

# Chapter 8

## Trade Facilitation in Philippines and Result of the ASTFI Baseline Study

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# Chapter 8

## Trade Facilitation in Philippines and Results of the ASTFI Baseline Study<sup>1</sup>

*Salvador Buban and Josephine Nagallo*

### 1. Trade Overview

From 2014 to 2018, the Philippines' total trade grew at an average rate of 8%, from \$129 billion in 2014 to \$182 billion in 2018.<sup>2</sup> Amongst its top 15 trading partners were Japan; the United States; China; Germany; and five Association of Southeast Asian Nations (ASEAN) Member States (AMS) – Indonesia, Malaysia, Singapore, Thailand, and Viet Nam, whose trade value totalled \$160 billion (footnote 1).

In 2018, 16% (\$10.7 billion) of the Philippines' total exports were to AMS, while 25% (\$28.6 billion) of its imports were sourced from other AMS (footnote 1). The data show that AMS are still amongst the Philippines' key partners both for selling products and for sourcing imports. Some 63% of the products exported and 36% of those imported by the Philippines belong to the same product category, i.e. electrical products, electrical equipment, and machinery (HS Code 84 and 85).<sup>3</sup>

### 2. Key Trade Facilitation Reforms

Recognising the importance of trade in the country's economy and the extent to which an improved trade facilitation environment could contribute to an increase in trade, the Philippines embarked on various trade facilitation reforms, including the enactment of the Customs Modernization and Tariff Act, 2016 (CMTA); the implementation of the Philippine National Single Window (PNSW); and the launch of the new single window platform (TradeNet). The Philippines also proposed the inclusion of the enactment of the Ease of Doing Business and Efficient Government Service Delivery Act, 2018 (Republic Act No. 11032), under which the National Effort for the Harmonization of Efficiency Measures

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<sup>1</sup> This report is based on the 2018 data of the ASTFI baseline study survey.

<sup>2</sup> International Trade Centre (n.d.), Trade Map, Export Data (List of Importing Markets for a Product Exported by the Philippines).

[https://www.trademap.org/Country\\_SelProductCountry\\_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1%7c1%7c1](https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c2%7c1%7c1%7c1%7c1%7c1) (accessed 15 April 2018);

International Trade Centre (n.d.), Trade Map, Philippines, Import Data (List of Supplying Markets for a Product Imported by the Philippines).

[https://www.trademap.org/Country\\_SelProductCountry\\_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1%7c1%7c1](https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1%7c1%7c1) (accessed 15 April 2018).

<sup>3</sup> International Trade Centre (n.d.), Trade Map, Export data (List of Products Exported by the Philippines).

[https://www.trademap.org/Product\\_SelCountry\\_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c1%7c4%7c1%7c1](https://www.trademap.org/Product_SelCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c1%7c4%7c1%7c1) (accessed 15 April 2018);

International Trade Centre (n.d.), Trade Map, Import Data (List of Products Imported by the Philippines).

[https://www.trademap.org/Product\\_SelCountry\\_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c1%7c1%7c4%7c1%7c1](https://www.trademap.org/Product_SelCountry_TS.aspx?nvpm=1%7c608%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c1%7c1%7c4%7c1%7c1) (accessed 15 April 2018)

of Inter-Related Agencies or Program NEHEMIA was developed to improve the operation of other trade-related government agencies.

### **2.1. Customs Modernization and Tariff Act**

The enactment of the CMTA on 30 May 2016 was a milestone reform in Philippine trade facilitation. As landmark legislation anchored on trade facilitation initiatives and measures, the CMTA aimed to simplify, modernise, and align Philippine customs procedures with international standards and best practices. It set down basic trade facilitation standards – including opening access to relevant customs information, regulatory issuances, and rulings – thereby increasing transparency and predictability in import and export transactions. The CMTA also envisaged full electronic processing of shipment documents, streamlining of export and import procedures, the application of efficient border controls based on international best practices, steeper penalties for the violation of customs laws, and enhanced transparency in addressing the needs of private stakeholders and the business community.

