First American Chamber of Commerce Abroad

Technical Report

INVESTMENT CLIMATE IMPROVEMENT PROJECT (ICIP) Final Report for March 2006-February 2007

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EMERGE
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Preface

This report is the result of technical assistance provided by the Economic Modernization through Efficient Reforms and Governance Enhancement (EMERGE) Activity, under contract with the CARANA Corporation, Nathan Associates Inc. and The Peoples Group (TRG) to the United States Agency for International Development, Manila, Philippines (USAID/Philippines) (Contract No. AFP-I-00-03-00020-00 Delivery Order 800). The EMERGE Activity is intended to contribute towards the Government of the Republic of the Philippines (GRP) Medium Term Philippine Development Plan (MTPDP) and USAID/Philippines' Strategic Objective 2, "Investment Climate Less Constrained by Corruption and Poor Governance." The purpose of the activity is to provide technical assistance to support economic policy reforms that will cause sustainable economic growth and enhance the competitiveness of the Philippine economy by augmenting the efforts of Philippine pro-reform partners and stakeholders.

The American Chamber of Commerce in the Philippines (AmCham) submitted an unsolicited proposal to EMERGE on January 25, 2006, for a grant to set up a mechanism to identify and communicate to the Philippine Government activities that will generate additional investments and jobs in the country. It was called the Investment Climate Improvement Project (ICIP), and the key actors were Mr. Robert M. Sears, AmCham Executive Director, Mr. John D. Forbes, AmCham Legislative Committee Chairman, and Mr. Robert W. Blume, AmCham Desk Officer at the Philippine Board of Investments (BOI). Mr. Richard Umali was added to the team as a Project Assistant. EMERGE subsequently hired Mr. Arlan Z. I. Brucal to help AmCham edit this and draft other summary reports.

Because of their cumulative size, most of the appendices to this report are published in separate volumes:
Appendix 7: Workshop on Anti-Red Tape & Corruption, August 23, 2006;
Appendix 9: Workshop on Foreign Direct Investment, October 5, 2006;
Appendix 10: Workshop on Infrastructure, February 2, 2007;
Appendices 16-42: Economic Law & Policy-related Letters;
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Selected Press Clippings

THE AMERICAN CHAMBER OF COMMERCE OF THE PHILIPPINES, INC.

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First American Chamber of Commerce Abroad

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ABBREVIATIONS

ACM	Automated Counting Machines
ADB	Asian Development Bank
AEV	Aboitiz Equity Ventures
AFP	Agence France Press
AFP	Armed Forces of the Philippines
AFTA	ASEAN Free Trade Area
AI	Amnesty International
AIM	Asian Institute of Management
AmCham	American Chamber of Commerce of the Philippines
Amdesk	American Desk at the BOI
AMLA	Anti-Money Laundering Act
AMLC	Anti-Money Laundering Council
ANZCHAM	Australian-New Zealand Chamber of Commerce
AO	Administrative Order
APCAC	Asia Pacific Council of American Chambers
APEC	Asia-Pacific Economic Cooperation
APMI	Australian Philippines Mining, Inc.
ARMM	Autonomous Region in Muslim Mindanao
ARTTF	Anti-Red Tape Task Force
ASEAN	Association of Southeast Asian Nations
ASEP	Association of Structural Engineers of the Philippines
ASG	Abu Sayyaf Group
AWSJ	Asian Wall Street Journal
BAC	Bids and Awards Committee
BAC	Business Advisory Council
BATMAN	Batangas to Manila Gas Pipeline
BCC	British Chamber of Commerce of the Philippines
BCDA	Bases Conversion Development Authority
BFAD	Bureau of Food and Drugs
BI	Bureau of Immigration
BIR	Bureau of Internal Revenue
BM	Business Mirror
BNPP	Bataan Nuclear Power Plant
BOC	Bureau of Customs
BOI	Board of Investment
BOT	Build-Operate-Transfer
BPAP	Business Processing Association of the Philippines
BPO	Business Process Outsourcing
BSP	Bangko Sentral Ng Pilipinas
BW	BusinessWorld
CAB	Civil Aeronautics Board
CALABARZON	Cavite, Laguna, Batangas, Rizal, Quezon
CAMPI	Chamber of Automotive Manufacturers of the Philippines, Inc.
CANCHAM	Canadian Chamber Of Commerce of the Philippines
CBCP	Catholic Bishops' Conference of the Philippines
CCAP	Contact Center Association of the Philippines

CDC	Clark Development Corporation
CELC	Computerized English Language Center
CHED	Commission on Higher Education
CIAC	Clark International Airport Corporation
CICT	Commission on Information and Communications Technology
CIIF	Coconut Industry Investment Fund
CIPC	Cebu Investments Promotion Center
CME	Coco-Methyl Ester
COC NYC	Phil-American Chamber of Commerce - New York
COMELEC	Commission on Elections
COPW	Consumer and Oil Price Watch
COS	Chief of Staff
CPBD	Congressional Planning and Budget Department
CPP	Communist Party of the Philippines
CPSD	Consolidated Public Sector Deficit
CRA	Corporate Recovery Act
CSR	Corporate Social Responsibility
CTS	Continuous Trial System
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DBM	Department of Budget and Management
DBP	Development Bank of the Philippines
DENR	Department of Environment and Natural Resources
DEPED	Department of Education
DG	Director General
DICT	Department of Information and Communications Technology
DILG	Department of Interior and Local Government
DLSU-AKI	De La Salle University-Angelo King Institute
DMIA	Diosdado Macapagal International Airport
DND	Department of National Defense
DOE	Department of Energy
DOF	Department of Finance
DOH	Department of Health
DOLE	Department of Labor and Employment
DOT	Department of Tourism
DOTC	Department of Transportation and Communication
DPWH	Department of Public Works and Highways
DST	Documentary Stamp Tax
DSWD	Department of Social Welfare and Development
DTI	Department of Trade and Industry
ECC	Environmental Compliance Certificate
ECCP	European Chamber of Commerce of the Philippines
ECOP	Employers Confederation of the Philippines
ED	Executive Director
EDC	Export Development Council
EDSA	Epifanio Delos Santos Avenue
EMERGE	Economic Modernization through Efficient Reforms and Governance Enhancement
EO	Executive Order

EPIRA	Electric Power Industry Reform Act
EPRA	Economic Policy Reform & Advocacy
EPZ	Export Processing Zone
ERC	Energy Regulatory Commission
EUMB	Energy Utilization Management Bureau
EVAT	Expanded Value Added Tax
FCS	Foreign Commercial Service
FDI	Foreign Direct Investment
FEU	Far Eastern University
FFCCCI	Federation of Filipino-Chinese Chamber of Commerce and Industry
FIA	Foreign Investment Act
FINEX	Financial Executives of the Philippines
FINL	Foreign Investment Negative List
FOCAP	Foreign Correspondents Association of the Philippines
FPHC	First Philippines Holdings Corporation
FPI	Federation of Philippine Industries
FTA	Free Trade Agreement
FTAA	Financial or Technical Assistance Agreement
GAA	General Appropriations Act
GDP	Gross Domestic Product
GE	General Electric
GEM	Growth with Equity in Mindanao
GENCO	Generating Company
GILAS	Gearing Up Internet Literacy and Access for Students
GOCC	Government Owned and Controlled Corporation
GOJ	Government of Japan
GRP	Government of the Republic of the Philippines
GSIS	Government Service Insurance System
GSP	Generalized System of Preferences
HB	House Bill
HCICT	House Committee on ICT
HCTI	House Committee on Trade and Industry
ICC	Investment Coordination Council
ICIP	Investment Climate Improvement Project
ICT	Information and Communications Technology
IEF	Index of Economic Freedom
IIF	Institute of International Finance
IFC	International Finance Corporation
IHT	International Herald Tribune
IMF	International Monetary Fund
IMTF	Infrastructure Monitoring Task Force
IPO	Intellectual Property Office
IPP	Independent Power Producer
IPR	Intellectual Property Rights
IPT-3	International Passenger Terminal 3
IRA	Internal Revenue Allotment
IRMA	Internal Revenue Management Authority
IRR	Implementing Rules and Regulations
ISM	International School Manila
IT	Information Technology

