Fidel Ramos) and a regime of democratic governance where consultation and dialogue are important processes used to generate stakeholder support. Regulatory reform efforts can be attenuated by political events or phenomena that may distract or compromise the leadership (e.g. the Estrada and Arroyo administrations that faced political upheavals during their respective regimes).
- It was much easier to undertake regulatory reform that can be done through executive fiat rather than through reforms that need legislation. Certain regulatory reforms covering various sectors (water, telecommunications, banking, sugar, and coconut oil) were successfully undertaken by the executive branch of government, but not without strong opposition from vested interests.
- Regulatory reform passing through the legislative process was much harder to undertake, with reform efforts that could span several administrations, for example, energy reform under the Electric Power Industry Reform Act.
- The presence of committed reform champions<sup>16</sup> as a significant factor in achieving those regulatory reforms despite opposition by vested interests has to be recognised.
- Despite the raft of good regulatory reforms, regulatory quality was poor. Weak institutional capacity for regulation and the absence of a more deliberative process of review, consultation, publication, and approval of proposed regulatory changes (new regulation or changes in existing regulation) had much to do with poor regulatory quality.
- Regulatory reform efforts happen at two levels: the national and local government levels. Local governments exhibited varying success in reforming local policies and ordinances.

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<sup>16</sup> For example, Corazon Aquino, Fidel Ramos, and Jose Almonte. General Jose Almonte was the most trusted advisor of President Ramos.

### 3. Brief Overview of Regulatory Management Systems in Two ASEAN Countries

The Philippines has no formal RMS in the country as commonly understood and implemented in countries such as New Zealand and Malaysia. To understand what the Philippines lacks in the area of RMS, it will be useful to compare the Philippine practice with that of Malaysia, a neighbouring ASEAN country that has developed a functional RMS. The brief comparison shows that the Philippines has some of the elements of a functional RMS but they are not effectively coordinated and woven into a coherent RMS.

### 4. Malaysia's Regulatory Management System<sup>17</sup>

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

- removal of barriers and reduction in the cost of doing business,
- improvement in decision-making for policy implementation, and
- improvement in economic efficiency through enabling fair competition.

According to the National Economic Advisory Council, as of 2010, there were over 3,000 regulatory procedures weighing heavily on businesses, administered by 896 agencies at the federal and state levels (Seman, 2014). To improve regulatory quality, the government established a formal RMS with four elements: regulatory policies, regulatory institutions, regulatory procedures, and regulatory tools. Malaysia adopted a regulatory impact statement (RIS) process. The government issued the National Policy on the Development and Implementation of Regulations (NPDIR) to address gaps in the management system for regulations.<sup>18</sup> The NPDIR is implemented by distributing specific functions to the following institutions:

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<sup>17</sup> The discussion of the Malaysia RMS comes from Malaysia Productivity Corporation (2013), 'Best Practice Regulation Handbook', Petaling Jaya, Malaysia, and from Malaysia Productivity Corporation (2013), 'National Policy on the Development and Implementation of Regulations'.

<sup>18</sup> Good regulatory policies help to enhance transparency and credibility of regulatory actions and create a climate for better quality of life and business environment (Tan Sri Dr. Ali Hamsa, Foreword, National Policy on the Development and Implementation of Regulations, 2013).

**National Development Planning Committee (NDPC)**, responsible for overseeing the implementation of NPDIR, assessing its effectiveness and recommending improvements; and examining RIS for adequacy and making appropriate recommendations.

**Malaysia Productivity Corporation (MPC)**, responsible to the National Development Planning Committee (NDPC); develops guidelines and programmes for the implementation of NPDIR; ensures capacity-building programmes for regulators; assists NDPC in assessing RIS; provides guidance and assistance to regulators in regulatory impact analysis (RIA) and preparation of RIS.

**National Institute of Public Administration (INTAN)**, responsible for providing training on RIA.

**Regulators**, responsible for developing, maintaining, and enforcing regulatory programmes, and meeting the Regulatory Process Management Requirements. A regulator coordinator, a senior officer, is appointed by a ministry or a regulator to act as the focal point for communications with the MPC.

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

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

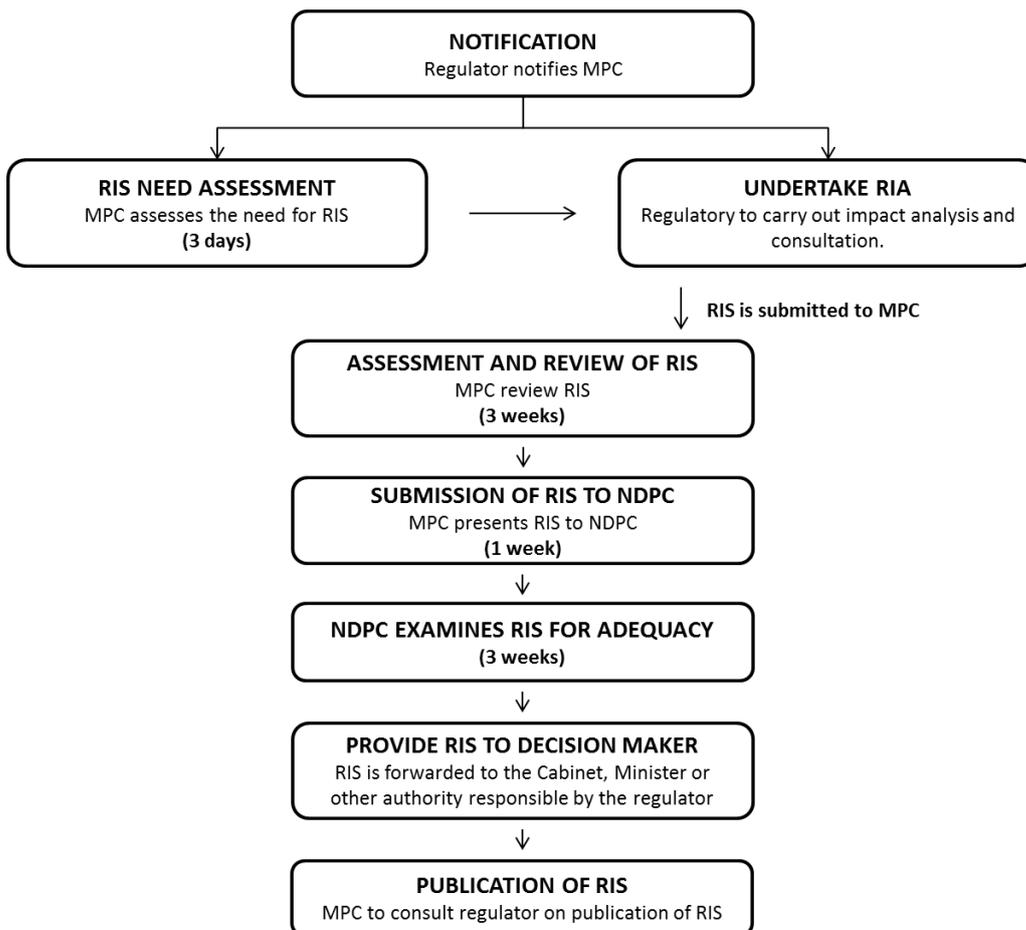
The MPC was tasked to: (i) review existing regulations with a view to removing unnecessary rules and reducing compliance costs; (ii) undertake cost-benefit analysis of new policies and regulations to assess the impact on the economy; and (iii) make recommendations to the Cabinet on policy and regulatory changes that will enhance national productivity. The Malaysian Government also created a Special Task Force to Facilitate Business (PEMUDAH) chaired by the Chief Secretary to the Government so that Malaysia may remain an attractive and competitive investment location. PEMUDAH addresses specific issues impacting on firms' decisions to invest, such as starting a business or establishing a factory. Its main task is to work on improving the quality of existing regulations. NDPC is tasked with ensuring the quality of new regulations.

Regulatory procedures apply to all federal regulators and are confined to regulations that impact on business, investment, and trade (MPC, 2013). The regulatory process requires regulators to notify the MPC on proposals to introduce or amend regulations. The MPC will assess whether the regulator is

required to submit a RIS for the proposed regulation. **Figure 6.3** shows the RIS process.

Under the RIS process, regulators proposing new regulations or regulatory changes must undertake a RIA with the following components: problem identification, objectives, instrument options (feasible means for achieving desired objectives), and assessment of impact, which demonstrates benefits and costs. Timely and thorough consultations with affected parties constitute an important component of the RIA. Notice of proposed regulations and amendments must be given so that there is time to make changes and to take comments from affected parties into account. An important item is coordination with other regulators to avoid duplications and possible inefficiencies in implementation.

**Figure 6.3. Regulatory Impact Statement Process, Malaysia**



MPC = Malaysia Productivity Corporation; NDPC = National Development Planning Committee; RIA = regulatory impact analysis; RIS = regulatory impact statement.  
Source: Malaysia Productivity Corporation (2013).

## 5. Philippine 'Regulatory Management System'

**Figure 6.4** helps in understanding the country's 'RMS'. The RMS is enclosed in quotation marks to signify that there is still no formal RMS, as stated at the beginning of this chapter. **Figure 6.4** shows the Philippines has the four basic elements of an RMS (second row of boxes) as described in Gill (2014) and the OECD (2010). However, the elements in the third row of boxes do not necessarily represent integral parts of a coherent and coordinated RMS, nor are they always regularly undertaken, for example, CBA, and public consultations in preparing regulatory changes.<sup>19</sup> The NCC is an outsider in the regulatory review process practised in the country. It is essentially an advocacy body peopled by government<sup>20</sup> and private sector,<sup>21</sup> whose main concern is to promote key regulatory reforms, among others. The NCC could potentially be the equivalent of the Malaysian PEMUDAH, if properly structured and empowered to work on reviewing existing regulation and apply a 'regulatory guillotine'<sup>22</sup> on those regulations that constitute an unnecessary regulatory burden on firms and consumers. A regulatory guillotine has been used in several countries as a basic tool for regulatory simplification (Jacobs, 2006). It is noted that the NCC has organised a 'repeal committee' that will work with a senator in reviewing laws and regulations.

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

As discussed in Section 2 above, the Philippines has undertaken a series of major macroeconomic and regulatory reforms since the post-martial rule regime, and

<sup>19</sup> Supreme Court decisions and SEC regulations are included in the 'regulatory policies' box.