Some of the main trade facilitation features of the CMTA are advance rulings, Authorised Economic Operators (AEOs), advance lodgement and clearance, temporary admission of goods, expedited shipments, and the single window. Following the enactment of the CMTA, the Department of Finance (DOF) and the Bureau of Customs (BOC) established a project management office to oversee its implementation. A 3-year CMTA implementation plan was prepared, which included the establishment of drafting teams and a review team that drafted the implementing rules and regulations of the CMTA. These implementing rules and regulations, called customs administrative orders (CAOs) and customs memorandum orders (CMOs), are the enabling regulations for the CMTA implementation. Part of the process of drafting the CAOs or CMOs is consultation with various stakeholders, to provide an opportunity – especially for the private sector – to share its views, inputs, and comments before the implementation of the regulations.

### **2.2. National Single Window**

In 2004, the national single window concept was introduced to major agencies in the Philippines. The PNSW, an electronic platform for the issuance of licences and permits fully funded by the Government of the Philippines, was implemented in 2009. A number of government agencies (e.g. the Bureau of Internal Revenue, the Food and Drug Administration, the Bureau of Fisheries and Aquatic Resources, the National Meat Inspection Service, the Optical Media Board, the Philippine National Police, the Bureau of Import Services, the Bureau of Animal Industry, and the Bureau of Plant Industry) were part of the PNSW. Traders apply for licences, permits, and clearances through the PNSW, and these are then reviewed and subsequently approved by the government agencies. For other agencies under the Department of Agriculture, the value added service provider (VASP) system was used as their front-end system and transport layer connection to the PNSW. While the VASP system used by agencies under the Department of Agriculture provided more features than the PNSW, i.e. electronic payments (e-payments), simultaneous transmission of permits to personnel in the field (as gleaned from

information shared by representatives from Department of Agriculture agencies during the validation-cum-consultation), the VASP was still considered a separate system from the PNSW.

However, the implementation of the PNSW was slow, and the usage of the PNSW by agencies in the issuance of licences and permits has declined. Some government agencies even reverted to manual issuance of permits. The BOC, which managed the PNSW, exerted efforts to revitalize PNSW operations by integrating the PNSW with the integrated enhanced customs processing system, a ₱650 million (\$13 million) computerised system project that will integrate single window operations with the customs procedures and cargo clearance process. However, the project was embroiled in legal issues which led to its cancellation. This situation contributed to the decline in the use of the PNSW. The Philippines' participation in ASEAN Single Window (ASW) activities was also affected, such as the inability to participate in the live implementation of the ASW pilot project on the electronically submitted Form D under the ASEAN Trade in Goods Agreements (e-ATIGA Form D), despite being actively involved in earlier ASW activities.

### **2.3. TradeNet**

The DOF launched the TradeNet platform in December 2017. TradeNet operates as the new PNSW, with the aim of connecting more than 60 regulatory government agencies. It will be operated and maintained by the Department of Information and Communications Technology, a government agency responsible for the planning, development, and promotion of information and communication technology (ICT) in the country. Although TradeNet is not yet fully operational, it has started issuing licences and permits.

The TradeNet platform is being developed as a project of the Interagency Business Process Interoperability, under the auspices of the DOF's Anti-Red Tape Act team which aims to streamline the complicated import and export documentation process in revenue collection to facilitate the clearance of goods, and will help contribute to the ease of doing business for the private sector in the country and facilitate trade.

TradeNet is an 'automated licensing, permit, clearance, and certification system integrated into one platform for regulatory agencies', where users can submit applications for permits and licences to comply with import and export requirements. As this is an integrated and cloud-based system, inter-agency routing of documents will be easier, while real-time reports and data can easily be generated to assist in risk assessment and management as well as in conducting the necessary checks and verification against government business registries.<sup>4</sup>

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<sup>4</sup> The Inter-Agency Business Process Interoperability Program team briefed the Economic Research Institute for ASEAN and East Asia (ERIA) on the NSW and ASW on 14 March 2018.

## 2.4. Trade facilitation indicators from secondary sources

The World Bank's Trading Across Borders indicator noted improvements in the Philippines' trade facilitation environment from 2006 to 2015, where it showed a 30% reduction in the cost to export and a 20% reduction in the cost to import. The improvement in the cost reductions was complemented by a decrease in the time to export, from 17 days to 15 days, while the time to import was shortened from 18 days to 15 days (Table 8.1).