ITAP	Information Technology Association of the Philippines
ITES	IT-Enabled Services
ITFP	Information Technology Foundation of the Philippines
ITH	Income Tax Holidays
JBIC	Japan Bank for International Cooperation
JCCIPI	Japanese Chamber of Commerce & Industry of the Philippines, Inc.
JCRA	Japan Credit Rating Agency
JETRO	Japan External Trade Organization
JFC	Joint Foreign Chambers
JI	Jemaah Islamiyah
JICA	Japan International Cooperation Agency
KCCP	Korean Chamber of Commerce of the Philippines
KEPCO	Korea Electric Power Corporation
KMU	Kilusang Mayo Uno
KOICA	Korean International Cooperation Agency
KW	Kilowatt
KWH	Kilowatt-hour
LCF	League of Corporate Foundations
LEDAC	Legislative-Executive Development Advisory Council
LEGCOM	Legislative Committee
LHDC	Lanao Hydropower Development Corporation
LNG	Liquefied Natural Gas
LRT	Light Railway Transit
LRTA	Light Railway Transit Authority
LTFRB	Land Transportation Franchising and Regulatory Board
LTO	Land Transportation Office
MAP	Management Association of the Philippines
MAR	Maximum Allowable Revenue
MBC	Makati Business Club
MCC	Millennium Challenge Corporation
MERALCO	Manila Electric Company
MGB	Mines and Geosciences Bureau
MILF	Moro Islamic Liberation Front
MISSI	Monthly Integrated Survey of Selected Industries
MMDA	Metro Manila Development Authority
MNC	Multinational Corporation
MNTC	Manila North Tollways Corporation
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPSA	Mineral Production Sharing Agreement
MRR	Mandated Rate Reduction
MRT	Metro Rail Transit
MRTA	Metro Rail Transit Authority
MTDP	Medium-Term Philippine Development Plan
MTPIP	Medium-Term Public Investment Program
MW	Megawatt
MWSS	Metropolitan Waterworks and Sewerage System
NAIA	Ninoy Aquino International Airport
NAKTAF	National Anti-Kidnapping Task Force
NAPOCOR	National Power Corporation

NARA	National Authority for Revenue Administration
NASTF	National Anti-Smuggling Task Force
NASSCOM	National Association of Software & Service Companies
NAT	National Achievement Test
NCC	National Competitiveness Council
NCR	National Capital Region
NCS	National Competitiveness Summit
NDC	National Development Corporation
NEDA	National Economic and Development Authority
NEDA-INFRACOM	National Economic and Development Authority-Infrastructure Committee
NIRA	National Internal Revenue Authority
NGO	Non-Governmental Organization
NLEX	North Luzon Expressway
NLRC	National Labor Relations Commission
NOLCO	Net Operating Loss Carryover
NPA	New People's Army
NPC	National Power Corporation
NRMDC	Natural Resources Mining Development Corporation
NTRC	National Tax Research Center
NYT	New York Times
ODA	Overseas Development Assistance
ODPS	One Day Power Sale
OMB	Office of the Ombudsman
OP	Office of the President
PAGCOR	Philippine Amusement and Gaming Corporation
PAL	Philippine Airlines
PBEC	Philippine Business Environment Committee
PCCI	Philippine Chamber of Commerce and Industry
PCIJ	Philippine Center for Investigative Journalism
PDF	Philippine Development Forum
PDI	Philippine Daily Inquirer
PDR	Philippine Defense Reform
PEMC	Philippine Electricity Market Corporation
PEP	Promoting English Proficiency
PERA	Personal Equity Retirement Account
PES	Philippine Economics Society
PEZA	Philippine Export Zone Authority
PFA	Philippine Franchise Association
PGMA	President Gloria Macapagal-Arroyo
PHAP	Pharmaceutical & Healthcare Association of the Philippines
PHILEXPORT	Philippine Exporters Confederation
PHILHEALTH	Philippine Health Insurance Corporation
PIATCO	Philippine International Airport Terminal Corporation
PIC	Philippine Infrastructure Corporation
PIDS	Philippine Institute for Development Studies
PIPA	Philippine Investment Promotion Administration
PIRMA	People's Initiative for Reform, Modernization and Action
PMAP	Personnel Management Association of the Philippines

PMS	Presidential Management Staff
PN	Philippine Navy
PNOC	Philippine National Oil Company
PNOC-AFC	Philippine National Oil Company-Alternative Fuels Corporation
PNCC	Philippine National Construction Corporation
PNP	Philippine National Police
PNR	Philippine National Railways
PPA	Philippine Ports Authority
PPP	Public-Private Partnerships
PRA	Philippine Retirement Authority
PRC	People's Republic of China
PRC	Professional Regulation Commission
PRI	Philippine Retirement, Inc.
PSALM	Power Sector Assets and Liabilities Management Corp.
PSC	Philippine Services Coalition
PSE	Philippine Stock Exchange
R&D	Research and Development
RA	Republic Act
RATE	Run After Tax Evaders
RED	Retention, Expansion, and Diversification
RFP	Request For Proposal
RIPS	Revenue Integrity Protection Service
ROK	Republic of Korea
RORO	Roll On/Roll Off
RP	Republic of the Philippines
RR	Revenue Regulator
RRFFC	Rapu-Rapu Fact Finding Commission
RTA	Retail Trade Act
RTC	Regional Trial Court
RTWPB	Regional Tripartite Wage and Productivity Board
SALN	Statement of Assets, Liabilities and Net Worth
SB	Senate Bill
SBMA	Subic Bay Metropolitan Authority
SC	Supreme Court
SCTEX	Subic-Clark-Tarlac Expressway
SEC	Securities and Exchange Commission
SEIPI	Semiconductor and Electronics Industries in the Philippines, Inc.
SEZ	Special Economic Zone
SGV	Sycip, Gorres, Velayo & Company
SLEX	South Luzon Expressway
SLTC	Southern Luzon Tollways Corporation
SM	Shoemart
SMDC	SM Development Corporation
SME	Small and Medium Enterprises
SNITS	Simplified Net Income Tax System
SONA	State of the Nation Address
SPAV	Special Purpose Asset Vehicle
SRNH	Strong Republic Nautical Highway
SSS	Social Security System

STA	Subtransmission Asset
SWMC	Senate Ways and Means Committee
SWS	Social Weather Stations
TEPCO	Tokyo Electric Power Corporation
TESDA	Technical Education and Skills Development Authority
TI	Transparency International
TMA	Truck Manufacturers Association
TOEIC	Test of English for International Communication
TOU	Time-Of-Use
TRANSCO	National Transmission Corporation
TRB	Tollways Regulatory Board
TRO	Temporary Restraining Order
UA&P	University of Asia & the Pacific
UP	University of the Philippines
UPS	United Parcel Services
US	United States
USA	United States of America
USAID	United States Agency for International Development
USTR	United States Trade Representative
VAT	Value Added Tax
VOA	Voice of America
WB	World Bank
WBF	Wallace Business Forum
WCO	World Customs Organization
WCY	World Competitiveness Yearbook
WEF	World Economic Forum
WESM	Wholesale Electricity Spot Market
WQMA	Water Quality Management Areas
WTO	World Trade Organization

I. PROJECT DESCRIPTION

Commencing on March 1, 2006, after the signing of the grant agreement with the United States Agency for International Development (USAID) EMERGE Project on February 28, 2006 (which was followed by the signing of a ceremonial Memorandum of Agreement between the United States Ambassador to the Philippines Kristie Kenney and AmCham Vice President Henry Co on April 19, 2006), the Investment Climate Improvement Project (ICIP) sought to apply advocacy to achieve improvements in the investment climate in the Philippines and thereby to increase foreign and domestic investment.. Through ICIP, AmCham pinpoints problems in the Philippine investment environment, assesses their importance to the investment climate and works toward finding and implementing effective solutions. ICIP, through its advocacies and network, aspired to be instrumental in identifying and communicating to the Philippine government activities that have high potential of generating billions of US $ in foreign direct investment (FDI) and create millions of jobs.