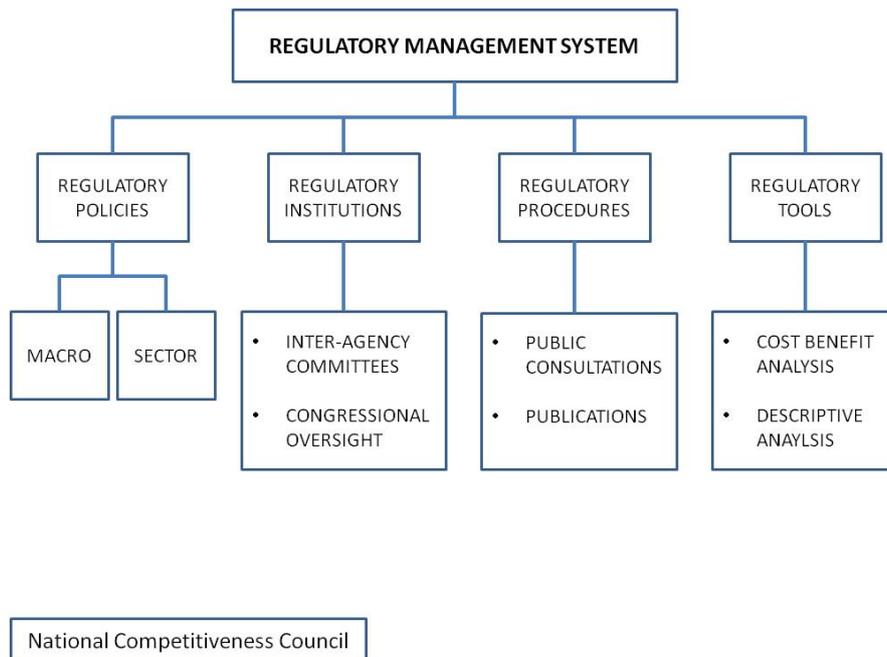
<sup>20</sup> Technical staff are from the public sector.

<sup>21</sup> The private sector is composed of representatives from various associations in the business sector, e.g. exporters.

<sup>22</sup> Trade Mark owned by Jacobs and Associates.

continues with an economic policy agenda detailed in the Philippine Development Plan. The first wave of economic reforms covered big-ticket, policy areas with cross-cutting, economy-wide application. Examples are reforms in fiscal policy, public financial management, including budgetary policy, trade policy and exchange rate policy, monetary policy. Several reforms covering particular sectors of the economy, including energy, banking, telecommunications, and agriculture, were also accomplished. These reforms have placed the economy on stronger footing and have been indispensable in economic recovery and, later, in contributing to a remarkable growth performance. At present, the next big wave of reforms covers barriers to investments, such as inadequate infrastructure, perceptions of instability in policy and contracts, and inefficient regulations.

**Figure 6.4. Elements of a 'Regulatory Management System', Philippines**



An important step to regulatory reforms was the government’s declaration of national competitiveness as a goal in EO No. 571, series of 2006, which also created the Public–Private Task Force on Philippine Competitiveness to promote and develop national competitiveness. The mandate is to implement the Action Agenda for Competitiveness through a collaborative effort of the public and the private sectors. Particular key reform areas are business efficiency (reducing the costs of doing business), infrastructure, and governance. Regulatory reforms at the national and local levels are expected to bring down the costs of doing business. Administrative Order (AO) No. 38 created an inter-agency Task Force on

Ease of Doing Business to initiate, implement, and monitor Ease of Doing Business reforms.

There is no strong central oversight body that will systematically coordinate and review efforts on new regulations or amendments to existing regulations contemplated by different regulators, e.g. Metro Manila Development Authority, Energy Regulatory Commission, Toll Regulatory Board, Land Transportation Office, etc. There are as many as 60 different regulators but there is no central institutional mechanism that will review the consistency and coherence of regulations. The Department of Justice is tasked with reviewing regulatory interventions and other proposed measures only for consistency with international obligations and advises the Chief Executive or the department (ministry) concerned on these matters.

It seems that regulatory bodies function as regulatory silos that focus only on their respective sectors. Occasionally, the government (national or local) may create ad hoc task forces to tackle specific issues or problems that arise from time to time. An example is the Ad Hoc Task Force that was recently created by the national government to review and propose solutions to the problems brought about by a local ordinance (cargo truck ban) enacted by the City of Manila that regulated the movement of cargo trucks during particular hours of the day. The cargo truck ban triggered rising complaints from transport and logistics operators, importers and exporters, and domestic and foreign chambers of commerce about the economic costs of this local regulation. The creation of a temporary, short-lived 'after-the-fact' Ad Hoc Task Force as a solution to solve regulatory burdens is a common approach. However, this is a less optimal approach compared with having a formal central oversight body tasked with systematic review, consultation, and publication of proposed new regulation, or proposed revocation of an existing regulation, and approval. What works for the Philippines is a democratic environment of openness, debate, consultation, and dialogue, which will be important for a functional RMS.

Recently, EO No. 44, series of 2011<sup>23</sup> amended EO 571, series of 2006, and renamed the Public–Private Task Force on Philippine Competitiveness as the National Competitiveness Council (NCC). This indicates the government's resolve

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<sup>23</sup> Amending EO No. 571 (s. 2006) renaming the Public–Private Sector Task Force on Philippine Competitiveness as the National Competitiveness Council (NCC) and expanding its membership

to have a relatively permanent institution to shepherd regulatory reforms. The impetus for the establishment of the NCC was the strong interest to combine public and private resources in finding solutions to barriers to investment and growth. However, it must be made clear that the NCC is not a central oversight body to review regulations for consistency, coherence, and coordination among concerned government agencies. It acts simply as an advocacy body for regulatory and other reforms that impact on business competitiveness.

This is not to say that ad hoc approaches are used all the time. There are standing governmental inter-agency committees, for example, the Infrastructure Committee of the National Economic and Development Authority, which can look into particular regulatory issues whenever such issues arise. However, they are not focused on regulatory reform but have a broader mandate that includes reviewing and approving sectorial plans, for example, the national road plan, and assessing proposed infrastructure projects seeking foreign or local funding, and other tasks. These inter-agency committees are not geared either for undertaking a systematic review of regulations because of a lack of mandate, a lack of proper staff, and a lack of capacity to undertake formal regulatory review processes.

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

Philippine regulators are neither required to undertake RIA nor issue RIS because these processes have never been required of them. The standard practice is to notify the public, affected parties, and various stakeholders about a proposed regulatory change and invite them to public hearings and consultations where those affected can express their opinion. Civil societies, business associations, and consumer groups attend and actively engage in dialogue with the regulators over particular regulatory issues. The approved regulation is published in newspapers of general circulation to inform the affected parties and the general public.

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

The Asian Development Bank is assisting the implementation of a RIA regime in the Tourism and of Labor and Employment departments, respectively (ADB 2012).<sup>24</sup> The RIA pilot projects focus on developing capacity to undertake RIA based on regulatory best practice principles that are adjusted to local circumstances. The goal is to have full implementation of RIA across the Philippines Government, including the establishment of a central Office for Best Regulatory Practice in 2015 (ADB, 2012). Progress to date includes

- establishment of RIA pilots in the Department of Labor and Employment and Department of Tourism,
- development of RIA Guidelines including templates,
- conduct of RIA training across participating departments, and
- various RIA awareness-raising activities among senior representatives from the Philippine government and business

Current challenges include the need to improve the level of skills and knowledge in analysing the impacts of regulations, weak coordination across ministries in the development and assessment of laws and regulations, and a weak interface between government and business in regulatory development and implementation, for example, poor consultation practices and access to regulatory information (ADB, 2012).

## 6. Assessment of the Regulatory Management System

The review of the Philippine experience with regulatory reform indicates that reforms can be divided into (i) macroeconomic reforms, e.g. trade liberalisation

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<sup>24</sup> Through a technical assistance on 'Strengthening Institutions for an Improved Investment Climate' with the Philippine Government.

the cross-cutting impacts of which are felt economy-wide and across sectors; and (ii) sector-based regulatory reforms, e.g. telecommunications policy reform and electricity sector reform.

Economic policy has evolved from a highly protectionist regime (import substitution, etc.) and a highly control-oriented regulatory framework (import controls, etc.) to a market-oriented economic and regulatory policy framework. The overall policy stance is to rely more on 'the coordinative ability of competitive markets guided by a decentralised price system' (Canlas, 1996, p.29). Market orientation of economic and regulatory policies has created a better investment environment for private business and has brought favourable outcomes in terms of lower inflation and greater accessibility of lower-priced goods and services for the consumer. The recent creditable economic performance as mentioned above seems to show the power of this shift in orientation.

After regaining democracy from martial rule under Marcos in 1986, the Corazon Aquino administration (1986–1992) initiated major economic policy and regulatory reforms, which the succeeding Ramos administration (1992–1998) took to greater heights with the dismantling of monopolies in several sectors and the creation of a policy and regulatory environment favourable to investments and business activities. However, the regulatory reform momentum weakened amidst the charged political atmosphere during the respective regimes of Estrada (1998–2001) and Arroyo (2001–2010). The main factor behind the slowdown was the political uncertainty that clouded the administrations of Estrada and Arroyo, with the former being accused of corruption and other irregularities, and the latter with questions of the legitimacy of her election as president following revelations in 2005 of poll rigging.<sup>25</sup> It was as if the political and economic institutions seemed to have adopted a wait-and-see attitude, an accommodative position

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<sup>25</sup> De Dios and Hutchcroft (2003) provide a graphic rendition of the events surrounding the fall of the Estrada presidency. Malaluan and Lumba (2010) chronicled the case of Arroyo as follows: 'Under President Macapagal-Arroyo's term, constitutional bodies have been damaged by serious breaches of independence in relation to the presidency. The Commission on Elections, the body mandated to safeguard the integrity of elections, has been racked with charges of election fraud involving the 2004 elections. In 2005, recorded conversations between President Macapagal-Arroyo and Commission on Elections Commissioner Virgilio Garcellano during the canvassing of the 2004 poll results surfaced. The conversations indicated voting and canvassing manipulation to ensure the victory of Macapagal-Arroyo. On 27 June 2005, Macapagal-Arroyo appeared on national television to admit having called a Commission on Election official before and during the canvassing of the results of the 2004 elections. She apologised for her 'lapse in judgment.' (See Malaluan, Nepomuceno and Solomon Lumba [2010], 'Checking the abuse of presidential powers,' in Sta. Ana III [ed.]).

favouring vested interests, fearful of pushing ahead with reforms because the political leadership was in conflict and had been compromised.<sup>26</sup>

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

On balance, it is noted that the Arroyo administration also tried to improve regulatory quality and even to provide regulatory relief to business through passage of the Anti-Red Tape Act of 2007 (Republic Act No. 9485). The law requires government agencies to process applications for simple transactions, such as permits and licences within 5 days and other documentation for more complex transactions within 10 days. Moreover, each government agency is required under the law to put up a Citizens Charter, a document to be displayed prominently showing 'the range of specific services provided by that office, a step-by-step guide on how to avail of these services, and standards on quality and timeliness to be expected from the agency in rendering these services' (Primer on the Anti-Red Tape Act).<sup>27</sup> During Arroyo's administration, the Electric Power Industry Reform Act was passed 11 years after the first legislative bill seeking regulatory reforms in the electricity sector was filed. However, the problem was that political institutions, including the regulatory bodies and the bureaucracy, seemed to have been compromised by policies and programmes designed to ensure the political survival of the then incumbent leader.