**Table 8.1: Philippines Trading Across Borders Achievement, 2006–2015**

<b>Economy</b>	<b>2015</b>	<b>2006</b>
DTF – Trading across borders	77.23	72.61
Documents to export (number)	6	6
Documents to import (number)	7	8
Cost to export (\$ per container deflated)	755	1,077
Cost to import (\$ per container deflated)	915	1,141
Time to export (days)	15	17
Time to import (days)	15	18

DTF = distance to frontier.

Note: The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics.<sup>5</sup> The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018), Ease of Doing Business

<https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/Historical-data---COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

In the 4 years from 2015 to 2018, however, some of the indicators have not changed or progressed, based on World Bank data using a methodology adopted in 2015 (Table 8.2). This condition may call for the Philippines to undertake more efforts and strategies to create better trade facilitative conditions.

<sup>5</sup> World Bank. (2016). Distance to Frontier and Ease of Doing Business Ranking.

<https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).

**Table 8.2: Philippines Trading Across Borders Achievement, 2015–2018**

<b>Economy</b>	<b>2018</b>	<b>2015</b>
Rank – Trading across borders (DB18)	99	
DTF – Trading across borders	69.39	69.39
Time to export: Documentary compliance (hours)	72	72
Time to import: Documentary compliance (hours)	96	96
Time to export: Border compliance (hours)	42	42
Time to import: Border compliance (hours)	72	72
Cost to export: Documentary compliance (\$)	53	53
Cost to import: Documentary compliance (\$)	50	50
Cost to export: Border compliance (\$)	456	456
Cost to import: Border compliance (\$)	580	580

DB = Doing Business, DTF = distance to frontier.

The distance to frontier score captures the gap between an economy's performance and a measure of best practice across the entire sample of all indicators for 10 Doing Business topics<sup>6</sup> The DTF of trading across borders reflects a combination of the costs and time required for exports and imports.

Source: World Bank (2018), Ease of Doing Business.

<https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/Historical-data---COMPLETE-dataset-with-scores.xlsx> (accessed 1 July 2018).

The trade facilitation and logistics environment has shown signs of improvement from 2015 to 2018, but significant concerns remain, as measured by the Domestic Logistics Performance Index (LPI) – Environment and Institutions.

Despite some improvements in customs clearance procedures and other official clearance procedures in the Philippines, further improvement needs to be made in the area of competence and quality services delivered by logistics services providers (road, rail, maritime, and freight forwarders), sanitary and phytosanitary agencies, and quality or standards inspection agencies. The high fees and charges for ports are also a challenge for the Philippines to improve its logistics performance.

The LPI revealed an improvement in the Philippines' overall rank, from 71 in 2016 to 60 in 2018. Although the ranking improved considerably, the overall score only increased slightly, from 2.86 in 2016 to 2.90 in 2018. The increase in ranking did not extend to the customs LPI ranking, which deteriorated to 85 in 2018 from 78 in 2016 and 47 in 2014. This may also be due to improvements in other countries, which lowered the rank of the Philippines.

<sup>6</sup> World Bank. (2016). Distance to Frontier and Ease of Doing Business Ranking.

<https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB17-Chapters/DB17-DTF-and-DBRankings.pdf> (accessed 1 July 2018).

The reduction in the international customs LPI ranking is similar to the domestic LPI score. More than 75% of freight forwarders, as the LPI respondents, perceived the clearance and delivery of Philippine imports and exports to be efficient. In addition, the respondents indicated that the transparency of customs clearance and border agencies was very low.

**Table 8.3: LPI Performance, 2018**

Indicator	2014	2016	2018
<b>International LPI</b>			
Overall rank	57	71	60
Customs LPI rank	47	78	85
<b>Domestic LPI</b>			
Clearance and delivery of imports (%)	67	40	75
Clearance and delivery of exports (%)	100	80	100
Transparency of customs clearance (%)	67	40	0
Transparency of other border agencies (%)	50	40	0
Solicitation of informal payments (%)	33	60	0

LPI = Logistics Performance Index.

Source: World Bank (2018), International Logistic Performance Index Global.

