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# PHILIPPINES

## RATE Country Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project.

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# PHILIPPINES

## Regional Agricultural Trade Environment (RATE) Assessment Country Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise Development and Trade (MARKET) Project

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*On the cover:* Sorting fish in Mindanao
Photo credits: Nathan Associates Inc.

# RATE COUNTRY SUMMARY– THE PHILIPPINES

This country summary sets forth findings from the Regional Agricultural Trade Environment (RATE) assessment conducted in the Philippines in August and early September 2012. In addition to comprehensive desk research, assessors conducted a series of interviews across the country's agriculture sector, including owners of individual and micro enterprise businesses, family and cooperative farmers, associations and nongovernmental organizations (NGOs), market sellers, small, medium, and large companies, including multinationals, and government officials. Interviews and observation took place in Manila, Quezon City, General Santos, Davao City, and Koronadal. In all, the RATE team consulted more than 50 stakeholders in the Philippines.

**What is RATE?**

The Regional Agricultural Trade Environment (RATE) assessment is a tool designed to examine the agricultural trade enabling environments of countries in a particular region, with the objective of identifying a range of legal and institutional reforms that will help the region, and the individual countries, become more efficient in their approach to trade.

In recent years, the international community has committed to a variety of multicountry initiatives that emphasize the collection of benchmark information. Such benchmarks allow participating countries to compare their economic and business environments to others. The accepted use of such benchmarks helps countries identify relative areas of strength and weakness and to track evolution in those rankings over time. Examples include the World Economic Forum's Global Competitiveness reports, the International Finance Corporation's Doing Business reports, and the United States Agency for International Development's (USAID) BizCLIR (Business Climate Legal and Institutional Reform) and AgCLIR (Agribusiness Climate Legal and Institutional Reform) reports.

Building on such initiatives—USAID's BizCLIR and AgCLIR, in particular—the ASEAN RATE inquiry has been conducted for Member States of the Association of Southeast Asian Nations (ASEAN) under the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) project funded by USAID. RATE builds a knowledge base for addressing the priorities of USAID's Feed the Future initiative, which aims to increase investment in agriculture and rural development as both a lever for combating food insecurity and an engine for broader economic growth, prosperity, and stability.

RATE collects certain quantitative and qualitative information across relevant agriculture value chains in ten topical areas critical to trade in agricultural products sector, namely (1) the conditions for enterprise formality; (2) access to finance; (3) infrastructure; (4) intellectual property; (5) competition; (6) nontariff barriers; (7) trade facilitation; (8) gender; (9) transparency and accountability; and (10) food security. Each RATE country assessment, set forth in a separate detailed, country-specific presentation and reported through a series of Country Summaries, benchmarks the national enabling environment for agribusiness and agricultural trade by identifying the private sector priorities, key market constraints, and successful national initiatives in support of agricultural trade in individual ASEAN Member States.

# INTRODUCTION

As of mid-2012, the Philippines was awash in a "steady flow of positive economic news."[1] In addition to sound debt ratings and a well-performing stock market, the country's service sector is growing, thanks in part to robust product outsourcing and business call centers. The Philippines has a relatively young and ethnically diverse population, which, at just over 100 million, is the second largest in ASEAN.

Over 7,100 islands across the Philippines' archipelago fill a land area of nearly 300,000 square kilometers, with arable and permanent crop land at 35 percent of the total area. The Philippines is a heavily urbanized society, and just 11.8 percent of GDP derives from agriculture.. A majority of the 27 percent of the population that lives below the poverty line resides in rural areas. Of these, 75 percent engage in subsistence or tenant farming. The segment of the Philippines' agriculture sector that produces plantation crops is economically much stronger and more secure than the segment that produced subsistence crops, which includes a great many small individual and cooperative farms.

**Figure 1. Representative Statistics Pertaining to Agricultural Trade: The Philippines**

| | |
|---|---|
| Population (2013) | 105.7mn |
| Agriculture as % of GDP (2012) | 11.8 |
| Services as % of GDP (2012) | 57.1 |
| Industry as % of GDP (2012) | 31.1 |
| % of population engaged in agriculture (2012) | 32 |
| Exports (all sectors, 2012) | $46.28bn |
| Imports (all sectors, 2012) | $61.49 bn |
| % of women participating in agriculture sector (2011) | 23 |
| Female/Male literacy rate (%) (2008) | 95.8/95 |
| Female labor participation rate (women over 15, 2011) | 50 |
| Prevalence of under-nourishment -- % of population (2011) | 17 |
| Percent of children underweight (2008, % of children under 5) | 20.7 |
| % of workers informally self-employed or informal wage-earners | Not available |

*SOURCES: CIA Factbook; World Bank*

The current government assumed office in 2010. As a matter of policy, it focuses on family farm sustainability and poverty reduction in value chains that, in its view, are important to food security. The government's interest in the related issues of land reform and food security have led to the highest allocation of budget resources for agriculture being directed to initiatives that promote rice self-sufficiency and family and cooperative farm development. Past programs in these areas have not had the full desired impact, however, because of governance deficits, process and capacity constraints in the legal enabling environment, and weak implementing institutions.

As the Philippines' services sector has boomed, the agriculture sector has stagnated. The country is now a net importer for certain key products. Programs led primarily by the Department of Agriculture still receive heavy funding, but efforts to remove legal and institutional constraints, including promoting an increase in transparency, are underway. More recently, the Department of Trade & Industry and the private sector together started a strategic planning process that involves analyzing value-chain clusters and defining targets and projects to bring smaller producers into the supply chain, increase the value-

[1] N.Y. Times, "A Youthful Populace Helps Make the Philippines an Economic Bright Spot in Asia" (August 27, 2012).

added of agriculture to GDP, and increase trade. Several smaller, innovative programs in crop diversification and infrastructure, such as fish farms and cacao planting as a hedge against banana risk, are also underway.

## TOPICAL SUMMARIES

For each Association of Southeast Asian Nations (ASEAN) Member State surveyed by RATE, assessors asked approximately 150 questions—around 15 per topic—related to the legal framework, implementing institutions, supporting institutions, and social dynamics of each of the ten topics studied by the assessment. This section summarizes the answers to these questions by setting forth the primary issues, opportunities, and challenges associated with each topic.