The ICIP PROJECT implementation methodology employed several strategies to advance ICIP reform advocacies. Within AmCham, firm members and committees and the American Desk at the Board of Investments applied their resources and networks. Outside AmCham, informal reform "partnerships" were established with other foreign chambers of commerce, Philippine business associations, academics, foreign governments and multilateral aid groups and influential individuals and firms. Voicing reform advocacies in the domestic and international media was an especially effective method to influence target opinion and decision makers. Information regarding ICIP reform advocacies was disseminated in multiple forms and through multiple channels. Letters to and meetings with senior GRP officials in the Executive and Congress were used to explain the importance of reforms to potential investment. Media releases, comments and interviews were especially effective in presenting ICIP positions and often triggered additional comments in editorials and columns. Four workshops were held usually accompanied by published recommendations. All letters, reports and statements were made publicly available on the AmCham website and through other means of distribution. (Further details of methodology can be found in the ICIP Advocacy Plan dated April 1, 2006 and attached at Appendix 6).

ICIP has three core components: (1) networking and investment climate monitoring, (2) policy research and analysis and (3) investment climate reform advocacy. These are explained in the ICIP Advocacy Plan[1], which identifies 6 reform clusters (red tape and corruption, education, infrastructure: power, infrastructure: Subic-Batangas transport corridor, judicial/regulatory/enforcement, legislation, and political stability/security) and 5 reform sectors (healthcare and retirement, information and communications technology, manufacturing, mining, and tourism) as priorities, closely adhering to the analysis and

[1] *Investment Climate Improvement Project (ICIP) Advocacy Plan*. (2006). Makati City: The American Chamber of Commerce of the Philippines.

recommendations of the AmCham Roadmap II More Foreign Investment[2] released in June 2004.
As part of the ICIP activities, AmCham organized and spearheaded an informal network of private sector business firms or their associations, with the aim of developing an effective capability in the private business sector to monitor the business environment that affects investment decisions. AmCham prepare also provided research data to a consultant of EMERGE to prepare an Investment Climate Monitoring Report[3], which discussed key developments in the investment climate in the country during the project period.

Moreover, AmCham also collaborated with a consultant of EMERGE who conducted research and analysis on the key factors that affect both domestic and foreign investment flows, which are contained in Investment Climate Briefs.[4]

[2]*Roadmap II More Foreign Investment*. (2004). Makati City: The American Chamber of Commerce of the Philippines.
[3]*ICIP Investment Climate Monitoring Report*. (2006). Makati City: The American Chamber of Commerce of the Philippines.
[4]*ICIP Investment Climate Briefs*. (2006). Makati City: The American Chamber of Commerce of the Philippines.

II. PROJECT OUTPUT AND MILESTONES

Reform Cluster 1. Reduce Bureaucracy and Corruption

Reform Cluster 1 primarily focused on addressing excessive bureaucracy which has long created inefficiencies for the Philippine investment climate, raised the cost of doing business, reduced competitiveness and provided opportunity for corruption. Under this reform, ICIP advocated for the (1) reduction, simplification and transparency of regulations; (2) establishment of Anti-Red Tape program with "wardens" in agencies where corruption and red tape most hurts business; (3) enforcement of fixed deadlines to approve paperwork after which approval is automatic; (4) implementation of e-Governance; (5) intensification of lifestyle checks, the Run Against Tax Evaders (RATE) program and operations of the Ombudsman; and (6) reporting of incidents of corruption to the Ombudsman and the DOF and placing these on websites.

Bureaucratic Red Tape

Status during the Project

In mid-2006, the highest levels of the government began efforts to reduce red tape and attendant corruption. After another low ranking for the Philippines (49th of 61 countries) in the 2006 World Competitiveness Yearbook, President Arroyo in May 2006 asked the PCCI, EDC and NEDA to organize public-private sector task forces to review actions needed to improve Philippine competitiveness weaknesses. Also in May, she issued EO 428 instructing all GRP offices to simplify rules and regulations and reduce reporting requirements to facilitate business and encourage investment. In her July SONA to the Philippine Congress, the president made reducing red tape a key reform intended to reduce business costs and increase competitiveness. In August, she organized an Anti-Red Tape Task Force through EO 557 and further signaled the importance she attached to the issue by organizing the National Competitiveness Summit held at Malacañang on October 6, 2006. Also, in EO 554, she eliminated and reduced several procedures to improve the efficiency of export processing. In EO 571, she established a Public-Private Sector Task Force of Philippines Competitiveness (also known as the National Competitiveness Council) with one of its 6 working groups (headed by the chairman of AmCham member SGV) tasked to minimize red tape and improve transaction flows.

Milestones and Actions[5]

AmCham had been very active in advocating for the reduction of unnecessary bureaucratic red tape in the country. Most of these advocacies were carried out through

[5] Milestones are major advocacy actions/results taken by the GRP. Milestones are positive actions. In this report, AmCham notes positive actions/results taken by others, as well as negative actions/results, recognizing that reforms rarely proceed in a forward linear direction without setbacks. Since ICIP is tied to the AmCham *Roadmap II More Foreign Investment*, some milestones reflect results under recommendations in that widely-circulated document, for which there may or may not have been subsequent specific advocacy activity during the period of ICIP.

consensus-building exercises and policy dialogues both with the private and government sector. In August 2006, AmCham, in cooperation with the Philippine Chamber of Commerce and Industry (PCCI), held a full-day Anti-Red Tape and Corruption Workshop. The workshop generated an action agenda which was forwarded to the government. Breakout sessions focused on recommendations related to the anti-red tape bill in the House and Ombudsman, e-governance and e-procurement, and agency-level corruption (see Appendix 7 for workshop program and recommendations). It also generated considerable media coverage, which further strengthened the advocacy of the workshop.

Box 1. Anti-Red Tape Milestones

- Passage of Anti-Red Tape Act by the House and the Senate
- Inclusion of intention to cut red tape in the President's annual SONA
- Issuance of EO 554 eliminating fees imposed on export clearances
- Issuance of EO 557 creating the Anti-Red Tape Task Force
- Issuance of EO 571 establishing the National Competitiveness Council
- Issuance of Customs Administrative Order 3-2006-A which does not force exporting corporations to use customs brokers
- Passage of the Amendment to Customs Brokers Act by House (HB 6063) and Senate (SB 2597)
- DTI reduced red tape in procedures for business name registration
- Issuance of EO 587 ordering DTI to establish and manage a Philippine Business Registry System
- Drafting of MOA by BOI and BIR that would shorten from 2.5 years to only six months, from date of filing ITR with BIR, allowable period for enterprises to file ITH claims with the BOI
- Issuance by DTI and DOF of Joint Department AO "Guidelines Implementing RA 8792 on Electronic Payment and Collection System in Government,"
- GSIS launched G-W@PS, a secure, paperless electronic transaction system for members

AmCham also conducted the "Worst Red Tape Survey" among its members in August 2006. The survey aimed to identify the most burdensome procedures in specific government agencies. Results showed that the Bureau of Customs (BOC), Bureau of Internal Revenue (BIR), Bureau of Immigration (BI) and local government units (LGUs) were the top agencies with tedious and costly business transactions. The findings were then forwarded to the Anti-Red Tape Task Force headed by Department of Trade and Industry (DTI) Secretary Peter Favila to share with the BOC and BIR Commissioners for appropriate actions.