[https://lpi.worldbank.org/sites/default/files/International\\_LPI\\_from\\_2007\\_to\\_2018.xlsx](https://lpi.worldbank.org/sites/default/files/International_LPI_from_2007_to_2018.xlsx) (accessed 1 June 2018); World Bank (2018), Domestic Logistics Performance Index, Environment and Institutions.

[https://lpi.worldbank.org/domestic/environment\\_institutions](https://lpi.worldbank.org/domestic/environment_institutions) (accessed 1 June 2018).

### 3. Highlights and Key Findings of the ASTFI Survey

A questionnaire survey was conducted during the first half of 2018 with 22 government agencies on five components: (i) transparency and information on laws, regulations, and procedures; (ii) communication with and active engagement of the private sector; (iii) release and clearance formalities; (iv) import/export formalities and coordination; and (v) transport facilitation. The results of the survey are summarised below.

#### 3.1. Transparency and information on laws, regulations, and procedures

The Philippines received a commendable score for transparency of information on laws, regulations, and procedures. Information on legislation, procedures, and documentary requirements for import and export is available on the BOC and agency websites.<sup>7</sup> It is also available in the Philippine National Trade Repository (PNTR), including the mandatory information required in Article 13 of the ATIGA.<sup>8</sup>

The PNTR improved over the past 2 years (2016–2018), when it started populating information in 2017. One notable feature about the non-tariff measure (NTM) section of the PNTR allows users to key in specific HS codes or product descriptions to identify the corresponding NTMs regulating the product. Although this feature is not mandatory in

<sup>7</sup> BOC (n.d.), <http://customs.gov.ph/> (accessed 15 April 2018).

<sup>8</sup> PNTR (n.d.), <http://pntr.gov.ph/> (accessed 15 April 2018).

the national trade repository and the ASEAN Trade Repository (ATR), some AMS have included this interface to make it user-friendly for business people who are more familiar with the HS code or product description than the NTM regulating that product. Further work is needed to populate and update the NTM section of the PNTR, but the foundation is already in place.

The information on the BOC website and users' access to the website had been challenging, but they have improved significantly since 2018. Interactive information channels are available on the customs website, with an operational help desk to respond to stakeholders' needs. The BOC customer assistance and response service has email, Facebook, and Twitter accounts to send updates and news on the developments at the BOC, as well as receive feedback from stakeholders.

### **3.2. Communication with and active engagement of the private sector**

The Philippines received a significantly high score for this component. The National Trade Facilitation Committee (NTFC) is the Inter-Agency Committee on the ASEAN Economic Community (CAEC).<sup>9</sup> It is composed of departments and agencies concerned with ASEAN economic and financial cooperation. The CAEC, which is led by the Department of Trade and Industry (DTI), was established to facilitate inter-agency consultations in the development and implementation of policies and programmes related to the Philippines' trade and economic agreements under ASEAN (DTI, 2017). In line with its mandate, the CAEC undertakes outreach and advocacy initiatives that promote widening the awareness and understanding of the benefits and challenges of the ASEAN Economic Community (AEC), engaging and mobilising stakeholders to participate in the AEC building process, and encouraging stakeholders' inputs to shape AEC initiatives that could result in a meaningful outcome for the Philippines.

Consistent with enhancing government–private sector collaboration, the CAEC facilitated sustained engagement with the ASEAN Business Advisory Council, which has both national and regional level mechanisms. Through the CAEC, the DTI's Board of Investments conducted AEC Game Plan Industry Roadmap Localisation Forums in all regions of the country, which encouraged stakeholders to apply these initiatives and activities locally. Through coordination with CAEC agencies, the DTI has convened hundreds of forums on Doing Business in Free Trade Areas (FTAs) to help small businesses understand and take advantage of the benefits of preferential market access provided under FTAs, especially in the AEC. The forums also encouraged other private sector organisations, such as the Philippine Chamber of Commerce and Industry, the Makati Business Club, and the Management Association of the Philippines, to follow suit in undertaking similar initiatives.

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<sup>9</sup> Administrative Order No. 20 dated 6 September 2011 on Reorganizing and Renaming the Philippine Council on ASEAN and APEC Cooperation into the Philippine Council for Regional Cooperation.