### The Informal Economy

> When producers, processors, and traders assume the various aspects of enterprise formality, their businesses can grow and their goods can circulate more freely, within and across borders, enhancing food security.

In many countries, rates of informality among enterprises engaged in agricultural production and trade are remarkably high, even among those that reach beyond a household-based structure. For many producers, processors, and traders, registration with national or local authorities often means the beginning of formal tax collection and licensing interventions, while the benefits of following the law are perceived as few. Enterprises typically remain informal because they regard formalization as too costly, too complex, and not worth the effort. As long documented by the World Bank's *Doing Business* initiative, however, persistent, widespread enterprise informality undermines improvements to productivity and quality, access to markets, and economic growth.[2]

In the Philippines, a growing formal economy—characterized by registered companies with licensed functions and activities, lawfully employed workers, registered trademarks, and contractual relationships with their suppliers and clients—coexists with informal enterprises that do business in plain sight. These include unregistered and unlicensed vendors and other businesses, home-based enterprises working on piece rates or selling their goods in informal markets, waste pickers and itinerant recyclers, subsistence farmers, and others. While urban areas increasingly support formal enterprise, informality is the norm in most rural areas.

In Mindanao, NGOs are working to diversify farmers' income streams, particularly with high-value crops (such as specialty coffees) and simple added value, such as branded packaging. A new aquaculture association was formed in Mindanao in 2012 to advocate on policy issues. Farmers and small processors are being taught best business practices, as well as ways to counter the unfair practices of some traders and informal money lenders.

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[2] See World Bank, *Doing Business in 2013* (2012), and accompanying literature at www.DoingBusiness.org.

Nonetheless, the informal farmer and processor are at a distinct disadvantage, especially in regions, such as Mindanao, where the rural community is impoverished, and government suffers deeply from corruption and lack of resources. The Bureau for Fisheries and Aquaculture Resources in the Philippines, as one example, lacks the capacity and staff to meet private sector needs in a timely manner.[3]

***Much of the Philippines' agriculture sector is informal***

According to the World Bank's *Doing Business in 2013*, starting a business in the Philippines takes an average of 16 procedures and 36 days, and costs 18.1 percent of per capita income. The country ranked 161 out of 185 countries surveyed for starting a business, and its process is more complex, longer, and more expensive than most in the region (in ASEAN only Indonesia, at 166, and Cambodia, at 175, rank lower). Nevertheless, as a matter of law and policy, the government supports the transformation of informal businesses and microenterprises into registered businesses that migrate into the value chains of the mainstream economy. To this end, several initiatives are underway:

- The National Economic Research and Business Assistance Center (NERBAC), established by Republic Act No. 7470 (1992) is intended to be a one-stop shop processing paperwork necessary to establish a business, including credit services, and providing basic information on business options related to government investment priorities. Where it has focused its programs, NERBAC has achieved significant results; other areas still experience significant start-up delays. For example, NERBAC was created in 1992 but the office in Tabuk was not set up until 2010. By the 2012, however, that office had reduced business registration times from one day to one hour.[4]
- The Standard Business Registration and Permit Process—a joint initiative of the League of Cities of the Philippines, the Department of the Interior and Local Government, and the Department of Trade and Industry—will implement five reforms: (1) the unified and single business registration application form; (2) strengthen the Business Permits and Licensing Office to coordinate the

[3] *See* USAID/MARKET. Aquaculture Value Chain Assessment." January 2013.

[4] *See*, L. Lopez, *Business assistance center cuts processing time of business registration*, Philippines Information Agency, available at www.pia.gov.ph/news/index.php?article=181328863727 (February 10, 2012).

standard business registration and permit process; (3) one-time assessment for all business registration fees and charges; (4) the one-time payment at the City Treasurer's Office; and (5) the creation of a joint inspection coordination team composed of several licensing offices involved in business registration. The first four of these reforms have been piloted in Mandaluyong, Manila, Marikina, and Quezon City. Other cities have independently introduced reforms inspired by the standard business registration and permit process.

- The Anti-Red Tape Act of 2007 requires local and national government agencies to draft a Citizen's Charter, an official document that describes procedures for obtaining a particular service and the guaranteed performance level that the public may expect.
- In agriculture, the Act Replacing Quantitative Import Restrictions on Agricultural Products (Republic Act No. 8178, 1996) states that the state shall seek to raise farm productivity by providing support services such as irrigation, farm-to-market roads, post-harvest equipment and facilities, credit, research and development, extension services, other market infrastructure, and market information.

Despite significant funding under the Department of Agriculture's budget, these programs suffer from numerous administrative, operational, and process constraints that have limited their effectiveness and ability to deliver quality services to core constituencies in rural areas. In particular, decentralization policies and laws that vest responsibility for administration and expenditures in the municipalities have encountered serious limitations. The local governments, by and large, do not have the expertise, capacity, or transparency necessary to administer the programs effectively. As expressed by one person interviewed for the RATE assessment, "If an elected mayor is a doctor, he is going to build a clinic, even if he lives in an agricultural area that badly needs services, and even if there are already plenty of clinics."

To date, there is no national mechanism to coordinate and correct the inconsistent delivery of support to informal businesses. In agriculture, the structure of the Department of Agriculture exacerbates the problem because its technical experts and other officials are located far from the small farm businesses that need their assistance. A meaningful reporting and monitoring system between the municipalities and the department does not exist. While significant progress has been made in the major cities to streamline the business creation process, those efforts have focused on service sectors, while agricultural business in rural areas remains underserved. Numerous NGOs assist small farm and village cooperatives, but they have not been able to bridge the gap.