The present Benigno Aquino<sup>28</sup> administration came to power in 2010 on a platform of improving good governance and a promise to root out corruption from the bureaucracy and reform weak institutions that had been identified as a development constraint (ADB, 2007; Llanto and Gonzalez, 2010; De Dios and

<sup>26</sup> See Laquian, A. and E. Laquian (2002) and Doronila, A. (2001).

<sup>27</sup> The Act aims to promote transparency in government transactions by requiring each agency to simplify front-line service procedures, formulate service standards to observe in every transaction, and make known these standards to the client [Primer on the Anti-Red Tape Act].

<sup>28</sup> President Benigno Aquino III, son of former President Corazon Aquino.

Hutchcroft, 2003). The major reform effort under the current Aquino administration centres on governance and institutional reforms (the Run After Tax Evaders programme and the Run After the Smugglers programme) and fiscal and budgetary reforms (Republic Act No. 10351 or the Sin Tax Reform Law of 2012, Budget Priorities Framework, Government Integrated Financial Management Information System, and Organizational Performance Indicator Framework).

Governance and fiscal reforms respond to the need to create fiscal space and improve regulatory frameworks. The Organizational Performance Indicator Framework requires government agencies to ensure the linkage among inputs, major final outputs, and desired societal outcomes; that is, inclusive growth and poverty reduction. Thus, goods and services produced (called major final outputs) by government agencies are aligned with desired societal outcomes.

A concrete step to improve governance is to reduce the regulatory burden, thereby reducing in effect the costs of doing business and improving regulatory quality. However, the process of regulatory reforms has never been an easy path for the Philippines. The country went through stages of regulatory reform<sup>29</sup> fraught with challenges (economic recovery from the aftermath of the Second World War, bad governance during the martial law regime and under recent administrations, the 1997 Asian financial crisis and the 2008 global economic crisis) that tended to dampen reform efforts but, somehow, it came out at the turn of the century with a positive outlook for sustained growth. The quick lesson at this point is that regulatory reforms matter for growth because they put the economy on surer footing and certainly on a stronger growth trajectory, as indicated by the country's own experience.

The short narrative in this chapter about the major regulatory reforms in the past decades provides a glimpse of the capacity of the economy to introduce reforms in critical areas and amid political challenges. Past administrations were all committed to reform and there were successful episodes of regulatory reforms. However, in some instances, political challenges hindered the reform momentum. The credibility and commitment of political leaders are critical elements in regulatory reform, but in a democratic setting coordination between the executive and legislative branches of government over reform efforts is equally indispensable. The current administration exploited its advantage of strong support from the leadership in both the Senate and the House of Representatives

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<sup>29</sup> Regulatory reform in a broad sense.

to push for reforms, such as the Sin Tax Reform Law of 2012, which provided funds for an expanded conditional cash transfer programme for poor households. The government should continue to use the Legislative-Executive Development Advocacy Council (LEDAC),<sup>30</sup> a consultative and advocacy body for policy discussions and consensus building, as an instrument for regulatory reform.

Past experience with regulatory reform could be characterised more as idiosyncratic and episodic rather than deliberative and systematic. It was idiosyncratic (personal and unique) because successful regulatory reform depended to a great extent on the steadfast commitment and charisma of the reform champion.<sup>31</sup> The experience could also be episodic (intermittent and discontinuous) because the reform momentum could not make any headway due to a compromised political leadership and had to wait for a political leader perceived as bereft of vested interests to pick up the mantle of reform. Regulatory changes may also be proposed and considered but only in response to a critical event or a crisis. For example, an impending shortage of rice, the staple food of the population, may trigger a review of import protocols and licensing regimes.

This characterisation of the regulatory reform process points to the need for a more deliberative and systematic approach, such as a formal RMS, which could be a more sustainable and politically acceptable mechanism for managing the regulatory reform process.

Regulatory policy is the first of the four elements of a formal RMS (**Figure 6.4**). Overall, the country's regulatory framework includes market-friendly regulations, rules, laws, and administrative and executive orders that try to provide the policy and regulatory environment, as well as incentives for increased private participation in the marketplace. The Philippines has the *first* element of a formal RMS, regulatory policies.

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<sup>30</sup> The Legislative Executive Development Advisory Council (LEDAC) was created through Republic Act 7640 approved by then President Fidel V. Ramos on 9 December 1992. Republic Act No. 7640 states that LEDAC shall serve as a consultative and advisory body to the President as the head of the national economic and planning agency for further consultations and advice on certain programmes and policies essential to the realisation of the goals of the national economy. The LEDAC also serves as a venue to facilitate high-level policy discussions on vital issues and concerns affecting national development. Source: <http://www.neda.gov.ph/ledac-2/> (accessed 10 January 2016).

<sup>31</sup> President Fidel Ramos and his political adviser, General Jose Almonte, introduced reforms in the telecommunications sector despite strong opposition from vested interests.

However, there are national and local regulations waiting for review, simplification, and improvement to reduce, if not eliminate, the regulatory burden on firms and consumers. A thorough and detailed review of all national and local regulations for simplification and improvement has never been undertaken in the country. It is critical to review existing and proposed regulations to avoid unnecessary regulatory burdens on firms and consumers. Cutting red tape and avoiding regulatory inflation are fundamental measures to cut the costs of doing business (OECD, 2010). Most OECD countries have burden-reduction programmes to counteract the growing layers of red tape (OECD, 2009).

The presence of regulatory institutions is the second critical element in a formal RMS. A principal issue in the country is the inefficient implementation of regulations or even failure to implement regulations due to the incompetence of regulatory institutions.<sup>32</sup> Regulatory institutions that are tasked to implement regulation and arbitrate among competing interests could be weakened by the appointment of incompetent political supporters of an incumbent president, or even by regulatory capture by vested interests. The problematique in regulatory reform is not so much the unwillingness of the bureaucracy to reform regulations or the lack of good regulatory policies – although there certainly is a need to review the stock of regulations, but more an issue of ineffectual political leadership and weak institutional capacities.

A key point at this juncture is the critical importance of competent and credible institutions in a formal RMS. The absence of such credible institutions compromises the efficient implementation of regulations. The Philippine experience shows that bad governance and inefficiencies in institutions, including the bureaucracy and the judiciary, tend to blunt reform efforts and weaken the positive impact of regulatory reforms. To some extent weak institutions form a strong barrier to reforms. The country may have very good regulations (laws, regulations, rules) but these may not fully confer the expected outcomes if not properly implemented. There is a need for competent institutions to effectively implement those regulations. Implementing good regulation is not a disembodied phenomenon, but is nested in an effectively functioning institutional setting (Llanto and Gonzalez, 2010). Lim (2010) bluntly states that

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<sup>32</sup> For example, there are regulations disallowing buses without legal franchise to offer transport services but a major thoroughfare in Metro Manila is plagued by the presence of unlicensed buses.

bad governments not only increase government failures but also reduce the chances of urgently addressing market failures.

Thus, the Philippines has the *second* element of a formal RMS but there is a need to build or improve competencies in regulatory institutions. There also is no formal institutional framework such as that in Malaysia which clearly delineates the different roles of institutions, for example, MPC and PEMUDAH, in the review and assessment of regulatory policy changes. No central oversight body reviews the appropriateness and impact of existing or proposed regulations, and is accountable for promoting whole-of-government regulatory reform. Each regulator takes care of imposing regulation, and monitoring and evaluating regulatory changes. The OECD (2010) asserted that some regulations have sector-specific implications but many others have much broader effects. If this were true, then coordination among affected regulators should be a default feature in the Philippines' management of regulatory changes. Unfortunately, coordination across regulatory agencies or bodies is an exception rather than a default arrangement.

The Philippines has the *third* element of a formal RMS, regulatory procedures. Policy dialogues, notification or publication on proposed regulatory changes, consultations, and workshops are used in the process of changing or introducing new regulation.

The procedure for issuing regulation by regulatory bodies (the executive branch of government) is simpler and less laborious than that of the legislative branch. In the former case, public consultations or hearings are conducted to obtain reactions, comments, and suggestions on a proposed regulation. The comments and positions presented by stakeholders and interested parties serve as input into the internal decision-making process of regulatory bodies. There is no need to go to the legislature for changes or reforms that may be done through executive fiat. At the local level, proposed local ordinances have to obtain the approval of the local council.

In the latter case, the formal assessment of a proposed law is undertaken in the legislature initially through committee hearings, committee approval, and finally to a plenary session for debate and approval or rejection. The proposed legislation is subjected to at least three readings in a committee. A proposed

legislation may be stopped or disapproved during any of those three readings. Various stakeholders and interested parties are invited to committee hearings to present position papers on the proposed legislation. Approval at the plenary session through a vote of a quorum of legislators moves the process to a bicameral committee meeting where representatives from Congress and the Senate deliberate and agree on the final shape of the proposed legislation that has been approved earlier in their respective chambers. The consolidated version hammered out by the bicameral committee goes to the President for signature or veto.<sup>33</sup>

There are no established protocols or procedures for review. Regulatory bodies can choose to internally review the regulations, but it is not known whether they actually conduct a regular review. The affected party and the public in general are not aware or familiar with the methodology used by regulators in the review and vetting of proposed regulations.

Neither is there a mechanism for national government–local government coordination on regulatory impositions, and local governments can sometimes be overzealous with their exercise of local autonomy, which can have unintended consequences. The example of the cargo truck ban (discussed above) imposed by the City of Manila without proper coordination and consultation with stakeholders, which produced a monstrous logjam in the main international port and impacted on the costs of doing business, is a case in point.