While the Philippines has identified the CAEC as the NTFC equivalent for the Philippines, the National Competitiveness Council – a public–private sector body that aims to promote and develop national competitiveness – could be a good candidate for an NTFC equivalent, as it is a major body or forum for government–private sector engagement in areas related to trade, competitiveness, regulatory matters, and trade facilitation. Its structure allows for more in-depth participation of the private sector at the working group level. It also develops a long-term strategy for a more competitive Philippines, through public–private sector collaboration, as a vehicle to reduce poverty and achieve inclusive growth.

The National Competitiveness Council has various working groups that address issues related to trade facilitation, streamlining of business permits and licences, smuggling and corruption, transport, trade, and logistics. It also has projects on issues such as the ease of doing business, where government agencies and the private sector formulate, implement, and track projects and policies to facilitate the ease of doing business in the country. Another project which was launched in 2016 is Project Repeal, a government-wide regulatory reform initiative to repeal outdated rules to reduce the cost of doing business. The objective is to review outdated, irrelevant, and burdensome laws and issuances which affect the global competitiveness ranking and investment climate, with a view to eventually repealing them.

Improving on this component requires having an NTFC, rather than just an equivalent mechanism. Therefore, the BOC (as the lead agency designated to establish the NTFC) has assured that the Philippines will work with other government agencies for the establishment of the NTFC. Initial suggestions from some government agencies in the Philippines include the establishment of a working group that would assess and help streamline NTMs, as well as pursue areas related to addressing burdensome requirements for complying with import and export requirements.

For the NTFC to be more effective, however, it should be able to provide guidance/direction for the implementation of policies on trade facilitation across FTAs and other relevant agreements with trade facilitation commitments. Private sector membership in the NTFC should be an inherent element to facilitate private sector participation in the future.

### **3.3. Release and clearance formalities**

The Philippines needs to work on the indicators related to release and clearance formalities. Dwell time data are not available to the public in the Philippines. However, International Container Terminal Services Inc., a global port management company which operates the Manila International Container Terminal (MICT), gathers dwell time data on containers (measured in days) and submits these on a monthly basis to the Philippine Ports Authority and the MICT. The data, however, are only available to the Philippine Ports Authority and MICT for internal use, not to the public.

There is no regular Time Release Study (TRS) publication, the last of which was in 2015. With technical assistance from the Asian Development Bank, the BOC conducted the second TRS in October 2019 at three main collection districts – the Port of Manila, Manila International Container Port, and Ninoy Aquino International Airport (Pablo, 2018). The BOC is confident that the TRS will help identify delays in the cargo clearance process and will be vital in providing data as the basis for corrective measures.

The BOC has an operational Trusted Traders programme called the Super Green Lane. The programme has a clear mechanism and criteria for accreditation, including the obligations, privileges, and benefits accorded to these trusted operators. The BOC has also issued an administrative order<sup>10</sup> which provides for the establishment of an AEO programme in line with the provisions of the CMTA. The programme intends to cover all stakeholders of the BOC such as importers/exporters, warehouse operators, brokers, and freight forwarders.

The implementation of self-certification for the Philippines is in a pilot stage, as in other AMS. To improve in this area, the Philippines would require all AMS to implement the self-certification scheme.

The implementing rules and regulations on advance rulings for valuation, rules of origin, and classification provide that advance rulings which are issued should be fully published and available to all traders and stakeholders. Two agencies implement advance rulings in the Philippines: (i) the Tariff Commission on tariff classification, and (ii) the BOC on customs valuation and rules of origin. The Tariff Commission has issued and published 310 tariff classification rulings, based on 438 applications received for rulings from October 2017 to May 2018. The BOC has not published any of the advance rulings issued, either for valuation or rules of origin.

Pre-arrival processing, appeal and review mechanisms, post-clearance audits, and simplified expedited clearance are available and applied by the BOC and some other agencies. Even before the CMTA, the BOC had incorporated these in the cargo clearance process.

Risk management is applied by customs and some government agencies. However, the BOC removed the green lane from the cargo selectivity system on 30 August 2017 (Pablo, 2017), so goods or shipments are categorised either red lane or yellow lane. The shipments selected in the red lane require x-ray machine scanning or are subject to physical inspection, while documentary checks are undertaken for those selected in the yellow lane. However, the Super Green Lane, a trusted trader programme which is mainly being used by multinational companies that have maintained good transaction records with the BOC, is still available (Torres-Tupas, 2017).