## Access to Finance

Producers, processors, and traders seek finance for a variety of purposes: for operations; to bridge the gap between production of goods and receipt of payment for them; for capital purchases, farming equipment or storage facilities; to cover swings in supply and demand

A variety of safe and accessible opportunities to access finance helps producers, processors, and traders cope with supply and demand risks, strengthen their enterprises, and contribute to food market stability.

conditions; or to launch a processing enterprise.[5] In many instances, they are disappointed. The risks involved in lending are often too great for banks and other lenders to assume. These include ambiguous and highly disputed land rights, weak property registration systems, limited forms of collateral, inadequate financial infrastructure, and the particular risks faced in agriculture, such as seasonality and geographic clustering of risk. The risks may also include a weak appreciation of how credit works among those who seek to borrow.

In the Philippines, small farmers and fishers have limited training in financial literacy and limited access to credit. From 2004 to 2009, the annual proportion of agrifishery and forestry loans to total loans granted by banks was at a low average of 2.5 percent. The limited access of small farmers and fisherfolk to credit, despite the reportedly large amount of funds available for lending, is attributed to

- Farmers' lack of a borrowing record
- Lack of knowledge on accessing formal or bank financing, particularly with respect to compiling the required documents
- Lack of acceptable collateral
- Delayed release of loans
- The numerous documentary requirements on which formal lending institutions insist.

Among other constraints, banks have limited their extension of credit to famers and fishers because of their aversion to high-risk and low-income agricultural projects, the high cost of administering small loans, and poor repayment performance of agricultural loans.

The government is trying to revitalize certain lending programs using the umbrella Agro-Industry Modernization Credit Financing Program (AMCFP) created in 2007 under the Agriculture and Fisheries Modernization Act of 1997. AMCFP is designed to make credit more accessible to small farmers and fishers through banks, cooperative rural banks, self-help groups, cooperatives and associations, and NGOs, all of which retail credit from the AMCFP fund. The Credit Information Corporation is charged with receiving and consolidating basic credit data, acting as the central registry or central repository of credit information, and providing access to reliable, standardized information on credit history and financial condition of borrowers.

The Philippine Development Plan (2011-2016) aims to develop and test innovative financing schemes that target farmers and fishers who are not good candidates for AMCFP lending because they lack collateral and credit records. Also, the AMCFP Agri-Fishery Micro Finance Program (AFMP) improves access to financial services for small farm and fishing households to help them diversify income sources and raise the profits of their agricultural or fishing activities. The Department of Agriculture advises on technologies, production costs, and returns on farm/fishing activities to be given assistance, and the Land Bank of the Philippines provides portfolio rediscounting, working capital, and term loans to qualified organizations and institutions.

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[5] *See* USAID/Enabling Agricultural Trade, Agribusiness Commercial Legal and Institutional Reform project, *Lessons from the Field: Getting Credit* (2011).

The Agricultural Credit Policy Council researches innovative financing schemes for small farmers and fishers; such schemes could help ensure a continuous flow of credit in the countryside during the period of adjustment to agricultural and rural finance reform. As recently as 2008, more than 224 banks engaged in microfinance, eight of them oriented to rural microfinance with an outreach of about 819,000 clients and loan portfolio of PhP7.8 billion (US$185 million).

The Department of Agriculture, through the Agricultural Credit Policy Council (ACPC) and other agencies, is required to provide grants for education and training of small farmers on credit awareness, loan acquisition, and loan repayment. The principal mandate of the Philippines Crop Insurance Corporation (PCIC) is to provide insurance protection to farmers against losses of crops, machinery and equipment, transport facilities, and other related infrastructure arising from natural calamities, pest and diseases, and other perils beyond their control. These credit programs have not had the impact as intended, mainly due to the concentration of Department of Agriculture personnel in cities and regional centers, rather than in smaller cities or more rural areas where beneficiaries with the highest needs live.

## Infrastructure

A nation's success in agricultural trade, whether domestically or in regional or international markets, is generally only as good as the ability of its producers to get their products to the next stop on the value chain—that is, to local markets, distributors, and processors, as well as to storage facilities, warehouses, and ports. Producers and processors also need access to inputs that are transported over long distances, including seed, feed, fertilizer, and equipment. To support commerce that extends beyond the farm gate, states must invest in and maintain a supporting infrastructure that incorporates transport, water, power supplies, and telecommunications.

> Strong markets for agricultural products need public facilities that support production, processing, and trade, such as roads, rail, ports, wholesale markets, storage facilities, and access to communications and information.

The government recognizes that institutional coordination, regulation, and oversight of transport policies and plans are weak. The Philippine Development Plan (2011-2016) calls for a national transport plan that restructures governing authorities, preserves infrastructure, and makes transport reliably accessible between production and agricultural areas and markets and population centers. Under the plan, the government will examine how transport sector institutions can be made more efficient and accountable for their decisions. This entails separating operation and regulatory functions of transport agencies and the port, rail, and air transport organizations. In rural areas especially, transport investment decisions are often made without considering how projects can be implemented. Many roads are half way built, poorly maintained if at all, and road-siting decisions do not consider the transport needs of the farm businesses the roads are intended to connect. Shipping costs between Manila and the provinces are high due to inefficient container processing and a lack of competition[6] between shippers, of which there are five that control 91% of the shipping routes in the Philippines.[7]

At least 30 agencies are involved in the Philippines' water sector, with specific but often overlapping or conflicting mandates for water supply, irrigation, flood management, pollution control, watershed management, financing, policy formulation and coordination, among others. This situation hinders water use and management coordination and project implementation. In 2009, irrigated agriculture comprised about 1.54 million hectares of land or about 49 percent of the estimated irrigable area of 3.126 million hectares. About 765,000 hectares are served by national irrigation systems, while communal irrigation systems and private irrigation systems serve around 558,000 and 217,000 hectares, respectively. From 1983 to 2009, the National Irrigation Authority spent about PhP119 billion (US$2.8 billion) on irrigation, but fewer than half of the potential productive areas have been irrigated. Weak coordination between the Authority and local irrigation associations responsible for operation and maintenance is partly to blame. In addition, there is no incentive to conserve irrigation water, although subsidy payments that hide the true cost are made on a per-hectare basis regardless of the actual water consumption needs of the crops. The government's Strategic Plan recognizes these issues and calls for building new small-scale irrigation


***District governments take seriously the responsibility of overseeing local wholesale markets.***

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[6] *See* USAID/MARKET. Aquaculture Value Chain Assessment." January 2013.