The *fourth* element of an RMS, RIA, is neither part of the country's procedures for regulatory change nor a default process among sectoral regulators. It is not standard practice in the country to subject existing or proposed regulation to RIA, although ex ante descriptive analysis of the effect of proposed regulatory changes is presumably done by sectoral regulators, and sometimes by researchers. It can be safely assumed that some CBA or comparison of advantages and disadvantages of proposed regulation is undertaken prior to issuance and implementation. The two RIA pilot projects mentioned above are important steps towards developing RIA in those departments and later in all departments (ministries).

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<sup>33</sup> The government agency tasked with implementing a law passed by Congress is typically tasked to prepare the implementing rules and regulations (IRR). The quality of the IRR impacts on the quality of implementation of the law.

In sum, it is clear from the assessment that the country does not have a formal, much less a requisite, RMS. The elements of a formal RMS are present but they are not meshed into one coherent formal RMS with a central body performing oversight and coordinative functions. Instead, there are varying and uncoordinated efforts to improve regulatory quality with significant unevenness in the way proposed regulation is conceptualised, evaluated, consulted, approved, and implemented.

The establishment of a formal RMS will make it easier to have consistent and coherent regulations, and to improve regulatory quality. In developing a formal RMS for the country, it is important to heed the advice of the OECD (2010) that for regulatory policy to support economic and social renewal, its core institutions and processes need to be developed further. This includes (i) a strengthening of evidence-based impact assessment to support policy coherence; (ii) institutional capacities to identify and drive reform priorities; and not least (iii) paying more attention to the voice of users, who need to be part of the regulatory development process. Thus, what should be done to develop a formal RMS for the Philippines? The following are required:

- firm leadership and political support in establishing a formal RMS;
- identification of a central body or unit to oversee and coordinate the implementation of a formal RMS;
- review of the role of regulatory bodies to ensure coordination and avoid overlaps;
- more intensive involvement of the private sector, civil society, and other stakeholders in regulatory reform;
- a directive stipulating that RIA is a whole-of-government policy and not for sector regulators alone; and
- building capacities for undertaking RIA, using regulatory tools, and making RIS across departments.

In Parts 2 and 3 of this chapter present case studies of two regulatory changes: the establishment of the NCC and regulatory reforms in Quezon City's Business Permit and Licensing System (BPLS). The establishment of the NCC was intended to provide an effective mechanism for advocating and monitoring reforms that will help improve firm competitiveness and reduce the costs of doing business. As identified in Part 1, the Philippines needs to create an oversight body or a central institution to coordinate elements of the RMS. The case demonstrates that the

NCC's role could be tweaked to make it an oversight body similar to PEMUDAH in Malaysia to coordinate regulatory reform in the country.

The case study on the reforms introduced by the Quezon City local government demonstrates the importance of consultation of stakeholders and the critical role played by political leadership in reducing the regulatory burden (costs of doing business, in this case). A concrete measure to reduce the costs of doing business is the improvement of business and licensing procedures. The Quezon City local government did not make use of regulatory tools such as RIA to provide empirical evidence of the regulatory burden. It may be because it does not have the capacity for doing a regulatory impact assessment. The use of RIA would have strengthened the case for regulatory reform at the local level and would have provided a concrete demonstration to other local governments of a tool that will help regulatory reform efforts at the local level.

Both case studies confirm the conclusion reached in Part 1 of this chapter that the Philippines has the elements of a formal RMS but these are not meshed into a coherent mechanism for regulatory review. A formal RMS would have given greater strength to government's efforts on regulatory reform at the national and local levels.

## Part 2: National Competitiveness Council

### 1. Introduction

Over the past decade, the Philippines has been enjoying relatively strong economic growth as GDP expanded by a compound annual average growth rate of 5.3 percent from 2004 to 2014. This was mainly driven by household consumption, which accounted for around 70 percent of total GDP. Considerable growth was experienced during the Aquino administration (**Table 6.1**). Although overall investment has recently started to become a significant driver of growth, foreign direct investment contributes a mere 2 percent share of GDP.

The weak inflow of foreign direct investment (FDI) is a major concern as the country struggles to boost manufacturing for higher growth and employment, and a bigger participation in regional production networks. The hollowing out of Philippine manufacturing has been a critical concern mainly because of its

strategic role in growing the economy and providing jobs to an expanding labour force. The government has recently announced a new industrial policy to oversee the revival and growth of Philippine manufacturing.<sup>34</sup> FDI has a big role in boosting manufacturing and the government has to pursue regulatory reform, among others, to establish an environment for investment, competitiveness, and productivity.

That there should be concern over firms' competitiveness and productivity is intuited by looking at the rank of the Philippines relative to other countries in terms of various comparative indicators. The Philippines' ranking in the World Competitiveness Yearbook declined from 40th in 2005 to 42nd place in 2006. In the 2007 Global Competitiveness Report the Philippines was in 77th place out of 117 countries. In other similar reports, the Philippines is ranked much lower than its ASEAN counterparts. Thus, the Philippine government created the NCC to lead efforts in identifying and advocating specific policy and regulatory reforms with a view to improving firms' competitiveness and reducing the costs of doing business in the country. This case study discusses the role of the NCC and its accomplishments in regulatory reform given certain limitations in its institutional structure and how it could be an important element in a putative formal RMS for the Philippines. It is currently a deliberative and recommendatory body, but in a formal RMS it could perform the role of a central or oversight body for regulatory reform and review, similar to the role of the PEMUDAH in the Malaysian RMS.

## 2. Mandate and Role

The government issued EO No. 571 (series of 2006) to create the Public–Private Task Force on Philippine Competitiveness. It was tasked to help improve competitiveness as envisaged in the Action Agenda for Competitiveness, which requires a strong public–private collaborative effort on regulatory reform.

The task force comprised of five government secretaries (cabinet ministers)<sup>35</sup> and three representatives from the business sector, the senior advisor on international

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<sup>34</sup> Government and the private sector have joined forces in crafting so-called 'road maps' for particular sectors, e.g. automotive industry road map, that will provide appropriate incentives for manufacturers as well as help them meet specific regulatory requirements of various agencies.

<sup>35</sup> Departments of Trade and Industry, Finance, Transportation and Communication, Education, and National Economic Development Authority.

competitiveness, one representative from an academic institution, and another from civil society. The Trade and Investment Secretary and a private sector representative were co-chairpersons of the task force.

The Task Force targeted key reform areas, such as improving business efficiency, infrastructure, and governance, which are critical in developing a competitive environment for the Philippine business sector. From 2007 to late 2010, six technical working groups handled the following: (i) competitive human resources, (ii) efficient public and private sector management, (iii) efficient access to finance, (iv) improved transaction cost, (v) provision of seamless infrastructure network, and (vi) energy cost competitiveness and self-sufficiency. The technical working groups had members from the public sector, private business, domestic and foreign chambers of commerce, and several industry associations. The chambers and industry associations were included as members to make regulatory reform efforts more objective and to avoid catering to particular vested interests or individual corporate perspectives.

The task force conducted a series of workshops with stakeholders (business organisations, the government, the academic community, and non-government organisations) to delineate the strengths, weaknesses, opportunities, and threats affecting competitiveness. It also uses various reports to obtain information on specific issues and concerns.<sup>36</sup>

However, the task force failed to address specific constraints affecting firms' productivity and competitiveness. The task force submitted recommendations based on information and data made available to it, but unfortunately the government failed to act on those recommendations.<sup>37</sup>

After a review of the mandate, role, and membership of the task force, the current Aquino administration issued EO No. 442 (series of 2011), amending EO No. 571 (series of 2006), transforming the task force into a formal public-private council called the National Competitiveness Council (NCC). The co-chairperson (private

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<sup>36</sup> Macaranas (2011) provides a description. The reports were as follows: Philippine Business Conference Report of the Philippine Chamber of Commerce and Industry, the Investment Climate Improvement Report of the American Chamber of Commerce, the 2006 National Manpower Summit, the National Export Congress Scorecards, and the 2006 Roadmap for Export Competitiveness of Services Sectors.

<sup>37</sup> According to key informants, the previous administration was not able to focus on addressing competitiveness issues because it was distracted by controversial governance/political issues.

sector representative) was given a term of 2 years, subject to reappointment by the President of the Philippines. The membership was expanded by adding to the existing members of the task force: representatives from the departments of Tourism, Energy, and five more from the private sector. The EO turned the task force into a formal institution with an expanded membership and a dedicated budget. A formal institution has definite advantages over an ad hoc body such as a task force. Under the current administration, the economic managers (basically the secretaries – or ministers – of the departments of Finance, Trade, and Industry and others) monitor through the NCC how national government agencies and local governments are supporting or implementing the reforms. The advocacy for reforms started by the task force was institutionalised in the NCC, which enjoys stronger public sector support.

A stronger emphasis was also given to the collaboration and partnership between the public and the private sectors in improving competitiveness. The NCC recognises the private sector as the driver of growth and the public sector as the enabler of growth, the body that has the capacity to create an environment conducive to private investments through market-friendly policies, regulations, and processes at the national and local government levels.

The NCC continued and improved on the earlier work of the task force in providing inputs and recommendations to the Philippine Development Plan, the Philippine Investments Priority Plan, and the Philippine Exports Priority Plan, and tracking progress in improving the country's ranking in competitiveness indices. It also provides a formal venue where the private business sector can air its concerns and give advice to the Office of the President and the Congress on policies and regulations to improve competitiveness. Moreover, the NCC tracks the competitiveness indices conducted by various international organisations in order to determine what particular areas require immediate action.

### 3. Working Structure

At present, there are 14 NCC Working Groups that work on specific policy and regulatory reforms (**Table 6.2**). Each working group has a champion (from the government) and a co-champion (from the private sector) who leads the reform efforts.