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<sup>10</sup> Customs Administrative Order No. 5 (2017) on the Establishment of Authorized Economic Operator (AEO) Program.

The BOC and some agencies accept e-payments. A final determination and payment of customs duties is made before goods are released from customs. Although the BOC uses e-payments for its transactions, e-payments are not available at the airport for dutiable goods brought by passengers. Some agencies, such as the Bureau of Animal Industry and the Food and Drugs Administration, use e-payments. Some agencies indicated that the establishment of an e-payment system has been difficult as they have to comply with requirements from other agencies such as the Bangko Sentral (Central Bank) and they still need to work on it.

#### **3.4. Import/Export formalities and coordination**

Under this component, the Philippines could improve on its performance, particularly on the documentation requirements and the ASW. The BOC does not allow digital copies to be attached to entry declaration filings. The CMTA does not prohibit the acceptance of digital copies, but the electronic to mobile (E2M) customs system has technical limitations for accepting digital copies in entry declarations. For major agencies, traders can attach digital copies to the application for permits and licenses. Other government agencies, such as the Dangerous Drugs Board, the Food and Drug Administration, the Bureau of Plant Industry, the Bureau of Fisheries and Aquatic Resources, and the Bureau of Animal Industry, either accept digital copies or fully automated systems in their applications and for the issuance of permits and licences.

Unlike the other major agencies indicated earlier, the Bureau of Philippine Standards accepts digital copies and has a fully automated system for the application and issuance of licences and permits through its Product Certification Information Management System. The system started in October 2018 and was fully implemented in January 2019. The Department of Information and Communications Technology has been working with other agencies to provide digital signatures and certificates to facilitate and secure electronic transactions. It has issued more than 2,300 digital signatures and certificates to date.

The BOC accepts plain copies in applications for permits or entry filings, while some major agencies accept either plain copies or a combination of originals and plain or digital copies.

Some agencies are still connected to the old PNSW – mainly agencies under the Department of Agriculture (through the VASP system). As mentioned above, the new TradeNet platform is being developed to replace the old PNSW. Although not yet fully operational, TradeNet is being used to pilot test the exchange of the e-ATIGA Form D for the ASW. It will eventually be able to provide an e-payment facility through PhPay, a government online payment system that enables citizens and businesses to remit payments electronically to government agencies.

It should be noted that the effectiveness of a national single window calls for a whole-of-government approach, which was not present during the previous PNSW managed by the BOC. The focus at that time was to link existing individual agencies' systems to facilitate the issuance of permits and licences, keeping their individual processes and requirements

intact. There was not much effort to streamline processes and documentation requirements for effective and 'real' single window operations.

TradeNet, under the auspices of the DOF, may be able to perform better in terms of managing a whole-of-government approach – not only to bring agencies into the fold, but also to participate seriously in an effort to streamline processes and documentation requirements. TradeNet should not allow agencies just to 'cut and paste' processes and documentation requirements in their own system and transport them to the new TradeNet.

### **3.5. Transport Facilitation**

The Philippines needs to make significant efforts to improve transport facilitation indicators. Although it has ratified the ASEAN Framework Agreement on the Facilitation of Inter-State Transport and the ASEAN Framework Agreement on Multimodal Transport, the national laws and regulations to implement these protocols, including their respective implementation structures, have not yet been established. The Department of Transportation noted, however, that the Philippines has already organised an Inter-Agency Technical Working Group for the operationalisation of the ASEAN Framework Agreement on Multimodal Transport and is formulating an executive order that will provide for the creation of a competent national body. The competent national body will be responsible for regulating, registering, or recognising multimodal transport operators in the country.