[7] Aldaba, Rafaelita M. Assessing Competition in Philippine Markets. Philippine Institute for Development Studies Discussion Paper Series No. 2008-23 (2008).

systems, supported by a National Irrigation Management Fund, a Communal Irrigation Management Fund, and a Patubigayan Fund, separate from NIA funding, and intended to support operations and maintenance.

The delayed and incomplete implementation of Comprehensive Agrarian Reform Program (CARP), was initially created by the passage of the Comprehensive Agrarian Reform Law of 1988. The CARP is scheduled to expire by 2014 (but will most likely be extended), has resulted in underinvestment in infrastructure in rural areas and the agriculture sector. On one hand, landowners are reluctant to invest while their farms are undergoing acquisition processing. On the other hand, support services to beneficiaries holding lands that have been awarded are insufficient to improve productivity. In addition, prime agricultural lands are routinely converted to residential, commercial, and institutional uses. This suggests a need for a national land use policy that will rationalize the optimal allocation of land among competing uses. The Philippine Development Plan (2011-2016) calls for the passage of a National Land Use Law to provide legal and other mechanisms for the optimum allocation of land among competing uses.

The Philippines has many warehouse regimes to serve the international trader. These include more than 100 common-bonded warehouses that store imported materials for transfer to a manufacturer who produces an export product. Facilities maintained by the Customs Bonded Warehouse Operators Federation Inc. (CBWOCI) handle 60 percent of the volume of warehoused goods nationwide, and serve small and medium enterprises (SMEs) that cannot afford to manufacture in special economic zones. Smaller enterprises and individual farmers in rural areas have far less access to storage, and fishermen face a limited supply of cold storage.

The Philippine Development Plan states that it will pursue a private-public partnership (PPP) approach to meet infrastructure needs. The government is revising the law pertaining to the financing, construction, operation, and maintenance of infrastructure projects by the private sector to better leverage private resources for the financing, construction, operation, maintenance, and rehabilitation of major infrastructure in high-priority areas, such as transportation, power and water.

## Intellectual Property Rights

Intellectual property (IP) is increasingly viewed as a key factor in development. Intellectual property is a branch of law that protects intangible property such as inventions, new plant varieties, geographical indications, and trademarks and protects against dishonest business practices. An effective IP system makes markets more predictable and reduces the risk of investment. This predictability benefits local producers and better positions a country to attract foreign investment, as international investors give substantial weight to IP protection in their decisions on where to locate their business investments.

> Investment in a vibrant food economy is enhanced by systems supporting the recognition and protection of new plant varieties, and of patents, trademarks, and copyrights used in connection with equipment, products, and services.

The Philippines's comprehensive IP law was enacted in 1997 to conform to the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Amendments to the patent law preclude the issuance of patents on certain chemical forms unless the applicant demonstrates increased efficacy, a measure that appears to violate WTO prohibitions against discrimination based on field of technology. Other laws have been enacted to address specific issues and further strengthen the IP system.

The IP law offers 25 years of protection from the date of grant for new varieties of trees and vines and 20 years of protection for all other types of plants. Trademarks are protected for 10 years and may be renewed for periods of 10 years each. The Bureau of Trademarks searches and examines mark registration applications. The law also specifies the right of foreign corporations to file civil suits to enforce their trademarks in the Philippines.

Under the Plant Variety Act of 2002, the National Variety Protection Board grants Certificates of Plant Variety Protection to breeders that serve as prima facie evidence of plant variety ownership. The estimated amount of time for the Bureau of Plant Industry to issue a Certificate for Plant Variety protection to plant breeders is 28 months from the original submission of the application. The Department of Agriculture's stated policy is to encourage technological innovation among its offices and personnel and to make DA-owned technologies available for public use.

The Intellectual Property Office of the Philippines administers and implements the country's IP laws. IP Philippines is mandated to coordinate with other government agencies and the private sector to strengthen IP protection. The Customs Bureau enforces IP at the border and it maintains a registry books for trademarks, patents and copyrights where copies of registered trademarks, patents and copyrights may be filed so that can be used by the Bureau of Customs for inspection and enforcement. Nevertheless, enforcement remains an issue in the Philippines, with widespread availability of pirated and counterfeit goods and increasing internet-based piracy and rampant cable signal piracy. In 2011, the Philippine government announced new rules to expedite and improve the disposition of intellectual property cases in the courts.


***Recycling agricultural input packaging, this woman has built a good business in Davao but does not yet have a trademark.***

## Competition

Competition is at the heart of any successful market economy. True competition promotes economic efficiency, consumer choice and welfare, and overall economic growth and development. Competition forces companies to work as efficiently as possible and offer the most attractive array of price and quality options in response to consumer demand, rather than conspiring as cartels to fix prices or to block other companies' entry into the market.

> Competition compels producers, processors, and traders to be more efficient and innovative and to offer the most attractive array of price and quality options in response to consumer demand.

While the Philippines' Constitution provides for the state to regulate or prohibit monopolies when the public interest so requires and disallows combinations in restraint of trade, a general competition law and a specialized agency to enforce it do not exist. Over the years, efforts to enact a competition law have failed in Congress. A new effort, begun in 2012 and supported by the Department of Justice, is pending. The reluctance of the Philippines to embrace legal reforms that would alter its culture of competition was explained in a report sponsored by USAID in 2007:

> It is said that the Philippines economy is dominated by an oligarchy of a few dozen families … The top 5.5 percent of land-holding families own 44 percent of all tillable land, and the richest 15 percent of all families control 52.5 percent of the national income. Vestiges of this hold over wealth are visible in monopolies and oligopolies in such agricultural products as rice and flour, and other basic products such as cement, iron and steel, fertilizer, pulp and paper, tobacco, tire manufacture, cable television and production of home appliances.[8]

There is some indication that the current government means to take antitrust more seriously than previous regimes. In 2011, the government used an Executive Order to designate the Department of Justice as the Competition Authority and gave it enforcement responsibilities to prevent, restrain and punish monopolization, cartels and combinations in restraint of trade. Shortly after the office was created, Justice Secretary Leila de Lima stated, "… up to today, we have yet to come up with a national competition framework and policy, to define and implement a plan of action to push …


***Competition in aquaculture is growing, but anticompetitive activity among input providers and processors remains a problem.***

[8] See USAID/Southeast Asia Commercial Legal and Institutional Reform (SEACLIR) – Philippines (Competition Law chapter, 2007).

our national economic interest."[9] In the first five months since its creation the new office has opened five separate investigations involving monopoly abuse, bid rigging, and restraint of trade.