Table 6.2. NCC Working Groups

Working Groups	Objectives
Anti-corruption	<ul style="list-style-type: none"> <li>To have a system of tracking cases filed with the Ombudsman</li> <li>To improve transparency and accountability</li> </ul>
Budget Transparency	<ul style="list-style-type: none"> <li>To streamline and automate the processing, releasing, and tracking of Internal Revenue Allotment and congressional allocation to improve transparency, equity, and accountability in budget delivery</li> </ul>
Business Permits and Licensing System (BPLS)	<ul style="list-style-type: none"> <li>To reduce the costs of doing business by streamlining the BPLS through the adoption of one form and the reduction of steps, days, and number of signatories for new applications and business renewals</li> </ul>
Education and Human Resources Development	<ul style="list-style-type: none"> <li>To develop a globally competent workforce through collaborative efforts of the industry and education sector in matching the skills and knowledge of the workforce and the needs of the businesses catering to both domestic and international markets</li> </ul>
ICT Governance	<ul style="list-style-type: none"> <li>To recommend measures that will contribute to the improvement of the Philippine ranking in the Global Information Technology Report of the World Economic Forum and other ICT-related reports to recommend a framework for ICT governance in the Philippines, including the establishment of a central authority to coordinate and implement national ICT projects and other ICT-related initiatives</li> </ul>
Infrastructure	<ul style="list-style-type: none"> <li>To reform infrastructure policies and promote the development of an intermodal and seamless transport infrastructure system</li> </ul>
Judicial System	<ul style="list-style-type: none"> <li>To recommend reforms that will improve the quality of the Philippine Judicial System</li> </ul>
National Single Window (NSW)	<ul style="list-style-type: none"> <li>To identify strategies, activities, and steps that would facilitate the implementation of the NSW to that will facilitate customs and trade administration</li> </ul>
Performance Governance System	<ul style="list-style-type: none"> <li>To have a strategic and performance management tool for an objective and transparent assessment of the performance of government agencies</li> </ul>
Philippine Business Registry	<ul style="list-style-type: none"> <li>To facilitate business registration-related transactions by integrating all agencies involved in business registration</li> <li>To develop a more efficient process for business registration</li> <li>To develop a web-based one-stop shop for entrepreneurs who need to transact with government agencies on starting a business</li> </ul>
Philippine Services Coalition	<ul style="list-style-type: none"> <li>To develop a strategic plan for the services sector in regional and global markets</li> </ul>

ICT = information and communications technology.

Notes:

- (i) No available information on the Agri-trade Logistics and National Quality Infrastructure.
- (ii) Philippine Business Registry is a program of the DTI; it still does not have a private sector champion.
- (iii) The Power and Energy Technical Working Group (TWR) is dormant; it still does not have a private sector champion.

Source: National Competitiveness Council and the Philippine Business Registry.

Dialogues and consultations are staple processes in the NCC and, with greater interaction with the private sector, it is expected that it will be more effective in its regulatory reform efforts. The key difference between the old task force and the NCC is that in the present case the government is more willing to listen and take action on specific recommendations to improve firms' competitiveness and cut the costs of doing business.

#### **4. Additional Measures and Positive Results**

In response to the low ranking of the Philippines in various competitiveness reports and to show its full support for competitiveness, the Aquino administration issued AO No. 38, series of 2013, creating the Ease of Doing Business (EODB) inter-agency Task Force to be chaired by NCC to initiate, implement, and monitor EODB reforms. The reforms cover the 10 indicators identified under the Doing Business Survey administered by the International Finance Corporation (IFC). The survey ranks the participating countries across 10 indicators: (i) starting a business, (ii) dealing with construction permits, (iii) access to electricity, (iv) registering property, (v) getting credit, (vi) protecting investors, (vii) paying taxes, (viii) trading across borders, (ix) enforcing contracts, and (x) resolving insolvency. To enable the public to monitor the progress that different government agencies are making in simplifying business processes, the EODB Task Force created the Doing Business Dashboard.

Apart from improving the Philippine competitiveness rankings, the other major role of the EODB Task Force is to ensure the implementation of the Game Plan for Competitiveness which set reform targets for each concerned government agency. The Game Plan was crafted after comparing the country with its ASEAN counterparts in terms of the 10 indicators mentioned above, and looking at what processes have to be adopted or changes made to be at par with those countries. For example, in How To Start a Business, in Malaysia this takes 6 days to complete with only three steps, while in Singapore it requires three steps and 3 days maximum at most, whereas in the Philippines it takes 16 steps and 34 days. To address this, the EODB Task Force studied the number of steps, time needed, as well as the cost per transaction. The results were reported to the Economic Cluster of the Cabinet. After this, the NCC communicated with the government agencies tasked for the transactions – the Department of Trade and Industry (DTI), Securities and Exchange Commission (SEC), Social Security System (SSS),

**Table 6.3. Existing Procedures and Suggested Reforms in Registering a Business**

Step	No. of Days	Step Description	Suggestions/Comments
1	1	Verify and reserve the company name with SEC	Merged with steps 4, 14, 15, and 16. New Step 1 trimmed down to just 1 day. SEC and the Social Agencies (SSS, Pag-IBIG Fund, and PhilHealth) signed a MOA addressing the merging of steps; issued appropriate orders/circulars:
2	1	Deposit the paid-in minimum capital at the bank	Removed
3	1	Notarise articles of incorporation and treasurer's affidavit at the notary	Switched in order with Step 1.
4	2	Register the company with SEC and receive pre-registered Tax Identification Number (TIN)	Merged with Step 1
5	1	Obtain Barangay Clearance	Retained as it is required by the Local Government Code of 1991.
6	1	Pay the annual community tax and obtain Community Tax Certificate (CTC) from City Treasurer's Office (CTO)	Steps 6 and 7 merged and trimmed down to 5 days as a nation-wide standard. DILG and QC LGU signed a MOA to trim down the number of days to 2 days in Quezon City (QC).
7	6	Obtain the business permit to operate from the BPLO	Commitment of QC to AO 38 Taskforce is 3 days. Implementing order/circular/ordinance in QC.
8	1	Buy special books of account at bookstore	Removed, as per BIR Circular.
9	1	Apply for Certificate of Registration (COR) and TIN at the BIR.	TIN application merged with Step 1. COR application retained as a separate step.
10	1	Pay the registration fee and documentary stamp taxes at authorised agent banks	Merged with Step 9.
11	1	Obtain authority to print receipt and invoices from the BIR	Removed
12	7	Print receipts and invoices at the print shop	Replaced by allowing company to buy cash register machine from BIR-accredited outlets
13	1	Have books of accounts and Printer's Certificate of Delivery stamped by the BIR	Removed
14	7	Register with SSS	Merged with steps 1 and 4. New Step 1 trimmed down to 1 day.
			SEC, SSS, Pag-IBIG Fund, and PhilHealth signed a MOA addressing this merging of steps.
15	1	Register with PhilHealth	
16	1	Register with Pag-IBIG	
16 steps	34 days		

Note: BIR = Bureau of Internal Revenue; BPLO = Business Permit and Licensing Office; LGU = local government unit; Pag-IBIG = Home Development Mutual Fund; PhilHealth = Philippine Health Insurance Corporation; SEC = Securities and Exchange Commission; SSS = Social Security System.  
Source: National Competitiveness Council.

Bureau of Internal Revenue (BIR), Philippine Health Insurance Corporation (PhilHealth), and Pag-IBIG, as well as the local government units (LGUs). In addition, comments and suggestions from the respondents – such as auditing firms, law firms, consultants, and government agencies – on the IFC EODB survey were sought on how to further streamline the process (Luz, 2013). **Table 6.3** shows existing procedures and suggested reforms on starting a business, while **Table 6.4** indicates the new shortened requirements in business registration.

**Table 6.4. New Procedure in Business Registration**

Step	No. of Days	Step Description
1	1	Notarise articles of incorporation and treasurer's affidavit at the notary.
2	1	Obtain and fill-out unified application form from SEC and pay necessary fee.
3	1	Obtain Barangay Clearance
4	3	Obtain Business Permit to Operate from the BPLO and pay necessary fees.
5	1	Apply for Certificate of Registration at the BIR and pay necessary fees
6	1	Buy cash register machine from BIR-accredited outlets.
6	8	

BIR = Bureau of Internal Revenue; BPLO = Business Permit and Licensing Office; SEC = Securities and Exchange Commission.

Source: National Competitiveness Council.

One of the commendable features of AO No. 38 is that it promotes the participation of other relevant stakeholders, such as the concerned national government agencies (22), LGUs (535), business associations and chambers of commerce (150), bilateral and multilateral development agencies (15), and non-government organisations, both local and foreign, and even individuals, to have a more collaborative and effective implementation of the Game Plan (Moreno, 2015). Moreover, AO No. 38 mandates the EODB Task Force to monitor and evaluate the programmes and policies that will be implemented in achieving competitiveness. Another initiative of the national government in this regard is the establishment of the 'Contact Center ng Bayan', which serves as the main help desk to deal with complaints and suggestions of citizens regarding government agencies. It also serves as a means for citizens to access information on government services. The Contact Center ng Bayan acts as a feedback

mechanism, an essential tool to ensure that government frontline services are indeed facilitative and efficient.

**Table 6.5** summarises the significant business reforms undertaken by the EODB Task Force in raising the Philippine competitiveness rankings and the reform issues requiring immediate attention.

**Table 6.5. Progress in Business Reforms in Philippines, Doing Business, 2008–2015**

Doing Business Report	Indicator	Reform
DB 2015	Trading Across Borders	Truck ban in Manila created logjam in the ports <b>[immediate reform issue]</b>
DB 2014	Dealing with Construction Permits	Eliminated the requirement to obtain a health certificate
	Getting Credit	Improved access to credit information by beginning to share positive and negative information and by enacting a data privacy act that guarantees borrowers' right to access their data
	Paying Taxes	Introduced an electronic filing and payment system for social security contributions
DB 2012	Resolving Insolvency	Adopted a new insolvency law that provides a legal framework for liquidation and reorganisation of financially distressed companies
DB 2011	Starting a Business	Eased business start-up by setting up a one-stop shop at the municipal level
	Dealing with Construction Permits*	Made construction permitting more cumbersome by requiring updated information on electricity connection costs <b>[immediate reform issue]</b>
DB 2010	Trading Across Borders	Reduced the time and cost to trade by improving customs administration through such functions as electronic payments and online submission of declarations
	Getting Credit	Improved access to credit information through a new act regulating the operations and services of a credit information system
DB 2009	Paying Taxes	Made paying taxes less costly for companies by reducing the corporate income tax rate
	Resolving Insolvency	Enhanced the insolvency process by promoting reorganisation procedures through the introduction of pre-packaged reorganisations and by establishing qualification requirements for receivers
	Trading Across Borders	Reduced the time for importing by upgrading the risk-based inspection and electronic data interchange systems
DB 2008	Starting a Business*	Made starting a business more difficult by increasing the paid-in minimum capital requirement <b>[immediate reform issue]</b>

\* Policy reforms/changes that made it more cumbersome to do business in the Philippines.

Source: World Bank, 2014.

As seen in 7 out of 12 reports, from 2011 to 2014, the country's ranking has considerably improved (World Economic Forum Global Competitiveness Report [+33], Global Enabling Trade Report [+28], World Bank-IFC Doing Business Report [+53], Transparency International Corruption Perceptions Index [+49], and the Heritage Foundation Economic Freedom Index [+26]). The country has moved up in rank in these reports because of effective coordination and action from the sectors involved (**Table 6.6**). Challenges in infrastructure, education, research and development, and disaster response have remained, however (Luz, 2014).