Attributable to the aforesaid activities, efforts on the part of the government to reduce tape and attendant corruption were observed in 2006. In May, President Arroyo requested the PCCI, Export Development Council (EDC), and the National Economic and Development Authority (NEDA) to organize a public-private sector task force to review actions needed to improve Philippine competitiveness, because of the very low ranking for the Philippines (49th out of 61 surveyed countries) in the *2006 World Competitiveness Yearbook*. The initiative led to the holding of the first National Competitiveness Summit (NCS) in October 2006 in Malacañang Palace. With 300 high-level participants both from the government and the private sector, the NCS became a

venue to tackle competitiveness issues and develop an action agenda pertaining to efficient public and private sector management and improved transaction flows and costs, among other issues. During the summit, Sec. Favila reported initial achievements in reducing red tape. Similarly, Department of Transportation and Communication (DOTC) Secretary Mendoza announced driver's license would be extended from 3 to 5 years validity and the Immigration Commissioner Fernandez announced I-cards for foreign national residents would be valid for 3 years. More importantly, the NCS paved the way for executive issuances such as:

- Administrative Order No.161, institutionalizing quality-systems management in government;
- Memorandum Order No. 228, directing all departments, bureaus, commissions, agencies, offices and instrumentalities of the national government to improve transaction costs and flows in order to enhance Philippine competitiveness;
- A Memorandum directing the DOTC to provide seamless infrastructure networks to enhance Philippine competitiveness;
- A memorandum directing the Department of Energy (DOE), the Philippine National Oil Company (PNOC) and the National Power Corporation (NPC) to lower the cost of power and ensure self-sufficiency in energy to enhance Philippine competitiveness;
- A memorandum directing the Department of Education (DepED), the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (TESDA) to develop programs to improve student proficiency in English, Science and Math in order to enhance Philippine competitiveness; and
- EO 571 which created the Public-Private Sector Task Force on Philippine Competitiveness attached to the Office of the President (OP). The task force shall promote and develop national competitiveness by seeing the implementation of the action agenda for competitiveness resulting from the National Competitiveness Summit.

In May 2006, President Arroyo issued EO 428 instructing all government offices to simplify rules and regulations and reduce reporting requirements to facilitate business and encourage investments. The initiative was further strengthened with the President's State of the Nation Address (SONA) in July 2006, highlighting the agenda of reducing red tape intended to reduce business costs and increase competitiveness. Following this, President Arroyo issued EO 557 which created the Anti-Red Tape Task Force (ARTTF) headed by DTI Secretary Peter Favila. On the same month, the PCCI and AmCham co-organized an Anti-Red Tape and Corruption Workshop, which generated recommendations for the anti-red tape bill and Ombudsman, e-governance and e-procurement and agency-level corruption.

ICIP advocacies were instrumental in pushing for President Arroyo to sign EO 587, which ordered DTI to establish and manage the Philippine Business Registry system to increase commercial activities by facilitating "seamless transaction environment for business registration" across government agencies such as the DTI, the Securities and Exchange Commission (SEC), Bureau of Internal Revenue (BIR) and Social Security System (SSS). To date, workshops and several consensus building activities are being conducted among concerned government agencies and the private sector to formulate and

develop an action plan towards establishing and implementing this system. The President, upon seeing the need to improve export competitiveness, also signed EO 554 which eliminated fees imposed on export clearances and related requirements.

ICIP intervention was also effective in pushing for the passage of the Anti-Red Tape Act, which was approved on 3rd reading in the House of Representatives on July 3, 2006. The bill would mandate reduction of red tape, faster, more efficient bureaucratic processing of routine and more complex government approvals, faster service and better information for clients and increasing long suspension for non-compliance. AmCham wrote Senate Committee on Civil Service and Government Reorganization Chairman Senator Panfilo Lacson to urge for its passage (see Appendix 27). In December, SB 2589 was introduced, identical to the House-passed bil; a hearing was held on January 31, at which the ICIP Senior Advisor appeared. The bill was passed on February 7, 2007, currently pending presidential signature.

Also related to red tape, ICIP advocacies were significant in pushing for the implementation of e-governance. The government launched the new version of the Philippine Government Electronic Procurement System (PhilGEPS) at http://www.procurementservice.org. Department of Budget and Management (DBM) Secretary Andaya said procurement for infrastructure projects below P50M should be completed in 43 to 70 calendar days, while those over P50M should be done in 100 days (down from 157). The Government Service Insurance System (GSIS) also implemented e-business through their newly-established G-W@PS, a secure, paperless electronic transaction system for members. Alongside e-business, the DTI and the Department of Finance (DOF) issued in 2006 Joint Department Administrative Order (JDAO) 02, Series of 2006 "Guidelines Implementing Republic Act (RA) 8792 on Electronic Payment and Collection System in Government," which allows businesses to pay taxes and fees electronically.

In March 2006, Implementing Rules and Regulations (IRRs) for the Customs Broker Act RA 9280 were issued, thus potentially increasing the cost of export manufacturing and slowing processing time by imposing additional red tape and expenses and disallowing in-house export processing. The BOC deferred implementation due to the intervention of larger firms handling their own in-house brokering, including the JFC which urged delay pending amendment to remove controversial provisions from the new law which Congress passed and President Arroyo signed without adequate industry consultation. The JFC discussed its concerns with BOC Commissioner Morales, Exec Sec Ermita, DTI Sec Favila and DOF Sec Teves.

Also related to customs, the BOC issued Administrative Order 3-2006-A in August 2006 which does not force exporting corporations to use customs brokers, thus reducing red tape and costs in customs. Following this, the Amendment to the Customs Broker Act was passed by the House (HB 6063) and the Senate (SB 2597), which allows in-house export processing. Since each version is different, a Bicameral Conference is needed to resolve differences when the Congress returns in June 2007 from its election recess. In December, DHL Express Asia-Pacific CEO urged the government to raise de minimis

exemption level for customs inspections – still at P10 since before World War II – to be at par with the $100 average amount of others in the region. In a letter to Senate Ways and Means Committee (SWMC) Chairman Recto, the JFC supported the proposal to modernize the provision of Philippine Customs Code (see Appendix 39).

In February 2007, DTI Sec Favila announced the creation of an investment ombudsman who would oversee graft charges against government officials perceived to be blocking investment activities. The new female ombudsman would be announced soon and is a person who held a similar position at the Office of the President in the Estrada Administration.

Along with other symposia, AmCham ICIP proactively participated in the national presentation of the Social Weather Station (SWS) 6th Annual Survey of Enterprises on Corruption at the Makati Business Club in July 2006. The survey showed that more company executives were using honest business practices, but there were still growing perception of insincerity of most government agencies in fighting corruption. The bribe premium for government sales was placed at 40-45% and 10% for sales to private firms. In January 2007, ICIP attended the "World Bank Consultation on Governance and Anti-Corruption" and made several comments encouraging more activity against corruption and especially harder measurements of success/failure. In response to questions why the WB Group is not working to reduce corruption in the Commission on Elections (COMELEC), WB Country Director Joachim von Amsberg replied that the reform of the electoral system was especially sensitive for host governments and not an area in which the WB has yet involved itself in developing countries.

Corruption

Status during the Project

While the government has yet to file charges for corruption against any prominent pro-administration appointed or elected official or business person, hundreds of lower ranking government employees and several governors and mayors associated with political opponents of the administration have been suspended. Few prosecutions and trials let alone sentencing have been reported. Suspension of BIR and BOC officers for failing life style checks continues, although it is unclear how effective it has been in curbing and reducing abuses. Clearance by the Ombudsman of COMELEC officials involved in approving a controversial purchase of computers for the 2004 elections was widely perceived as a politically-motivated whitewash and damaged the credibility of the Ombudsman. Issues in other controversial cases involving alleged irregularities during the 2004 election (the "fertilizer" scam and the "Hello Garci" recordings) were left unresolved despite great public controversy but in common Philippine fashion. Perceived bureaucratic corruption, measured by the annual SWS poll of Philippine business executives, the highly-respected IMD World Competitiveness Yearbook and Transparency International, remains among the worst in Asia.