Vague competition principles appear in the Civil Code, where "unfair competition" in agricultural, commercial, or industrial enterprises or by any unjust method gives rise only to a private right of action. The Consumer Act imposes penalties for deceptive, unfair, and unconscionable sales practices in both goods and credit transactions and the violation of product quality and safety standards. And, the Penal Code imposes penalties on acts of monopolization and combinations in restraint of trade, but does not define the terms.

***Fish sorting, grading, processing, inspections, and Customs paperwork all take place at one government-built facility in Mindanao.***

Supply chains across all sectors of the Philippines' economy, including agriculture, are characterized by regulatory capture. Regulatory capture occurs when a state regulatory agency, created to act in the public interest, instead advances the commercial or special interests that dominate the industry or sector it is charged with regulating.[10]

Additionally, entrenched systems and vested interests have led to territorial allocations and division of markets, all of which have an anticompetitive and negative impact on consumer welfare. A system of price stabilization has been used in place of competition law to prevent the negative impact of market concentration from falling on consumers. The Price Act prohibits gouging and "stabilizes" prices of agricultural commodities deemed to be "basic necessities" (rice, corn, bread, fresh, dried and canned fish and other marine products, fresh pork, beef and poultry meal, fresh eggs and milk, fresh vegetables, root crops, coffee, sugar, cooking oil, and salt). But producers are caught in the middle. One interviewee opined that a major reason that certain domestically produced commodities cost so much more than competing imports is the high prices to producers resulting from concentration in relevant markets for key inputs and transport services.

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[9] Abigail L. Ho, As competition watchdog, DoJ means business—De Lima: Agency pushes bill in Congress, Philippine Daily Inquirer (October 14, 2011).

[10] See, e.g., U.S. Department of State, USG-GPH Partnership For Growth, Philippines Constraints Analysis (June 2011) and L. V. Cariño, Regulatory Governance in the Philippines: Lessons for Policy and Institutional Reform, Paper presented at the International Workshop of the Centre for Regulation and Competition, University of Manchester, UK (2005).

The new DoJ office faces a number of challenges in performing its mandate, including a weak legal framework, lack of capacity, few industry studies mapping the state of competition, and the absence of strong lobbying for antitrust by consumer groups. In agriculture, the Department of Agriculture and the crop-specific authorities sponsor a number of price and marketing information programs for producers of key commodities such as rice, corn, coconut, and “high-value crops.” During the RATE assessment, one major buyer of coconut stressed the importance of market information to the equalization of bargaining power between producers and middlemen crop buyers.

## Nontariff Barriers

> Markets function more efficiently when trade is managed through transparent tariffs and legitimate health and safety measures, rather than via more opaque quotas, licenses, and other barriers.

Although the formal definition of what constitutes a “nontariff barrier” (NTB) varies according to the source, NTBs are generally viewed as government-imposed or government-sponsored measures—other than tariffs—that are used to protect a domestic industry from international competition. A great many measures can be interpreted as an NTB, ranging from restrictions on food imports due to food safety considerations, to business licensing requirements that are especially difficult for outsiders to fulfill, to outright quotas. For the purposes of agricultural trade, NTBs may include import restrictions on inputs, sanitary and phytosanitary (SPS) regulations, animal and plant health standards, food safety standards, business licensing procedures, labeling and packaging requirements, and constraints on trade in services. Some of these are sanctioned by the world trade community through agreements, while others can be challenged by trade partners as restrictive of trade.

The major source of nontariff barriers in the Philippines is regulatory and administrative delay. Local government-run testing laboratories are overburdened, lack resources, and frequently experience delays.

***Agricultural and food products.*** Bulk agricultural product shipments must be accompanied by a corresponding export/sanitary certificate from the inspection agency in the exporting country. Meat and food imports from countries where the meat and food processing plants have been inspected by authorities that are certified by the DA will be permitted, based on reciprocal certification of testing laboratories. Processed food and beverage products must be registered with the Bureau of Food and Drug before being sold commercially in the Philippine market. Generally, food regulations are based on guidelines of the Codex Alimentarius Commission.

Philippines has been an early adopter of genetically modified (GM) crops – as of 2013, it is the only country in Asia to approve and grow a major GM crop – GM maize. According to the USDA, there are 375,000 Philippine farmers cultivating GM maize, and Philippines has a strong network of researchers and scientists investigating and developing GM crops. However, there is some pushback against GM crops; in May 2013, the Philippines Court of Appeals banned further testing of a GM eggplant, and protestors burned 1,000 acres of test fields of GM rice in April 2013.

***Chemicals.*** The Toxic Substances and Hazardous and Nuclear Wastes Control Act (Republic Act 6969, 1990) requires notification by way of a technical data package to the Department of the Environment and Natural Resources (DENR) for chemicals not included in the country chemical database or the Philippine Inventory of Chemicals and Chemical Substances (PICCS). While the DENR considers PICCS to be complete, there are still omissions and errors that results in costly and time-consuming notification for chemicals that have been legally on the market for many years. Similarly, certain hazardous substances such as arsenic compounds are subject to Chemical Control Orders issued by the DENR.

***Animals.*** The Philippines is a signatory to CITES, the convention protecting endangered species and limiting trading in the products derived from them. Imports of traditional food and pet animals that include bovine, porcine, poultry, equine, ratites, and other domesticated ruminants, require a Veterinary Quarantine Clearance from the Bureau of Animal Industry.