**Table 6.6. Philippines' Rank in Global Competitiveness Report Card**

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

Sources:

a World Economic Forum

b International Finance Corporation

c Institutional Institute for Management Development

d Transparency International

e Heritage Foundation

f World Intellectual Property Organization

g World Bank

h Fund for Peace

The improvement in rankings can be attributed to improvements in the following business processes: (i) resolving insolvency, (ii) access to electricity, (iii) registering property, (iv) starting a business, and (v) paying taxes. These improvements were mostly in line with efficiency-related measures, although there were also some

that are geared towards improving the quality of service being provided to the stakeholders (NCC, 2014b).

The projects and accomplishments of the NCC working groups as of 2014 are summarised in **Table 6.7**.

**Table 6.7. Working Group Projects**

Working Groups	Projects/Accomplishments with other NGAs	Description
Anti-Corruption	<ul style="list-style-type: none"> <li>• Annual Enterprise Survey on Corruption (with Social Weather Station)</li> </ul>	<ul style="list-style-type: none"> <li>• Survey measures perception and experience of corruption in the bureaucracy</li> </ul>
	<ul style="list-style-type: none"> <li>• Bantay.ph</li> </ul>	<ul style="list-style-type: none"> <li>• Offers information on how the Anti-Red Tape Act can help fight corruption</li> </ul>
	<ul style="list-style-type: none"> <li>• Contact Center ng Bayan</li> </ul>	<ul style="list-style-type: none"> <li>• A help desk through which citizens and organisations can send their complaints and concerns on government services</li> </ul>
Budget Transparency	<ul style="list-style-type: none"> <li>• Integrity Initiative</li> </ul>	<ul style="list-style-type: none"> <li>• Encourages companies to sign an integrity pledge to abide by ethical business practices and support a national campaign against corruption</li> </ul>
	<ul style="list-style-type: none"> <li>• Electronic Transparency Accountability Initiatives for Lump Sum Appropriations System (eTAILS)</li> </ul>	<ul style="list-style-type: none"> <li>• Web-based application designed to streamline and automate the processing, releasing, and tracking of lump-sum funds, which comprise 20% of the total national government budget</li> </ul>
	<ul style="list-style-type: none"> <li>• Document Management System</li> </ul>	<ul style="list-style-type: none"> <li>• Logs requests, tracks documents, and prevents unnecessary delays in fund releases.</li> </ul>
Budget Transparency	<ul style="list-style-type: none"> <li>• Provides information on the national budget and allows people to provide feedback through the Citizen's Portal</li> </ul>	<ul style="list-style-type: none"> <li>• Provides information on the national budget and allows people to provide feedback through the Citizen's Portal</li> </ul>
	<ul style="list-style-type: none"> <li>• Budget ng Bayan</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminates petty cash advances for small procurements, and records transactions in real-time and on a web-based platform</li> </ul>
	<ul style="list-style-type: none"> <li>• Cashless Purchase Card System</li> <li>• Kabantay ng Bayan</li> </ul>	<ul style="list-style-type: none"> <li>• In support of Open Data Philippines, the NCC contributes to the conduct of the Kabantay ng Bayan Hackathon, a competition to develop innovative mobile or web-based applications to strengthen budget transparency practices</li> </ul>

Working Groups	Projects/Accomplishments with other NGAs	Description
Business Permits and Licensing System (BPLS)	• Streamlining BPLS Program	• The Local Government Academy trains local government units to streamline processes for business registration using the standards prescribed by the Department of the Interior and Local Government and the DTI in Joint Memorandum Circular No. 01, series of 2010. As of the second quarter of 2014, 1,221 out of 1,634 LGUs in the Philippines have already completed streamlining
	• BPLS Customer Experience Survey	• Measures the experience and satisfaction level of businessmen with the process of renewing mayor's permit
	• BPLS Monitoring and Evaluation/Validation Project	• Checks if LGUs have actually streamlined local requirements and procedures
Education and Human Resources Development	• Labour–Market Intelligence	
	• K-12 Implementation	
	• Industry–Academe Linkage	
	• Technical–Vocational	
	• Reintegration of Filipino Overseas into Philippine Society	
	• Benchmarking and compliance to International Accords/Mutual Recognition Agreements	
Infrastructure	• Addressing the issues affecting the competitiveness of the Philippine Aviation Industry	
	• Common Carriers Tax (CCT) and Gross Philippine Billings imposed on foreign carriers	
	• CIQ Overtime Fees on Government Account	
	• Decongestion of Manila Ports	
	• Implement Masterplans for Luzon logistics corridor and the ASEAN RoRo Network	

Working Groups	Projects/Accomplishments with other NGAs	Description
Performance Governance System (PGS)	• Performance Governance System	• Local adaptation of the Balanced Scorecard, which tracks performance using critical indicators; the PGS allows for multi-sector participation in translating the institutional visions and strategies into action
	• Public Governance Forum	• Provides a venue for public and private institutions to present their scorecards before a multi-sector panel tasked to evaluate performance and provide recommendations.
	• Islands of Good Governance	• Seeks to showcase performance of both public and private institutions, as certified by external auditors

Note: No information is available on the other Working Groups.

Source: National Competitiveness Council.

## 5. Future Plans

The NCC, through the National Quality Infrastructure Working Group, has submitted to Congress a draft legislation on a National Quality Law. The proposed law will require compliance to international technical requirements, such as standardisation, metrology, testing, quality management, certification, and accreditation, to ensure more competitive products and services to guarantee the safety, health, and protection of consumers and to safeguard the environment. This will apply to all goods and services, including the production process, marketing, and distribution.<sup>38</sup>

For 2015, the NCC aims to establish additional working groups to tackle other specific problems that hamper the country's development, such as those relating to science and technology research and development, and disaster response. The NCC will also encourage more LGUs to participate in its Cities and Municipalities

<sup>38</sup> The Working Group is headed by the National Economic and Development Authority Deputy and the Food and Drug Administration with the following members: Bureau of Product Standards and Philippine Accreditation Bureau of DTI, National Metrology Laboratory, Department of Public Works and Highway, Philippine Exporters Confederation, Inc., Philippine Chamber of Commerce and Industry, Federation of Philippine Industries, Philippine Metrology, Standards, Testing and Quality, and National Association of Consumers Inc. (NCC, 2014).

Competitiveness Index.<sup>39</sup> Participating cities and municipalities are ranked in terms of economic dynamism, infrastructure, and EODB. According to the NCC, the index will assist businessmen and investors in deciding where to set up their businesses (NCC, 2014).

For the 2013 round, the index covered 285 LGUs, comprising 122 cities and 163 municipalities. In 2014, there were 535 LGUs comprising 136 cities and 399 municipalities in the index; for 2015, the goal was to bring total coverage to more than 1,000 cities and municipalities.

Another project started in 2015 was Project Repeal. This project aims to revoke laws and regulations that increase the costs of doing business in the country and hinder competitiveness. It will eliminate onerous procedures that strain efficiency, lower the costs of doing business, reduce bureaucracy in the system, and get rid of red tape, among others. At present, the NCC is gathering information on what laws and regulations must be repealed. It will work with Congress in repealing such laws and regulations and establish an institutional structure to oversee the process by 2016 (Remo, 2015).

## 6. Assessment

The experience of the NCC in policy and regulatory reforms brought about important lessons that can inform the task of improving regulatory quality and competitiveness:

1. **Transparency matters.** In 2010 and 2011, public infrastructure spending declined as the new administration decided to review infrastructure projects and procurement procedures. Public infrastructure spending and investor confidence picked up in the subsequent periods in response to better governance and transparency.
2. **Work in progress is not good enough.** In competitiveness, the country is only ranked and scored when the job is completed and implemented.
3. **It is about execution and delivery.** In competitiveness rankings, reports on reform accomplishments must be in by 1 June of the current year for the IFC and World Bank to consider them in the ranking given by the end of the same year. The country's reform measures and strategies are built around this deadline.

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<sup>39</sup> The Cities and Municipalities Competitive Index was launched in 2014 in cooperation with USAID Project INVEST and the 15 regional competitiveness committees (RCCs), which were created in 2012 with an initial task to design the index, collect, and analyse data.

4. **Teamwork is important. Avoid silos.** No one government agency can resolve interconnected problems affecting competitiveness and costs of doing business alone. Coordination and commitment to reform are crucial.
5. **Focus on multiple fronts and not just one single variable.** There is no single bullet or single solution to complex problems. Coordination is important to deal with multiple, complex issues.
6. **The competition never sleeps.** For instance, Singapore, one of the highest-ranking countries in the world, is always on a continuous improvement programme.
7. **The bar always rises.** A competitive world raises the bar and the Philippines should be ready for it.
8. **Speed-to-reform should be our new mantra.** Action plans more than feasibility studies are needed.
9. **Maintain momentum.** The Philippines cannot afford to slow down the pace of reform. In fact, it should accelerate the reform process.
10. **Embed and institutionalise change.** Executive orders, legislations, and laws should be institutionalised in government procedures and processes, and implemented.
11. **Public–private collaboration is an important and effective mechanism for reform.** The public and the private sectors have their respective strengths and it is important to harness these for regulatory reform.

As mentioned in Part 1 of this chapter, the Philippines does not have an RMS per se, but it has the basic elements of an RMS. This observation is illustrated through the experience of the NCC in advocating reforms focused on competitiveness and reduction of the cost of doing business. **Table 6.8** provides information on the experience in RMS as seen in the case of the NCC. The current administration institutionalised the ad hoc approach (through a task force) to the advocacy of reforms by converting the task force into the NCC. The brief experience of NCC shows that (i) it could be an effective central body for advocacy of reforms affecting competitiveness and costs of doing business; (ii) strong public–private sector collaboration is critical in addressing reforms on competitiveness and costs of doing business issues; and (iii) support by the highest political leadership (the presidency) is crucial in achieving reforms.