The Philippines has also completed the ratification of Protocol 1 (Designation of Transit Transport Routes and Facilities) and Protocol 4 (Technical Requirements of Vehicles) of the ASEAN Framework Agreement of the Facilitation of Goods in Transit. Protocol 2 (Designation of Frontier Posts), which is under the purview of the DOF, has yet to be completed. The Philippines and the other AMS signed Protocol 2 on 4 May 2018. Although the ratification of these protocols is a commitment for the Philippines, the implementation of some of them is not relevant or applicable to the Philippines. The Department of Transportation has indicated that the National Transit Transport Coordinating Committee will be reactivated to develop and implement the necessary domestic procedures for the operationalisation of the ASEAN Framework Agreement of the Facilitation of Goods in Transit and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport.

### **3.6. E-commerce**

The Philippines, like some of its ASEAN neighbours, needs to improve in this sector. The legal framework for e-identification and authorisation has been established and is operational at the national level. However, harmonisation at the ASEAN region level is still being considered.

On revenue collection for cross-border e-commerce, the Philippines maintains threshold values for customs at a minimum, in line with the provisions of the World Trade Organization Trade Facilitation Agreement. Various legal frameworks, both in procedural

and substantive aspects for business to individual consumers' engagement (B2C), are already in place (e.g. the Consumer Act of the Philippines, 1992 and the Electronic Commerce Act, 2000).<sup>11</sup> The E-Commerce Act, particularly Section 50, contemplates the applicability of the provisions of the Consumer Act, including reliefs and sanctions even for consumer transactions done electronically.

The Philippines is still working on a mechanism for e-commerce dispute settlement, including an online dispute resolution system, to facilitate the resolution of claims over e-commerce transactions. It has issued an administrative order on the Rules and Regulations for Consumer Protection<sup>12</sup> in a transaction covered by the Consumer Act through electronic means under the E-Commerce Act. This administrative order – issued by the DTI, the Department of Health, and the Department of Agriculture (in particular Section 3) – specifies the requirements for adopting fair and reasonable business practices for retailers, sellers, distributors, suppliers, or manufacturers engaged in e-commerce.<sup>13</sup>

#### **4. Conclusion and Key Recommendations**

The Philippines, over the past couple of years (2016–2018), has laid a good foundation for reform of its trade facilitation environment. The relatively high number of provisions in category A of the World Trade Organization Trade Facilitation Agreement; the enactment of the CMTA, which is landmark legislation to improve the cargo clearance process; the strengthened anti-red tape legislation on the ease of doing business; and the upcoming relaunch of an NSW through the TradeNet platform, all indicate the strong commitment of the government to facilitate trade.

Data from the questionnaire results showed that the Philippines performed well on transparency and information, as indicated by the availability of relevant information on the websites of the BOC and other major government agencies. The enhanced PNTR also contains the required information under the ATIGA, including private sector-friendly features (e.g. the tariff finder, rules of origin finder, and NTM finder) using HS codes or product descriptions. While these features are not mandatory for a national trade repository, they provide good value addition in the overall effort towards transparency. Also notable is the relatively strong engagement and communication with the private sector that is spurred and sustained through the setting up of a mechanism that provides more opportunities for private sector participation.

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<sup>11</sup> Republic Act No. 7394 (1992) or The Consumer Act of The Philippines; and Republic Act No. 8792 (2000) or An Act Providing for the Recognition and Use of Electronic Commercial and Non-Commercial Transactions and Documents, Penalties for Unlawful Use thereof, and for Other Purposes.

<sup>12</sup> Administrative Order No. 01 (Series of 2008) on Rules and Regulations for consumer protection in a transaction covered by the Consumer Act of the Philippines (Republic Act No. 7394) through electronic means under the E-Commerce Act (Republic Act No. 8792).

<sup>13</sup> Submission from the DTI's Consumer Protection and Advocacy Bureau.

The importance of investing more effort in streamlining release and clearance, as well as import and export formalities, was noted. Also highlighted was the need for the publication of dwell times and TRSs; advance rulings; and operationalisation of the AEO programme, including the establishment of mutual recognition agreements (MRAs) for the AEOs. The proposed TradeNet system to replace the PNSW is very promising but must be managed carefully to avoid repeating the failures and difficulties of the PNSW. Strengthening of the institution that manages the PNSW is key to rally other agencies to support it. Assigning TradeNet to the DOF would ensure strong and important institutional support.