There are numerous firms to assist exporters and importers with permits, clearance, and other trade-related services. Most farmers and fisherfolk use middlemen to get their crops to market, and consequently do not consume these services in high volumes.

## Trade Facilitation

Prudent and effective international trade facilitation requires the provision of high-quality, transparent government services at the border, including predictable and consistent procedures by customs agencies, health and agriculture inspectors, immigration agencies, and others. Governments throughout the world increasingly recognize that capable and responsible trade-related operations, including fast and efficient clearance processes at the border, are a prerequisite for development. Because of its high perishability, food especially requires efficient trade regimes and border crossings. Food security is enhanced when cross-border flows of products are "facilitated" to minimize time spent by food-related cargo in trade, thus reducing both physical losses and costs.

> The volume and efficiency of markets improve when procedures and controls governing the movement of goods across borders are transparent, accessible, and consistently administered by customs agencies and other key border agencies, including port authorities, health agencies, quarantine services, and immigration.

The Tariff and Customs Code of the Philippines dates to 1937 and was consolidated and recodified in 1978. It has been updated and amended since 1978 on numerous occasions. The Philippines participates in the ASEAN Single Window framework to enable importers and exporters to interact with the 40 government bodies involved in the issuance of import and export licenses, permits, and clearances.

The Bureau of Customs (BOC) is the lead agency for trade facilitation. In 1993, the Philippine Congress adopted Republic Act No. 765, An Act to Revitalize and Strengthen the Bureau of Customs, which further clarified the BOC's mandate. In the late 1990s, the BOC undertook a round of modernization that included

- Adopting and implementing ASYCUDA and computerizing the end-to-end import process from the manifest, lodgment, assessment of duties and taxes, risk assessment and selectivity, payment, and online release, involving only the processing of a single administrative document.
- Physical modernization and improvement of customs facilities.
- Introduction of risk analysis and threat assessment procedures in place of 100 percent inspections.
- Institution of paperless, cashless, and no-queue clearance procedures.

- Partnerships with business associations, such as the Philippine Chamber of Commerce and Industry, in customs processing.
- Establishment of a management information system and Technology Group.

Although the BOC is empowered to implement trade facilitation measures efficiently in compliance with international best practice, reports of corruption and other irregularities persist. These include undue and costly delays, irregularities in valuation (e.g., use of reference prices rather than declared transaction values), 100 percent inspection rates and testing of some products despite no-queue eligibility, and officials who seek payment of unrecorded facilitation fees. In addition, technical smuggling (e.g., import under-reporting, shipment mislabeling, free zone violations, etc.) reportedly causes approximately US$40 billion in lost state revenue per year. In the fisheries sector, cumbersome and time-consuming export documentation requirements hinder the trade in fish, and a new environment development levy for fish exporters (0.02 percent of raw material cost), is making the sector more uncompetitive.[11]

Some exporters report, for instance, that Customs does not recognize their established prices and instead applies a higher dutiable value based on information from unspecified sources. During the RATE assessment, one customs broker stated that her company is asked by inspectors to pay "overtime" fees on almost every shipment. Another importer reported extraordinary delays and, in one instance, the falsification by an inspector of container weights to extract a facilitation fee.

## Gender

Strengthening educational and economic opportunities for women can lead to more robust and equitable economic growth.

As underscored by USAID's 2012 Gender Equality Policy, gender equality and female empowerment are "fundamental to the realization of human rights and key to effective and sustainable development outcomes. Although many gender gaps have narrowed over the past two decades, substantial inequalities remain across every development priority worldwide—from political participation to economic inclusion—and remain a significant challenge across all sectors in which USAID works, particularly in low-income and conflict-affected countries and among disadvantaged groups."

In the Philippines, women play an unusually vibrant role in nearly all segments of government, society and the economy, including in agriculture. The OECD ranked Philippines 11 out of 86 countries surveyed in its 2012 Social Institutions and Gender Index (SIGI), which examines discriminatory social institutions, including early marriage, inheritance practices, violence against women, son preference, restricted access to public space, and restricted access to land and credit. The lower the score, the higher the level of equality is between women and men. By comparison, the other ASEAN countries surveyed ranked as follows: Cambodia—12; Thailand—25; Indonesia—32; Vietnam—42.[12] The World Economic Forum's Global Gender Gap Report ranked Philippines 8 out of 135 surveyed in 2012, meaning that the

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[11] *See* USAID/MARKET. "Aquaculture Value Chain Assessment." January 2013.

[12] Organization for Economic Cooperation & Development, Social Institutions and Gender Index (2012).

country is closer to genuine equality in women's political and economic participation and access to education and healthcare than most other countries in the world.[13]

Still, there appears to be a "glass ceiling" in the largest agricultural industry conglomerates. Another major exception to the inclusiveness of women in the agriculture sector in the Philippines is found in minority communities and more rural, poorer areas, as well as in the largest longstanding agriculture industry businesses.

As a general matter, the 1987 Constitution, the Civil Code, the Labor Code, and the Indigenous Peoples Rights Act of 1997 all protect the rights and equality of women. The Indigenous Peoples Rights Act guarantees gender equality and the human rights of indigenous women and participation of indigenous women in decision-making processes at all levels. The 1995-2025 Philippine Plan for Gender-responsive Development is a 30-year framework for pursuing full equality and empowerment of women. The plan foresees that all government entities at all levels implement the Plan in their performance, commitment and financial plans. The chapters on agrarian reform, agriculture, indigenous people, and environment and natural resources explicitly recognize the role of rural women in the development process.

***Government extension services personnel at the fish port in Mindanao.***

The Comprehensive Agrarian Reform Law (CARL) of 1988, amended in 1995, states that "all qualified women members of the agricultural labor force must be guaranteed and assured equal rights to ownership of land, equal share of farm's produce and representation in advisory or appropriate decision making

[13] World Economic Forum, The Global Gender Gap Report (2012).

bodies." Sex discrimination with respect to terms and conditions of employment is prohibited and considered a criminal offence. It is also unlawful for an employer to:

> require as a condition of employment or continuation of employment that a woman employee shall remain married, or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.