Table 6.8. Elements of RMS and NCC Case

	National RMS tool	Impact – significance	Remarks
<b>Policy Cycle Elements</b>			
Big policy	Consultations and pressure from business groups to reform	Significant	<ul style="list-style-type: none"> <li>• Creation of the NCC</li> </ul>
Little & legal policy	Dialogues with business groups, and government agencies	Very Significant	<ul style="list-style-type: none"> <li>• EO No. 44 amended EO 571 (2006) to establish a stronger advocacy body; ; issuance of AO No. 38 creating the EODB Task Force</li> <li>• Expansion of NCC membership</li> </ul>
Decision-making support	Access to the President by the DTI Secretary and private sector business groups	Very Significant	<ul style="list-style-type: none"> <li>• Issuance of EO No. 44, mandating the different national government agencies to be co-heads of the working groups</li> </ul>
Change implementation	None	Not Very Significant	<ul style="list-style-type: none"> <li>• No change management plans in place</li> </ul>
Administration & enforcement	None	Significant	<ul style="list-style-type: none"> <li>• Better coordination among national and local governments, and the private sector</li> <li>• Implementation of reforms is the main issue.</li> </ul>
Monitoring & review	None	Not Very Significant	<ul style="list-style-type: none"> <li>• Need for better monitoring, and evaluation of impact of reforms</li> </ul>
<b>Supporting Policy Practices</b>			
Consultation communication & engagement	Dialogues, workshops, consultations	Significant	<ul style="list-style-type: none"> <li>• Active discussions in consultations and workshops</li> <li>• Co-chairpersons working closely on advocacy</li> <li>• Technical working groups working closely with government agencies and private business groups</li> </ul>
Learning	Analysis of indicators by NCC	Significant	<ul style="list-style-type: none"> <li>• Start of data gathering, especially regarding regional competitiveness</li> <li>• Review of indicators where the country is improving its rank, or where it is lagging</li> </ul>
Accountability & transparency	Establishment of website; various media [means of communications] are used to inform the public and stakeholders	Significant	<ul style="list-style-type: none"> <li>• Reports and other information uploaded to the website; <a href="http://www.competitive.org.ph">www.competitive.org.ph</a></li> <li>• Open data</li> </ul>
<b>Supporting Institutions</b>			
Regulatory policy principles	EOs	Significant	<ul style="list-style-type: none"> <li>• Issuance of necessary executive orders</li> </ul>
Lead institutions	DTI, NCC	Significant	<ul style="list-style-type: none"> <li>• NCC, co-chaired by the DTI and the private sector</li> </ul>
Coordinating institutions & training providers	NCC	Significant	<ul style="list-style-type: none"> <li>• Working groups are co-headed by private sector and national government agencies</li> </ul>

AO = administrative order; DTI = Department of Trade and Industry; EO = executive order; NCC = National Competitiveness Council; RMS = regulatory management system.

Source: Author's assessment.

Being an advocacy body, NCC does not have power to impose regulatory reforms. It is neither a regulatory institution nor an oversight or central body that coordinates regulatory reform efforts. The case study reports the processes undertaken by NCC in regulatory reform, including dialogues, consultations, working groups, construction of a competitiveness index, and others. It has done this through better public–private sector collaboration that solicits support for its advocacy efforts from concerned government agencies and affected businesses. Participation by stakeholders (those represented in the working groups) and a feedback mechanism on the reform efforts are important elements of the regulatory reform process in the country. Its regulatory reform efforts could have been stronger with the use of RIA, which would have been an effective tool for educating the public and the policymakers on the burden and cost of unnecessary regulations. It can benefit from using more systematic and empirical approaches, such as RIA, in identifying rules and regulations to be subjected to a ‘regulatory guillotine’. It is also crucial to map out a change implementation plan and install a monitoring and review mechanism for feedback on the impact of regulations and their fine-tuning or change, when necessary.

Part 3 discusses Quezon City local government’s effort to reduce the costs of doing business in the city. The government’s goal was to simplify the business permit and licensing processes to increase the flow of investment into the city. This case demonstrates the usefulness of political leadership and commitment to introduce reforms and the importance of stakeholder consultations in regulatory reform. Part 1 identifies regulatory procedures (**Figure 6.4**) as an important element of an RMS. In the case of the Quezon City local government, stakeholder consultations (a regulatory procedure) were instrumental in generating support for the regulatory reform. A full (formal) RMS would have helped the city manage local reforms more effectively.

### **Part 3: Regulatory Reforms in the Quezon City Business Permit and Licensing System**

#### **1. Local Autonomy and Local Responsibilities**

The 1991 Local Government Code conferred local autonomy on local governments and decentralised local service delivery. It assigned greater taxing, spending, and borrowing powers to local governments, and entitled local governments to receive 40 percent of national government tax revenue as fiscal

transfer (called the Internal Revenue Allotment). Local governments take responsibility for local development expenditure and for creating an environment conducive to investment and the creation of businesses in local areas. Local governments regulate local business activities through various permits and licences that they grant to local businesses. However, it is common knowledge that securing permits and licences to operate a local business can be one of the significant hurdles faced by small businesses, especially start-ups. Local government units are very heterogeneous, with varying management, financial and technical capacities. In this regard, the national government's drive to improve firms' competitiveness and productivity through the NCC has sparked great interest among the more progressive local governments. They saw the need to reduce the costs of doing business and improve the local business environment to generate more local revenues and employment.

## **2. Need to Reduce the Cost of Doing Business**

In 2010, Quezon City was selected by the Philippine government and the World Bank-IFC as the benchmark city in the country in the EODB report. It has the highest number of business registrations in the country, but there were problems with the ease of doing business in the city. According to the 2011 Doing Business Report of the WB-IFC, Quezon City ranked very low relative to 25 other cities worldwide in terms of obtaining construction permits (rank: 22nd) and registering a property (rank: 17th). Firms wanting to locate in the city had to secure numerous clearances such as mayor's permit, construction permit, occupation permit, and health permit, among others. Given these factors, the city ranked 12th overall in the ease of doing business. This galvanised the city government to do something about its low ranking.

The case study highlights Quezon City's efforts to reduce the cost of doing business and improve the business environment in the city. This is motivated by the belief that there is a positive relationship between a streamlined business registration and licensing system, and the flow of investment into a city (DTI, 2006). Hence, Quezon City decided to simplify its BPLS to increase the creation and registration of more local businesses, which will spur local employment and contribute to local revenue growth. A simplified BPLS is also expected to encourage informal businesses, mostly microenterprises and small enterprises, to register and operate in the formal economy.

### 3. Specific Steps Taken

In reforming BPLS, Quezon City did not have to start from scratch because it was able to build on past initiatives to improve business registration. In 2006, the Development Academy of the Philippines identified the good practices of local governments in streamlining business registration of 16 cities and found that Quezon City compared well with the other 15 cities (**Table 6.9**). The good practices cover the following: (i) process improvement; (ii) business one-stop shop; (iii) computerisation; (iv) partnerships and participation, (v) information, education, and communication; and (vi) customer satisfaction.

Reducing the number of steps, signatures, and requirements in obtaining a business permit is not something new to the city because in the past the mayor himself made it a major goal of his administration. In the period 2001–2010, the mayor issued executive orders reducing the processing time and procedures for securing a business (or mayor's) permit. The commitment of the highest political leader of the local government to improve local governance is another advantage for the city in introducing further reforms.

**Table 6.9. Good Practices in Streamlining Business Registration in 16 Cities**

Island Group	LGUs	Process Improvement	BOSS	Computerisation	Partnership and Participation	IEC	Customer Satisfaction
Luzon	Cabuyao		x	x		x	
	La Trinidad	x	x	x			x
	Marikina	x	x	x		x	x
	Muntinlupa	x	x	x	x	x	x
	Naga	x	x	x	x	x	x
	Quezon	x	x	x	x	x	x
Visayas	Bacolod	x	x	x	x	x	x
	Iloilo	x			x		
	Kalibo	x	x		x	x	x
	Ormoc	x	x	x	x	x	x
Mindanao	General Santos	x	x	x	x	x	x
	Iligan	x	x	x	x	x	x
	Ozamiz	x	x	x	x	x	x
	Surigao	x	x	x	x	x	x
	Malaybalay	x	x		x	x	
	Zamboanga	x	x	x	x	x	x

BOSS = Business One-Stop Shop; IEC = information, education, and communication; LGU = local government unit.

Source: DTI (2006).

A good practice of the Quezon City local government listed in **Table 6.1** is the Business One-Stop Shop (BOSS). EO No. 16 issued in November 2009 simplified the business registration procedure especially for new applicants, whether sole proprietorships, partnerships, and corporations, in accordance with the 1991 Local Government Code, from 12 steps to only 3, as shown in **Table 6.10**.

The DTI and the Department of the Interior and Local Government (DILG) issued Joint Memorandum Circular (JMC) No. 01, series of 2010, to provide the standards to be followed by local governments in streamlining the BPLS. The JMC was addressed to the regional directors of DILG, DTI, the Bureau of Fire Protection, members of the Sangguniang Panlungsod, and the Sangguniang Bayan (local government councils). The streamlining programme enjoined cities and municipalities to follow service standards in processing applications for new business registration and registration renewals. It prescribed a unified application form, reduced the number of steps, processing time, and number of signatories required for business applications. According to the JMC, the processing time for the business permit application should be at most 10 days for new applications and 5 days for renewals. In addition, the process must not exceed five steps and the signatories should be reduced to five or less.

**Table 6.10. Old versus New Procedure, Applying for a Business Permit\***

<b>For Minimally Regulated (Low Risk) Business Category</b>	<b>Old Process</b>	<b>New Process</b>
No. of steps (excluding national requirements)	12	3
Average time to receive the mayor's permit	Minimum of 18 days	Within 24 hours for low risk–type of business, not needing inspection; 9 days for low risk, requiring inspection
No. of forms for applicant to fill out	8	1
No. of visits to secure permit	8	1 (in BPLO)
No. of offices to follow up	6	1 (BPLO, SB Representative)
No. of face-to-face interactions between applicant and city employees	Minimum of 18	7

\* Minimally regulated (low-risk) businesses include accounting services, administrative offices, building and building maintenance, *carinderia*, consultancy firms, deep-well drilling offices, engineering services, general building contractors, general engineering offices, graphic arts design firms, installation of wall coverings, landscaping, liaison offices, management consultancy, marketing consultancy, merchandise brokerage, messenger services, non-life insurance agencies, plumbing installation services, real estate brokers, real estate developers, retailers, retail peddlers, sari-sari stores, and watch repair shops.

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

Quezon City complied with the requirements of JMC No. 01 and established a Business One-Stop Shop (BOSS).<sup>40</sup> The Quezon City BOSS reduces the transaction costs of business registrants. **Table 6.11** shows the simplified business registration procedure for new businesses in Quezon City.

Computerisation is a notable intervention to streamline transactions in Quezon City. This has allowed businesses to do online and off-site transactions. Instead of going to the Quezon City hall to conduct transactions, local enterprises can go to five branches established in strategic spots in the city: Cubao, Galas, La Loma, Novaliches, and Talipapa, which are conveniently linked to the main server in city hall. The transactions are off-site because they are not carried out in the city hall but in those satellite offices.