The suspension of the green lane selectivity system, which puts into question the application of risk management by the BOC on the shipments entering the country, was also raised as a serious concern. With the suspension of the green lane, shipments are now classified as yellow and red, which may also lead to delays in the release of shipments and, worse, to port congestion. In addition to the suspension of the green lane selectivity system, the increasing issuance of 'alert orders' – where alerted shipments are subject to 100% physical inspection – has also alarmed the private sector. Although the revised CMO indicated that the 'alerted' shipments would be released within 48 hours, the reality of constrained inspection areas at the ports could likely delay further inspection and release of goods from 2 weeks to 1 month.

E-commerce is an important area, but much work still needs to be done – both at the national and regional levels.

To improve the trade facilitation environment, the following are specific recommendations covering the five components.

#### **Transparency and information on laws, regulations, and procedures**

- Strengthen cooperation amongst agencies through committed information sharing, i.e. any new information must be published in a timely manner and provided to the BOC (the primary agency implementing regulations at the border).
- Ensure that links to other agencies' websites, including the PNTR, are updated and working properly.
- Improve the breadth and quality of information continuously, making it more business-friendly (user-friendly), e.g. providing a process flow and a checklist of required documents to guide the users.
- Streamline the regulations, including documentary requirements, especially for products being regulated by multiple agencies.

#### **Communication with and active engagement of the private sector**

- Improve active engagement and communication with the private sector, particularly ensuring formal private sector membership in the NTFC – more than just as a mechanism for undertaking consultation with them.
- Study and consult with other agencies to establish a mechanism whereby the NTFC can provide direction for the consistent application of trade facilitation policies

across agreements/FTAs. Review best practices or institutions established by other countries on the NTFC.

- Operationalise the consultation mechanism of the entire government, strictly taking into account the agency's Citizen's Charters.

#### **Release and clearance formalities**

- Study and adopt best practices, especially those implemented by AEOs and Trusted Traders, which allow early release of goods based on provisional documentation or incomplete manifests.
- Encourage traders to apply for advance rulings, as this would ensure transparency and predictability in making decisions with regard to tariff classification, origin, and valuation, thereby improving the cargo clearance process. Clear and simple procedures, including online application, could encourage usage of this facility. Engage private sector associations and chambers so that their members can avail of the advance rulings facility.
- On risk management, apply inspections based on risk factors and do not inspect 100% of shipments. Consider rationalising the implementation of the 'alert order', as this mechanism causes delays in the cargo clearance process. Implement the green lane selectivity system as part of the risk management tool to facilitate trade.
- Study how to improve the application of risk management principles, taking into account the nature of the agencies and the products being regulated. Risk management of the BOC and other major agencies could be different.
- Work closely with the Philippine Ports Authority and private terminal operators on how to institutionalise regular publication of the average dwell time data.
- Work with the Asian Development Bank and other development partners such as the World Bank, as well as other AMS like Indonesia, to undertake TRSs. Indonesia has been undertaking regular TRSs and it has experts recognised by the World Customs Organization.
- Expedite the process for accession to the Istanbul Convention (adoption of the Admission Temporaire/Temporary Admission (ATA) Carnet). Utilise the work undertaken by the United States Agency for International Development Trade-Related Assistance for Development (TRADE) Project on the ATA Carnet.

#### **Import/Export formalities**

- Intensify the implementation of the CMTA to improve and facilitate the cargo clearance process. Complete the drafting of and implement the relevant CAOs and CMOs.
- Work on the full implementation of the NSW, including clarifying and streamlining business processes of agencies and 'integrating' other single windows system (Department of Agriculture system) into one system.

- Study and cooperate with other AMS which have successfully integrated their NSWs with their national trade repositories.
- Automate the cargo clearance process. Consider joint ventures for the establishment of the ICT system (consider adopting systems of India or the Republic of Korea). Joint ventures would allow the adoption of new applications at a reduced cost.

#### **E-commerce**

- E-commerce focal points and related agencies should coordinate/consult with the BOC and undertake a study on appropriate mechanisms or alternate models for collecting duties and taxes for goods covered in e-commerce trade. Work with e-commerce bodies in ASEAN to expedite work for the establishment of a legal framework and its operationalisation for e-identification and authorisation. Coordinate with the ASW steering committee and related working groups (technical working group and legal working group), which may work in similar or related areas.



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