In land ownership, the rights of both spouses to own land is protected by an administrative order that requires the issuance of Emancipation Patents or Certificates of Land Ownership Award (EP/CLOA) in the name of both spouses. The order also provides for the integration of a gender responsive reporting system in the reporting for land acquisition and distribution and in the computerized information system of the Department of Agriculture. An order of the environment and natural resources department grants women, regardless of civil status, equal rights to men to apply for the purchases or lease of public lands.

In semi-autonomous minority areas where the Code of Muslim Personal Laws of 1977 prevails, wives need the consent of their husbands to use land and to acquire property during marriage. Muslim women inherit half of the share inherited by men in the same succession position. In some Muslim groups, women's mobility outside the home is constrained, thereby limiting their access to gainful occupation, including trade.

In the area of access to credit, while legally Filipino women have equal access to bank loans the Social Institutions and Gender Index reports that discriminatory attitudes inhibit women's financial independence. Having the greater share of property ownership, men are better able to provide collateral for larger loans, whereas women's access to credit is limited to smaller amounts. Though women have the legal right to independently enter into contracts and loans, many financial institutions still demand that the male partner co-sign any financial contracts. In 2001, the Department of Trade and Industry reported that a program started in 1995 to help Filipino women to own, operate, and manage small business enterprises had aided about 4,000 women nationwide. However, in 2008, JICA reported that compared to men access to formal credit for women is low and they often have to turn to borrowing from private money lenders.

## Transparency and Accountability

In the absence of transparency and accountability, corruption ensues. When discussed in terms of governance, the term "transparency" pertains to the free and full availability of critical information to the public. "Accountability" refers to the authority which citizens confer to those they elect to govern on their behalf, such that it is always limited, provisional, temporary, and subject to recall through regular elections or other arrangements. In the popular definition long espoused by Transparency International (TI), corruption is "the abuse of entrusted power for private gain." As TI has long maintained, corruption hurts everyone who depends on the integrity of people in a position of authority. Thus, issues of transparency, accountability, and corruption are relevant in all sectors of an economy, including within public and private institutions involved in the agriculture sector.

> Transparency and accountability in all aspects of agricultural trade–including production, processing and trade–facilitate increases in regional and international cooperation and trade.

Failures of transparency and accountability have plagued the agriculture sector in the Philippines. During the RATE assessment, corruption was among the most discussed topic among persons interviewed. The

UN's Public Administration Country Profile for the Philippines (2004) rated it 92 out of 133 countries in the 2003 Corruption Perceptions Index. As of 2012, Transparency International gave the Philippines a Corruption Perceptions Index score of 34 out of 100, which placed it 105 out of 176 countries included in the survey. This is a marked *improvement* from 2008, when the Philippines ranked 141 out of 180, the same as Belarus and Bangladesh. Until quite recently, efforts to address an entrenched system of patronage, nepotism, and rent-seeking that undermined most major government agriculture programs and the bureaucracy that administers them have failed.

The Good Governance and Anticorruption Plan is perhaps the most important initiative adopted by the current Philippines government. The plan creates a cabinet cluster on good governance and anticorruption (GGAC) that operates in tandem with the domestic open government partnership process with input from civil society networks, business associations, and donor partners. Its mission is to institutionalize "open, transparent, accountable, and participatory governance" by curbing corruption, improving public services delivery, and enhancing the business and economic environment.

The key legal measures proposed to implement the program are still pending. The People's Participation in Budget Deliberations Act has been pending since 2010; the Whistleblower Protection, Security and Benefit Act has been pending since 2011; and separate bills to create the first national Freedom of Information Law and a National Independent Commission against Corruption have both been pending since January 2012. At the cabinet level, the budget process is being used to leverage efforts to improve the transparency and accountability practices of executive branch agencies. RATE interviewees offered uniformly positive comments on these efforts but opined that the agriculture sector would be the most intractable to reform. For example, the Department of Agriculture has yet to receive approval from the Department of Management and Budget of its plan for restructuring itself in line with the National Budget transparency provisions.

The legal framework includes the Anti-Graft and Corrupt Practices Act of 1960, which prohibits giving financial and nonfinancial gifts to public officials, their relatives, or members of Congress and requires public officials to submit a summary of assets annually. A companion Presidential Decree from 1975 grants immunity from prosecution to people who bribe if they testify against public officials. The Corporation Code of 1980 addresses potential conflicts of interest between shareholders and management and the Securities Regulation Code of 2000 contains strong sanctions against fraud, manipulation, and insider trading of securities.

While the laws are relatively strong, enforcement is weak. In 2010, Global Integrity reported on a culture of silence in the supreme audit institution with whistleblowers risking ostracism or physical harm and stated the agency does not have the resources or capacity to fulfill its remit. And, while the judiciary is independent under the Constitution, judges and lawyers often depend on local government for basic resources and salaries and judicial appointments are subject to political influence.

Transparency and accountability are defining issues for the future of the agricultural economy of the Philippines because the lack thereof directly hinders efforts to identify and remove the enabling environment constraints. The key question for the Philippines is whether the current programs for good governance will succeed.

## Food Security

Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet food preferences and dietary needs for active and healthy lives.

Chapter 4 of the Philippine Development Plan (2011-2016) sets forth the strategic framework for a sustainable agriculture and fisheries sector. Goal 1 of this framework is to improve food security, defined to be "when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life." To achieve food security, the plan aims to raise productivity of agriculture and fishery-based households and enterprises, by diversifying production, improving rural infrastructure and facilities, developing markets, strengthening extension services, ensuring the sector's credit access, and securing food availability and access. The Department of Agriculture also released a Philippine Food Staples Self-sufficiency Roadmap 2011-2016, with a target to achieve rice self-sufficiency for the country by 2013 and maintain it through 2016. Both of these documents are available on government websites. Much of the emphasis is on rice stocks, and less attention is paid to the reduction of the malnutrition rates in the Philippines, particularly for children and expectant mothers, which are high, but average for ASEAN Member States.