Computerisation has lessened fraud and corruption in the business registration process.

In coordination with the IFC and the NCC, Quezon City introduced changes in the procedure for obtaining business permits. The requirements for the application of construction permits were reduced by about 50 percent and the number of steps from 78 to 14 through the utilisation of a computer-based monitoring system.

Numerous consultations were made and the NCC (with a large private sector membership) acted as the private sector representative during the consultations on improving the BPLS and recommending regulatory reforms to the city government. Quezon City and the NCC worked with the national government agencies in reducing, eliminating, or simplifying requirements and procedures. National government agencies have their own requirements imposed on businesses seeking permit to operate. A local task force on EODB was established to work on the necessary reforms. The city government's BOSS was also strengthened, which resulted in an increase in new business registrations by 32 percent. There was no private sector opposition to the local regulatory reforms because consultations were carried out properly.

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<sup>40</sup> Depending on its corporate organisational form, a business firm has to first register either with the DTI, the SEC, or the Cooperative Development Agency before registering with a local government.

**Table 6.11. Simplified Business Registration Process for New Businesses**

Main Activity	Detailed Steps
1. Applicant visits Business One-Stop Shop (BOSS)	<ul style="list-style-type: none"> <li>• An employee from the BPLO, (the 'SBRP Representative' or 'SB Rep', informs applicants of the following               <ul style="list-style-type: none"> <li>○ Process flow</li> <li>○ Documents needed</li> </ul> </li> <li>• SB Rep assists/interviews the applicant in filling out the unified new business application form/SB e-form in the computer</li> <li>• SB Rep checks/verifies information in the completed form with the applicant</li> <li>• Applicant confirms the completeness, accuracy, and truthfulness of the information declared</li> <li>• SB Rep presents applicant actual amount of taxes and fees due</li> <li>• SB Rep asks applicant if he/she will pay today</li> <li>• If yes, prints application form and gives to the applicant</li> <li>• Applicant signs the forms and proceeds to step two (2)</li> <li>• SB Rep informs applicant when he/she will get licence plate and registration document but not more than 9 days from payment of the relevant taxes and fees (to be delivered by courier or registered mail)</li> </ul>
2. Applicant goes to the payment counter within the BOSS to pay	<ul style="list-style-type: none"> <li>• Applicant pays total taxes and fees to assigned/detailed city treasurer's office collector and gets official receipt (OR)</li> <li>• Applicant returns to SB Rep who notes the OR number for recording</li> <li>• For low-risk establishments, business permits can be obtained as soon as proof of payment is shown.</li> </ul>
3. Applicant receives licence certificate and registration document	<ul style="list-style-type: none"> <li>• Regulatory departments, offices, or units conduct inspection within the prescribed time</li> <li>• Private delivery service delivers licence plate and documents to applicant</li> </ul>

BPLO = Business Permit and Licensing Office; SB = Sangguniang Bayan.

Source: EO No. 16, Series of 2009.

Quezon City EO No. 17 (series of 2011) trimmed down the requirements for obtaining a business permit from nine to four, and limited face-to-face contact between applicant and local government staff, which reduced opportunities for bribery and corruption. With the change in procedures, an applicant can secure the business permit within an hour of lodging the application.

Other requirements are not immediately necessary for the issuance of a business permit. The goal of the local government is to make it easier for applicants to obtain a permit. However, the business permit that has been granted will be revoked if the business does not comply with the other requirements within a specific number of days. The national government also requires certain permits, e.g. fire permit to satisfy the National Building Code, and sometimes obtaining those nationally imposed permits could be problematic especially for small businesses.

To help improve the BPLS process, the NCC monitors the reports coming from the BPLS Field Monitoring and Evaluation Survey. The NCC helps the Quezon City local government to continuously improve the business permitting process and to develop a database of local businesses that will enable the city government to further enhance the business climate in the city. In this regard, a database of local businesses has been created in cooperation with the Quezon City Chamber of Commerce and Industry (QCCCI) and the QCCCI Foundation. This is instrumental in creating a strong partnership between the local government and the private sector. The NCC, along with the private sector, also acts as a mediator between government agencies, both national and local. The NCC also recommends improvements on business-related processes based on international standards to improve the ranking of Quezon City relative to other benchmark cities abroad.

Another innovation in business processes undertaken by the city was to link up with the DTI's Philippine Business Registry (PBR) in 2012. Quezon City was the first local government to be connected to the PBR, which allows new applicants to list their businesses and acquire business permits in a faster and more convenient manner from 2 weeks to a mere 30 minutes. This was done by linking the registration processes of six national government agencies: DTI, SEC, BIR, Pag-IBIG, PhilHealth, and Social Security System.

**Table 6.12** rates the different elements of the regulatory policy cycle according to their significance or lack of significance in influencing the overall outcome of reforming the city's BPLS. The ratings indicate how significant a particular element has been in improving the Quezon City government's BPLS.

Table 6.12. Elements Table, Case of the Quezon City Local Government

	National RMS tool	Impact - significance	Remarks
Policy Cycle Elements			
Big policy	Assistance by NCC, IFC, and discussions with local legislative council	Very Significant	<ul style="list-style-type: none"> <li>□ Necessary to streamline the business permits and licensing system to encourage more investment and business registrations</li> </ul>
Little and legal policy	Local executive orders	Very significant	<ul style="list-style-type: none"> <li>□ Release of the JMC No. 01, series of 2010, as well as EO No. 17, series of 2011 to further simplify the process for doing business</li> <li>□ The JMC, for all the LGUs and the regional government agencies while the EO is specific for Quezon City</li> </ul>
Decision-making support	Commitment by city mayor	Very significant	<ul style="list-style-type: none"> <li>□ Mayor initiated the changes and ensured changes were installed</li> </ul>
Change implementation	None	None	<ul style="list-style-type: none"> <li>□ No information on change implementation plan on BPLS</li> </ul>
Administration and enforcement	Establishment of one-stop business centre	Very significant	<ul style="list-style-type: none"> <li>□ Local business permits and licences are given once local requirements are complete.</li> <li>□ National government requirements, e.g. fire permit, must be satisfied within a few days of grant of local business permit; otherwise, the local permit will be revoked.</li> </ul>

	National RMS tool	Impact - significance	Remarks
Monitoring and review	Business Permit and Licensing Office (BPLO) and NCC monitoring	Significant	<ul style="list-style-type: none"> <li>□ The BPLO monitors and cancels permits in case business does not comply with the other requirements;</li> <li>□ NCC monitors reports of local governments</li> </ul>
Supporting Policy Practices			
Consultation, communication, and engagement	Consultations with NCC representing private sector	Significant	<ul style="list-style-type: none"> <li>□ NCC was the private sector representative</li> <li>□ National government agencies are aware that their requirements must still be complied with but Quezon City can already grant the business permit after businesses submit the initial requirements</li> </ul>
Learning	Database	Significant	<ul style="list-style-type: none"> <li>□ Database on number of businesses and on revenues generated are tracked by BPLO.</li> <li>□ Advice from the NCC on international standards</li> </ul>
Accountability and transparency	Audit by Commission on Audit (COA)	Significant	<ul style="list-style-type: none"> <li>□ COA audits all local government transactions.</li> <li>□ There is a need for greater transparency of results to the public.</li> </ul>
Supporting Institutions			
Regulatory policy principles	Joint Memorandum Circular No. 01	Significant	<ul style="list-style-type: none"> <li>□ In compliance with the JMC, the EO, and the government's goal of easing doing business in the country</li> </ul>

	National RMS tool	Impact - significance	Remarks
Lead institutions	City government, DILG, DTI, NCC	Very Significant	<ul style="list-style-type: none"> <li>□ DILG and DTI are the main overseers of the Quezon City LGU and the BPLO;</li> <li>□ NCC provides support.</li> </ul>
Coordinating institutions and training providers	DTI, NCC	Significant	<ul style="list-style-type: none"> <li>□ DTI and NCC conduct assessment of procedures and provides recommendations</li> </ul>

DILG = Department of Interior and Local Government; DTI = Department of Trade and Industry; EO = executive order; IFC = International Finance Corporation; JMC = joint memorandum circular; NCC = National Competitiveness Council.

### Summary Comment

The Philippines has extensive experience in regulatory reform. This chapter has tracked the macroeconomic and regulatory reforms, and the political and economic history in the Philippines since the post-martial law regime. Economic policy has evolved from a highly protectionist regime with a highly control-oriented regulatory framework to a market-oriented economic and regulatory policy that sees private enterprise as the locomotive of growth. Past reform efforts have started to pay off in terms of a remarkable economic growth performance in recent years.

While regulatory reform is not something new to the country, a formal requisite RMS has yet to be established. It has found that a de facto RMS has been created through the country's political and economic context. The paper has identified that the Philippines does not have a coherent formal RMS, but has some of the parts of an RMS. Overall, the Philippines' experience suggests that political leadership, and economic policy and capacity are very important factors in the reality of regulatory reform and the development of a requisite RMS.

The chapter explored the role of some of the elements of an RMS in regulatory reform in the case of the NCC and a local government, that of Quezon City. These cases demonstrate the importance of specific elements in a formal RMS and how the NCC and Quezon City local government have successfully used them to improve regulatory quality.

In the case of NCC, successful collaboration between government and the private sector was instrumental in implementing measures that have resulted in improved rankings of the country in various competitiveness and EODB indices. Political leadership and the presence of a dedicated central or oversight body with access to the highest political leadership are essential elements in implementing regulatory reforms.

On the other hand, the Quezon City government has long recognised the need to reduce the costs of doing business in the city to attract new businesses, support existing businesses, and encourage the registration of thousands of informal businesses in the city. Through a series of executive orders, the establishment of a one-stop shop business centre, consultations to generate support for new and simplified procedures in BPLS, and the link to the Philippine Business Registry, the city government has reduced the number of steps and requirements for business permits and licensing; thus, a big regulatory burden on business firms has been lifted effectively. This has been made possible by the excellent cooperation between the city chief executive (mayor) and the local legislative council to work towards simplifying the BPLS. Based on the experience of Quezon City, it is not impossible for other local governments to streamline their business permit and licensing systems.

These experiences provide critical inputs to the institutionalisation of a formal and requisite RMS. This experience highlights the importance of the deliberate and systematic development of regulation to deliver envisaged development outcomes. This is an important finding because in the Philippines it can be argued that the absence of a well-coordinated RMS is a key factor in the low quality of regulation.

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