Milestones and Actions

Advocacies of AmCham ICIP have been a means to urge the government to address ubiquitous corruption within its own ranks. Success in this reform cluster began when the Millennium Challenge Corporation (MCC) Board approved a $21 million Threshold Program for the Philippines with specific implementation targets for improved revenue and anti-corruption. President Arroyo announced a P1 billion counterpart allocation. The MCC Threshold Grant was signed at Malacañang. AmCham attended and also met with MCC officials visiting Manila and in Washington, continuing AmCham support for the Threshold Grant and a potential Compact Program.

A series of charges and administrative actions were observed during the project duration. For instance, the Ombudsman had dismissed/suspended 6 BIR, 1 BOI and 3 GSIS officers, including a senior BOC officer and a BIR regional director. In the second quarter of the project, numerous officials were dismissed, suspended, charged or complaints filed against, including a former BIR chief revenue officer, a Department of National Defense (DND) Asst Sec for Internal Audit, a Manila International Container Port chief customs officer, 3 high school principals, an AFP chief accountant, 32 officials using government vehicles for private purposes, DPWH undersecretary for falsifying his Statement of Assets, Liabilities, and Net Worth (SALN), a Manila City treasurer for allegedly failing a lifestyle check, a Western Samar governor, treasurer and other officials for alleged anomalous purchases. Meanwhile, the Sandiganbayan convicted former Immigration Commissioner Respicio for allowing the deportation of foreigners on drug charges. Malacañang dismissed a former CAR DPWH director and an assistant director and Department of Social Welfare Development (DSWD) field office regional director for irregular transactions. The Ombudsman filed 5 counts of graft against Makati Mayor Binay and associates with the Sandiganbayan for alleged anomalous purchases of office equipment. When DILG Sec Puno ordered Mayor Binay suspended for 60 days, the issuance of Temporary Restraining Order (TRO) avoided confrontation with Binay supporters. The DOF- Revenue Integrity Protection Service (RIPS) filed graft charges against Customs police officer for allegedly amassing P14 million in ill-gotten wealth. RIPS filed charges against Davao City revenue officer for P30 million worth of unexplained wealth. The PAGC recommended suspension of a National Labor Relations Commission (NLRC) Commissioner for alleged extortion of P400,000 from a businesswoman.

BOC Commissioner Morales said over 100 persons, including BOC officials, charged with smuggling before the DOJ in 2006 under the Run Against The Smugglers (RATS) program. The Ombudsman had also ordered the dismissal of a Chief Customs Operations Officer. The Ombudsman field office filed unexplained wealth charges against a BOC official. DOF RIPS filed charges against a BOC Operations Officer for failing to explain real estate and cars. The DOF-RIPS filed a complaint before Ombudsman against a Manila South Harbor Customs Operations officer and his wife for P20 million in unexplained assets.

In the fourth quarter of the project, the notorious presidential crony "Atong" Ang pleaded guilty of corrupting a public official or indirect bribery, admitting having plotted with former President Estrada to divert P130 million in tobacco excise taxes of the Ilocos Sur provincial government to their private accounts. The Sandiganbayan sentenced to 25 years imprisonment a former Angeles City MTC judge found guilty of extortion and *estafa*. Malacañang affirmed PAGC recommendation to dismiss an NBI regional director and a Land Bank Realty Development Corporation president for acting in gross negligence of their duties as public officers. The SC dismissed a Misamis Oriental MCT judge for failing to decide on numerous cases within the required period. The SC fined a Makati City judge P40,000 for providing false information in her monthly reports. PAGC chair De Guzman dismissed a Graft Prevention and Control Officer for dishonesty by entering false information in time records.

Box 2. Anti-Corruption Milestones

- MCC Board approved a $21M Threshold Program for the country for improved revenue and anti-corruption
- Series of dismissals, suspensions, and filing of charges against alleged corrupt government personnel were done by Ombudsman, Sandiganbayan, DTI, DOF
- BIR to expand staff of investigators and lawyers in the new BIR RATE Division
- BOC "commitment" to implement a ban on the importation of used cars
- BOC to receive $3M from USAID and P105 million from PAGC to aid RATS
- Attrition of underperforming revenue collectors to begin in March 2007
- Ombudsman Gutierrez said OMB will set up an Ombudsman Academy
- Issuance of EO 531-B which includes the AFP and the PNP in the investigations conducted by PAGC
- Launching of Philippine Government Electronic Procurement System
- DBM released P259 in counterpart funds to the MCC Threshold grant
- DBM to increase Ombudsman's 2007 budget

Also in the fourth quarter, DILG Sec Puno ordered the dismissal from service of Iloilo Governor Tupas and Pasay City Mayor Trinidad and 10 other local officials, in connection with administrative and graft cases filed against them, and Batangas Governor Sanchez for allegedly rigging a P350 million computerization project in the province. Other local officials ordered dismissed were mayors of Mamburao, Occidental Mindoro, Aguilar, Pangasinan and Vallehermoso, Negros Occidental. An armed PNP force invaded the Iloilo capitol building to remove the oppositionist Ilioilo governor and supporters, leading to charges of excessive use of force. TROs allowed the oppositionist Iloilo and Batangas governors to remain in office for 60 days.

The DOF reported the that the government filed a total of 141 cases in 2006: 70 on tax evasion filed under the RATE program, 28 on anti-smuggling filed under the RATS program, and 43 cases of corruption filed under the RIPS program. Of 141 cases filed, most are still pending in courts and a few were dismissed. Surprisingly however, no convictions were reported.

While this series of administrative actions are laudable, the Center for Public Empowerment in Governance and Transparency International-Philippines criticized the performance of the Ombudsman and the Sandiganbayan for failing to prosecute and

convict high-profile cases of graft and corruption. Despite thousands of cases filed with the Ombudsman and a lesser number elevated to the Sandiganbayan in 27 years (1979 to May 2006) only 2 governors, a vice-governor, 23 mayors and a vice mayor or a total of 27 ranking elective officials were found guilty of graft and corruption. On the contrary, Asst Ombudsman Jalandoni downplayed these survey results, citing a record of dismissal of 78 government officials, the suspension of 17 others and the filing before the Sandiganbayan of cases against 16 mayors and 2 governors.

Aside from the prosecution and suspension of public officials for graft and corruption, the government also undertook several capacity building activities. The BIR expressed its intention to expand its staff of investigators and lawyers in a new BIR RATE Division and plans to prosecute more cases in 2007. P815 million had been allocated for BIR information systems to serve as a "tripwire" against tax cheats. In February, the DBM released P259 million (P153 million for the BIR's RATE program and P105 million for BOC's RATS program) in counterpart funds to the MCC's $21 million grant for its anti-corruption programs.

On the anti-smuggling campaign, the BOC said it would implement in November a ban on the importation of used motor vehicles following issuance of Customs Memorandum Circular No. 241-2006. (Smuggling of used cars deprives the GRP of substantial revenue and undermines the growth of domestic automotive production.) AmCham officers consulted with Mr. Leonard Ginocchi, Senior Advisor on Customs of the Millennium Challenge Account-Philippine Threshold Plan and explained the challenge of stopping rampant illegal smuggling of used vehicles. The BOC will receive $3 million from USAID and P105 million from the PAGC to aid in its RATS program. The BOC would also hire 80 lawyers for its new Legal and Prosecution Group to take over prosecution, litigation, monitoring and enforcement against smugglers. However, the well-protected car smuggling syndicate reaps a huge income (estimated at $150 to 200 million), which makes it difficult to crack down.

Ombudsman Gutierrez said the OMB would set up an Ombudsman Academy to train resident ombudsmen in government agencies. Gutierrez said she needs 700 additional prosecutors and investigators to handle 30,000 pending cases. The Armed Forces of the Philippines (AFP) and Philippine National Police (PNP) could now be investigated by the PAGC as a result of the issuance of EO 531-B. A MOA was signed by the PAGC and the Anti-Money Laundering Council (AMLC) for information exchange, capacity building and cooperation in other areas.