**Figure 2. Philippines' Major Agricultural Exports to ASEAN Member States, plus Exports of Key Inputs, 2001-2011 (US$ millions)**

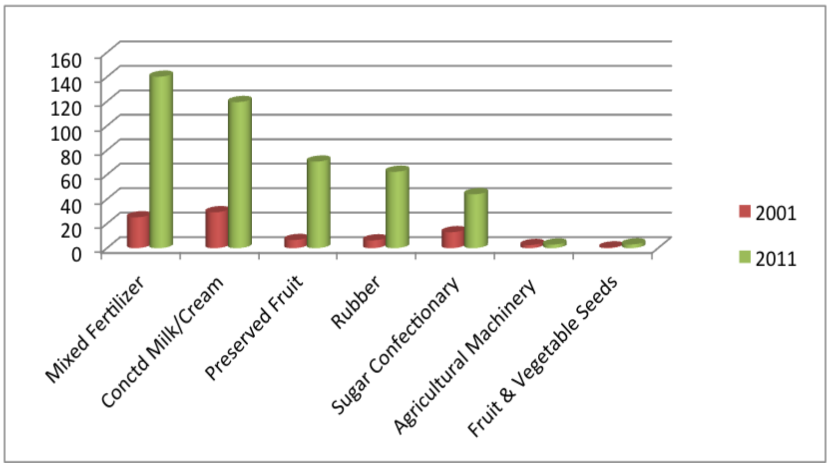
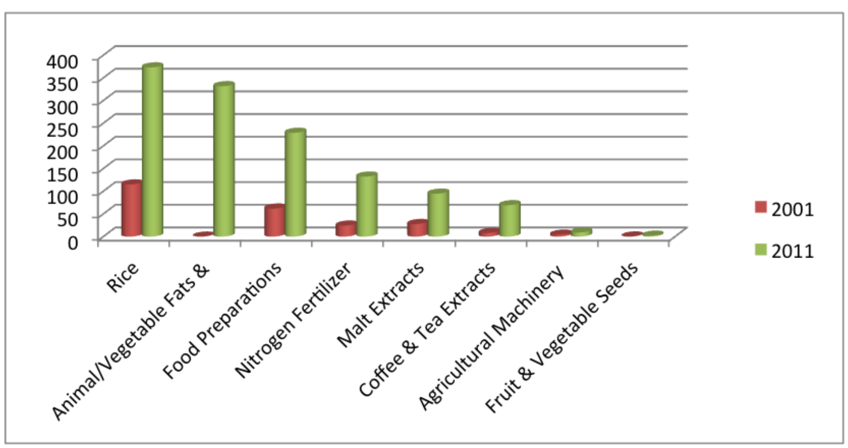



**Figure 3. Philippines' Major Agricultural Imports from ASEAN Member States, plus Imports of Key Inputs, 2001-2011(US$ millions)**




The Philippines exempts rice as a staple from its WTO commitments and continues to maintain tariff rate quota restrictions on rice through the National Food Authority (NFA), a state-owned agency. NFA is responsible for stabilizing rice prices and supply at the producer and consumer level, and ensuring food security. The monopoly power of the NFA and its tight implementation of the quota restrictions have kept farm-gate prices high and therefore consumer rice prices. This has contributed to policymakers' over-reliance on price intervention instruments rather than productivity increases to support farmers' incomes and ensure food security.

The NFA tries to ensure that farm-gate prices are high enough for farmers to gain reasonable returns, retail prices remain affordable to consumers, and rice distribution is restored quickly in calamity-stricken areas. Following its mandate, the NFA engages in procurement and distribution, setting a procurement price for rice paddy while subsidizing retail price of milled rice. It also maintains a food security reserve, with rice stocks kept at levels equivalent to 15 days of consumption year-round. Figures 3 and 4 summarize data on the Philippines' major agricultural exports and imports.

The Philippine Development Plan (2011-2016) sets a goal of rationalizing the agricultural bureaucracy through efficient and effective convergence and complementation of agriculture, agrarian reform, and natural resource service agencies and related offices by taking measures to sort out institutional overlaps. The proposed legislation will rationalize and strengthen the provision of extension services towards improving national, local and private sector capacity.

***Philippines produce is abundant and available in local markets.***

The food security program has been adjusted recently lessen some of its negative effects. For example, NFA's purchases of imported rice will now be handled through an auction system designed to result in market pricing. In addition, because high costs and the lack of access to credit are principal causes of high prices for domestically produced staple crops, the Comprehensive Agrarian Reform Program is trying to increase access to affordable credit and help transform agrarian reform beneficiaries into viable entrepreneurs.

# CONCLUSION

The Philippines is the 40th largest economy in the world. Business support services and outsourcing dominate the economy and the industrial sector is responsible for most export earnings, thanks to processing and assembly of electronics and other high-tech components. Agriculture's contribution to GDP is smaller than these two industries, but it has grown in the last several years. From a development perspective, trade in agriculture and food security remain critically important to the economy. This is because most poor and low-income citizens work in the agriculture sector and live in rural areas.

Agriculture has been plagued by intractable constraints rooted largely in sectoral weakness and dysfunction, an absence of strategic planning focused on comparative advantages in the sector, and a lack of transparency and accountability. To removed these constraints the government has started ambitious initiatives: cross-governmental competitiveness-based strategic planning led by the Department of Trade and Industry, a Cabinet-led effort to instill transparency and accountability across all government departments, a proposal to introduce an antitrust law and enforcement regime, and reforms affecting credit, infrastructure investment, farmer training and education, and other programs administered by the Department of Agriculture. Whether the Philippines will take full advantage of the opportunities available to it under ASEAN Free Trade Agreement when it takes effect in 2015 depends on the success of these and similar reform initiatives.

If it strives to achieve competitiveness in agriculture markets where it has a comparative advantage, the Philippines could play an important role in advancing ASEAN's food security and trade objectives, especially through subregional initiatives for market integration and increased trade. Strategic planning for public investments and policy initiatives based on the private sector's view of its own productivity, demand for products, and regulatory needs could expedite growth in the agriculture sector.