President Arroyo also ordered government offices and government owned and controlled corporations (GOCCs) to invite observers from the private sector and NGOs to sit on Bids and Awards Committees. The government also launched a new version of the Philippine Government Electronic Procurement System to reduce time to complete procurement for small infrastructure projects.

In January 2007, the ICIP Senior Advisor attended a World Bank Consultation on Governance and Anti-Corruption and made several comments encouraging more activity

and especially harder measurements of success/failure. In response to question why WB Group is not working to reduce corruption in COMELEC, WB Country Director replied that electoral reform is especially sensitive for host governments and not an area in which the WB has yet involved itself in developing countries.

DBM Sec Andaya said the Ombudsman's 2007 budget would be P974 million, 31% or P299 million more compared to the previous year, in order to hire 721 new personnel, including 200 field investigation officers, 54 lawyers, 15 graft investigators, 60 graft prevention control officers and 36 preliminary investigation and adjudication officers.

Reform Cluster 2. Education and English

Reform Cluster 2 centered on addressing the Filipinos' declining English proficiency, which had been considered the principal competitive attraction of the Philippines for foreign investors, especially those engaged in export manufacturing and services. In particular, ICIP aimed to (1) urge the government to triple per capita spending on education by 2010 leading to improved education quality; (2) achieve better quality spoken English among high school/college graduates; (3) improve engineering, math and science skills among graduates; and (4) advocate for the Commission on Higher Education (CHED) to approve a call center curriculum for colleges and universities.

Status during the Project

Problems in education became increasingly well-recognized, were publicized extensively in local media as the 2006-07 school year opened and received more attention from the government and various advocates. GRP remedial efforts were underway, in partnership with NGOs, the World Bank, USAID and the business sector. Under a new management-oriented Secretary of Education who declared Philippine education to be in a state of crisis and called for broad reforms, DepEd hoped to steadily raise public sector investment in education in the 2006-2010 period. TESDA implemented a P500 million remedial training program for 100,000 "near-hire" beneficiaries for the ICT sector, where the government ambitiously projects employment quadrupling to 1 million by 2010. The government sought to improve/remediate skills including English of new graduates to match better the needs of industry, especially agriculture, IT and tourism and to avail of foreign employment opportunities which produce the remittances which have become a major driver of economic growth in the country.

The annual meeting of the League of Corporate Foundations (LCF) approved a roadmap to improve basic education, and prominent businessmen launched Philippine Business for Education (PBEd). The AmCham-led *Promoting English Proficiency* (PEP) project gathered substantial momentum in 2006, while the ECCP launched its *English is Cool* project. A PEP-commissioned SWS poll showed the Philippines was not as English-speaking as claimed (see Appendix 15).

Milestones and Actions

ICIP advocacies were conveyed mainly through the PEP project which grew in 2006, and its partner the ECCP-initiated *English is Cool* Project.

In the first quarter of 2006, PEP commissioned the SWS to conduct a survey on English proficiency in the country. It revealed that Filipinos' self-assessed proficiency in all aspects of English proficiency declined over the past twelve years (as compared to earlier SWS surveys in December 1993 and September 2000), most notably in the ability to speak English. More specifically:

- About two-thirds of Filipino adults (65%) say they understand spoken English; another 65% say they read English; about half (48%) say they write English; about a third (32%) say they speak English; a fourth (27%) say they think in English; while 14% say they are not competent in any way when it comes to the English language;
- In September 2000, three-fourths of Filipino adults (77%) said they understand spoken English; three-fourths (76%) also said they read English; three out of five (61%) said they write English; more than half (54%) said they speak English; two-fifths (44%) said they think in English; while 7% said they are not competent in any way when it comes to the English language;
- In December 1993, about three-fourths of Filipino adults (74%) said they understand spoken English; about the same proportion (73%) also said they read English; about three out of five (59%) said they write English; more than half (56%) said they speak English; two-fifths (42%) said they think in English; while 7% said they are not competent in any way when it comes to the English language; and
- In the recent survey, self-assessed English proficiency is higher in the National Capital Region than other areas, in urban than rural areas, among upper than lower classes, among the younger than older age groups, and among those with higher education.

The survey received extensive media coverage, including two editorials. PEP worked to expand current activities to fund Computerized Education Language Centers (CELCs). AmCham proposed to USAID to fund CELCs in Mindanao. As a result, in the third quarter of 2006, Memoranda of Agreement (MOAs) were signed in Davao for two pilot English computer training centers, one for the University of Mindanao in Davao and the other for University of Notre Dame in Cotabato City, funded by USAID-GEM. MOAs for CELCs were also signed for schools in Laguna, Negros and Cagayan de Oro, which were funded by Philip Morris.

AmCham ICIP also discussed its English advocacy with Cardinal Rosales and other CBCP leaders, presidential jobs advisor Sec Yap, DepEd Sec Hidalgo and her successor DepEd Secretary Lapus. Amcham also appeared on Probe TV program on English to more effectively convey its advocacies.

In May 2006, PEP co-chair met with then DepEd Secretary Hidalgo to discuss training and certification of English teachers. In the same month, PEP co-chair witnessed signing between PEP partner Hopkins and FEU president Dr. Lydia Echauz for 2,000 FEU students to take the Test of English for International Communication (TOEIC) test, which seeks to establish equivalency of English certification among multiple tests in order to advocate that companies ask job applicants to submit English test scores.

The total value of the PEP project as of February 2007 exceeds $300,000. PEP partnerships have grown to 80 with addition of Commission on Information and Communications Technology (CICT), Personnel Management Association of the Philippines (PMAP) and new CELCs. (See Appendix 12 for CELC map and partner list).

Box 3. Education and English Milestones

- WB approval of $200 million loan to government to improve the quality and equity of RP basic education
- Announcement from DepED of P581 million budget for remedial training of up to 50,000 teachers in English, Math, and Science.
- GRP allots P500 million for remedial training vouchers from TESDA to 100,00 "near-hires" of animation, call center, medical transcription, and software firms
- Approval by the House of HB 4701 mandating English as the medium of instruction in all schools in all courses except Filipino
- MOAs signed between University of Mindanao, University of Notre Dame, and USAID-GEM for 2 computerized English Language Center (CELCs)
- Commitments from UPS and Citibank Foundations to provide $50,000 and $15,000, respectively, for CELCs in Metro Manila and Pampanga. Philamlife Board approves grant of $100,000 to train teachers and students at 6 universities

The WB approved a $200M loan for the Philippines to improve the quality and equity of basic education. The United Parcel Services (UPS) Foundation informed PEP it will provide $50,000 to fund CELCs at 5 colleges and high schools in Metro Manila and Pampanga, while Citibank Foundation will provide $15,000 to fund CELCs at two Metro Manila high schools equipped with computers. AmCham president Roger Dallas signed MOA with Citibank president Sanjiv Vohra for Citibank Foundation's contribution. Additionally, the Philamlife Board approved a grant to PEP of $100,000 to establish CELCs at six colleges to provide refresher English trainings to teachers and education majors (see Appendix 13 and 14 for press releases).

During the Strategy Review organized and led by PEP co-chair in January 2007, PEP projected a significant growth in 2007, with a doubling of CELCs from 25 to more than 50, TOEIC test takers from 5,000 to 10,000 and new advocacy projects, including urging the Philippines to use more spoken English in broadcast television and radio. Consensus has been achieved on the need to expand project staff to manage implementation of new CELCs.

PEP partner British Council-Philippines lauded its "English by Radio" program, in which English radio shows are to be carried on Philippine radio networks and listened to in classrooms. This makes English learning more interactive.

ICIP also undertook continuous policy dialogue with key government officials during the project. In particular, the DepEd was consulted to discuss solutions to the challenges facing Philippine education. The new DepEd Secretary Lapus announced his intention to implement PGMA's policy to restore English as a medium of instruction. DepEd also agreed to pilot PEP CELCs for teachers, which could lead to centers in other regions. ICIP was also instrumental in urging DepEd to seek for a P940 million budget to retrain 50,000 teachers in English, Math and Science during the summer of 2007. Meanwhile, House Deputy Majority Leader Guilas called on 113 state colleges and universities to move aggressively to improve English on their campuses.

On the part of the business sector, the League of Corporate Foundations (LCF) and the Philippine Business for Education (PBEd) became ICIP's partners in pursuing its advocacies related to education and English. In mid-2006, PEP participated in the LCF's annual CEO luncheon where a roadmap to improve public education was presented and approved. DepEd Sec Lapus urged the business community to support the upgrading and modernization of RP public education at the LCF Basic Education Forum 2006. Sec Lapus also described Philippine education as in crisis and called for increased private sector support. PEP co-chair spoke with LCF chair Garchitorena promising to develop a computer lab English training software proposal to train teachers at existing school labs, which was subsequently included in the LCF educational CSR package. PEP also sent a revised proposal to USAID for English training software in 10 public and private colleges in Mindanao and continued discussions with AIG, Citibank and UPS regarding support for training at 15 more colleges and high schools. Arrangements to install software at schools in Cagayan de Oro, Capiz and Sagay, Negros Occidental under a $10,000 grant to PEP from Philip Morris were finalized.

Meanwhile, PBEd announced a 5-point agenda for systematic reform of education, namely: improve teacher quality, implement 12-year plus pre-school basic education cycle, improve the English proficiency of students and teachers, improve the efficiency and allocation of resources for education and maximize resources from the business community. PBEd also sponsored two seminars on the problems of teachers and the challenges of teaching English in basic education, in which PEP actively participated.

Reform Cluster 3A. Infrastructure: Power

Manufacturers and other investors – concentrated in Luzon – have consistently long urged the Philippine Government to assure less expensive and more reliable electricity for improved competitiveness. ICIP therefore included power infrastructure as a major reform cluster of the project. The project advocated the implementation of the 2001 Electric Power Industry Reform Act (EPIRA), the successful sale of National Power Corporation (NPC) generating companies (GENCOs) and the privatization of the National Transmission Corporation (TRANSCO). The project also recommended to the government lower industrial power rates through open access for consumers of 1 megawatt+, commencing the operation of the Wholesale Electricity Spot Market (WESM), allow independent power producers (IPPs) to import coal directly, and fully dispatch Malampaya gas to maximize GRP revenues.

Status during the Project

Progress occurred during the project period in developing programs to offer lower power prices through (a) NPC's time-of-use program, allowing lower pricing during periods of low demand, (b) MERALCO's customer choice lower-priced power for commercial and industrial consumers using 1KW+ monthly, and (c) the start of WESM wholesale trading operations. In addition, the ERC continued to strengthen its role as industry regulator, and the Supreme Court avoided any disruptive interventions.

In April 2006, MERALCO wrote to PGMA stating its agreement to allow open access within its franchise for power consumers using 1KW+ a month. However, after many months of meetings, the program had yet to result in any users because the add-ons to rates kept the final pricing too high to make the program attractive. A transition supply contract between MERALCO and NPC was finalized.

WESM started commercial operations in mid-2006 and by end of the year had 23 suppliers and 157 customers trading power at reduced rates. The success of WESM may provide confidence to finance future merchant plants which will provide new power supply for the Luzon grid and avoid future blackouts.

Progress towards privatization of NPC-owned GENCOs and the TRANSCO concession remained limited. By end 2006, only 11% of GENCOs had been sold – far short of the legislated required 70% threshold to allow open access. Biddings for the large Calaca and Masinloc plants failed during 2006, primarily because both lacked off take commitments.

The NPC reported more transparency in its coal import contracts and improved terms for long-term supply to avoid the price squeezes it encountered when forced to purchase on spot markets in 2005. NPC has shown no willingness to allow IPPs to contract fuel supplies directly. However, the NCC has placed this procurement reform on its list of project tasks for 2007.

In sum, the power sector investment climate still needs to advance much faster towards open access and privatization. 2007 will be a critical year for the Power Sector Assets and Liabilities Management Corporation (PSALM) to demonstrate real progress on sales of generation and transmission assets. The DOE estimates that the Philippines needs over $4B in energy sector investments to meet its estimated needs by 2014.

In the upstream/downstream energy sector, the suspension by presidential order of the Mitra farm-in contract negotiations to extract the oil associated with the Malampaya gas field was a significant setback, confusing future foreign investment in oil and gas exploration. Two Australian and US firms proceeded with plans to explore in the Palawan and Sandakan Basin areas.

The project period also saw unprecedented interest in investment in biofuels production for domestic use as well as for export.

Milestones and Actions: (Power Sector)

AmCham ICIP, together with the Joint Foreign Chambers (JFC), carried out their advocacies through continuous dialogue with key government agencies and officials, particularly with Executive Secretary Ermita and the Department of Energy (DOE) Secretary Lotilla, which focused on power pricing and supply.

With regard to the implementation of EPIRA, progress towards the privatization of NPC GENCOs and the TRANSCO concession remained unlimited. By end 2006, only 11% of GENCOs had been sold – far short of the 70% threshold for open access, with repeated failures to sell the larger Calaca and Masinloc plants.

As such, ERC postponed its July 1, 2006 target for the initiation of open access and retail competition since only 2 of 5 conditions required by the EPIRA have been met. A new date of July 1, 2007 for the Luzon grid was set for users of 1MW+, July 1, 2009 for users of 750KW (including contiguous aggregators) and July 1, 2011 for all households. Nevertheless, the ERC affirmed that the 2007 commencement depends on the privatization of 70% of NPC GENCOs.

PSALM encountered delays in offering GENCOs for sale from the slow process of obtaining clearances from each debt holder for sale of each GENCO. PSALM submitted its schedule of power sector privatization to Joint Congressional Power Commission, indicating further delay in selling state-owned power plants to 2008 unless power supply contracts are attached.

In particular, the 3rd PSALM bidding of the 600MW Calaca plant in Batangas failed when one bid was undelivered. A new round of bidding will be scheduled in 2007 if a partial power contract can be attached. Meanwhile, PSALM withdrew the sale of Masinloc to YNN Pacific Consortium when the buyer failed to pay by the 3rd deadline - 18 months after the bid award – the down payment of $227 million on its $562 million bid price. PSALM collected a $14 million bid bond. YNN had brought in a credible

partner Ranhill (Malaysian) willing to make the down payment but only on the condition that there would be a PPA, which NPC could not do under EPIRA. Efforts to persuade MERALCO to agree to a PPA failed.

Box 4. Power Infrastructure Milestones

- The ADB granted $450 million loan to the Philippine Government to restore financial viability of the power sector
- The ERC granted provisional authority to MERALCO and NAPOCOR on their application for approval of a MOA to implement the Customer Choice Program
- NAPOCOR and MERALCO signed a 5-year transition supply contract expected to ensure MERALCO customers of reliable supply of electricity
- The ERC adopted a Code of Conduct for Competitive Retail Market Participants
- The DOJ issued a legal opinion affirming that the PEZA has the authority to regulate power in ecozones
- WESM launched
- PEMC president Holopainen announced a plan to integrate WESM in Luzon with its Visayas counterpart within the first half of 2007
- PSALM completed the sale of the 112MW Pantabangan-Masiway hydropower plant in Nueva Ecija and 360 MW Magat hydroelectric plant in Isabela
- A MOA and transmission service agreement was signed Clark Electric Distribution Corp (RP) and TRANSCO that will reduce wheeling charges by 50%

Notwithstanding these failures, the government was able to make limited progress in implementing EPIRA. For example, PSALM completed the sale of the 112MW Pantabangan-Masiway hydropower plant in Nueva Ecija to the Lopez group First Gen Hydropower, which subsequently announced plans to invest $100 million to add 108MW capacity.

PSALM announced a consortium of SN Power and Aboitiz Power was the highest bidder ($530 million) for the 360MW Magat Hydroelectric Plant in Isabela. PSALM attached a 95MW supply contract to the sale. The new owners plan to expand capacity of the plant. On the other hand, KEPCO, PHINMA Group and Aboitiz Equity Ventures (AEV) are reportedly interested in bidding for Masinloc and Calaca if sold with power supply contracts. KEPCO also reportedly is interested in the privatization of NPC hydro and geothermal facilities. CalEnery may be interested in Agus 3 and Tiwi-Makban. AEV allotted Php 10 billion for current year investments, including two hydro plants in Davao and possible acquisition of NAPOCOR hydro plants in Luzon.

To date, PSALM plans to raise $1.6 billion in 2007 from the sale of 40% of NAPOCOR's operating assets totaling 1,600MW and projected the Masinloc rebidding could be done by mid-2007. Also, 40 companies expressed interest in bidding for two decommissioned NPC plants – the 225MW Limay and the 200MW Manila – to be auctioned early 2007. In addition, three smaller diesel plants are projected be sold within 2007.

PSALM VP Tampinco said rebidding of the 600MW Masinloc coal-fired power plant in Zambales may be scheduled by mid-2007, with bid invitations to be sent out in March. Bidding for the 600MW Calaca coal-fired power plant could follow 2 months after should Masinloc be successfully bid out. Supply contracts would be attached to both.

AEV Vice President Aboitiz said the company is firming up plans to bid for the 600MW Masinloc coal-fired plant, but only if the plant has a supply contract. He added AEV would also bid for the 100MW Binga and 75MW Ambuklao hydropower plants in Benguet.

With regard to transmission, PSALM initially announced a September date to auction a 25-year privatization concession license to operate TRANSCO, requiring bidders (60/40 RP equity) to have a $500 million market cap and a $30 million bond. The winner will need to obtain a franchise from Congress. Of seven groups initially reported to have expressed interest, finalists narrowed to three by end 2006. The proceeds were expected to yield $2 to $3 billion. Respected manager Art Aguilar succeeded Alan Ortiz as TRANSCO president. As serious bidders requested more information, the bid date was rescheduled several times, extending into January 2007.

Unfortunately, the government failed to auction the 25-year TRANSCO concession, for the fourth time. Of three prequalified bidders, only the consortium of Citadel Holdings and Terna SPA (Italian) submitted a formal bid. The consortium of Triratna, Newbridge Asia IV and Tenaga Nasional Berhad and the consortium of Monte Oro Grid Resources and State Grid Corporation of China were present at the public bidding but did not submit bids. The consortium of Citadel Holdings and Terna SPA urged the government to enter into a negotiated bid for TRANSCO, while the consortium of Triratna Holdings, Newbridge Asia IV, and Tenaga Nasional Berhad said they are willing to submit an attractive bid for TRANSCO should the government decide to hold another auction. Rather than negotiate with the sole bidder, the government decided to reschedule another bid round for the concession. At present, the date of bidding is yet to be announced.

ICIP was very active in advocating to the government, the Energy Regulatory Commission (ERC) in particular, for the immediate implementation of "open access." The scheme was seen to lower power prices for large power consumers, mostly firms engaged in manufacturing. In preparation for open access, the ERC adopted the Code of Conduct for Competitive Retail Market Participants, which includes retail electricity suppliers, distribution utilities, entities in economic zones and the contestable market. AmCham member GNPower received the first retail electricity supplier license from the ERC[6]. ERC also issued a license for wholesale electricity aggregator to TransAsia Oil and Energy Development Corporation, a Philippine-based firm.

As for the private sector, AmCham welcomed the Manila Electric Company's (MERALCO) decision to offer open access for industrial and commercial customers consuming 1MW+ monthly. MERALCO also initiated the new Consumer Choice (Time-Of-Use)[7] program. ICIP also supported dialogue among MERALCO, NAPOCOR and large power consumers regarding lower rates. This yielded 45 large power consumers who have asked to buy directly from NAPOCOR. Futaba Corp Phils. (Japanese), an

[6] Note though that the July 1, 2006 target for initiation of open access and retail competition had been postponed, since only 2 of 5 conditions required by EPIRA were met. The new date of July 1, 2007 for the Luzon grid set for users of 1MW+, July 1, 2009 for users of 750 KW (including contiguous aggregators), and July 1, 2011 for all households. ERC affirmed 2007 commencement depends on privatization of 70% of NPC GENCOs.

[7] NPC's time-of-use (TOU) program allows for lower pricing during periods of low demand.

electronics manufacturer, was the first industrial company to contract under the Customer Choice Program. A consumer of at least 1 MW, Futuba will be allowed to choose between NPC's time-of-use rates or MERALCO's blended generation rate.

NPC and MERALCO signed a MOA allowing customers consuming at least 1MW to choose their own power supplier. AmCham welcomed MERALCO's decision and wrote the ERC chairman requesting early implementation (see Appendix 17). Early in 2007, the ERC approved a 5-year transition supply contract (TSC) between NAPOCOR and MERALCO. The TSC will terminate a year after the introduction of open access. The ERC granted provisional authority to MERALCO and NAPOCOR on their application for approval of a MOA to implement the Customer Choice Program. Later, MERALCO said it will lower the threshold from 1 MW to 750KW.

Success in advocacy was achieved by ICIP in calling for the beginning of the operation of WESM. In July 2006, WESM was launched, opening the electricity market to competition and reducing power rates by a small amount, especially for large users. AmCham attended the ceremonial start of operations. Initial WESM operations were seen to cut electricity price by P0.50/kwh. PEMC president Holopainen announced a plan to integrate WESM in Luzon with its Visayas counterpart within the first half of 2007, an early success in promoting investment in the power sector.

In a significant development, the DOJ issued a legal opinion affirming that the PEZA has the authority to regulate power in ecozones. PEZA DG De Lima said the legal opinion removes ERC authority over firms operating within ecozones. NEDA DG Neri said locators in private ecozones could save as much as P1.30 kwh if they can get the same rates as those in public sector-owned ecozones regulated by PEZA.

A MOA and transmission service agreement was signed between Clark Electric Distribution Corp and TRANSCO. The initiative will reduce wheeling charges by 50% in the economic zone. Accordingly, locators can now expect to save P40M a month following ERC approval of TRANSCO discount of P0.25/kwh, which brought down power rates to P5.33/kwh. A Clark official claimed the rates at Clark are lower than other SEZs and cited Mactan at P6.03/kwh and MERALCO at P6.83/kwh.

Other ICIP activities included the holding of a Workshop on Energy Reform in May 2006, with DOE Sec Lotilla, the presidents of PSALM, TRANSCO, and WESM. During the forum, JFC advanced its advocacy on accelerating privatization and lowering of power prices. AmCham ICIP, on the other hand, brokered a meeting with NPC officials and large AmCham power users to discuss more competitive electricity rates. It also attended a power reform discussion by former NPC president Delgado.

The ICIP Senior Advisor also attended a DOE-organized investment seminar at which DOE Sec Lotilla, DOE U/S Ocampo, PSALM president Osorio, ADB, IFC and other officials spoke. After noting that the critical period when new capacity for the Luzon grid is essential will begin in 2010, Ocampo identified four expected new projects to be added to the Luzon grid before 2011: a 200MW (hydro expansion), a 600MW (coal), a 300-

500MW (combined cycle natural gas) and 550MW (combined cycle natural gas). WESM explained it has 23 sellers and 157 customers. The DTI speaker said that ITH will continue to be available for new owners of privatized plants. PSALM reported that as of the end of 2006, 11% of GENCOs had been privatized and projected the total to reach 50% by the end of 2007 and the 70% open access threshold would be reached in 2008. The sale of Calaca (600MW), Masinloc (600MW) and Makban-Tiwi (425MW) remain top priorities, with hopes the 5-year MERALCO-NPC transition contract will help attract investors.

AmCham ED, Amdesk BOI and ICIP staff attended Energy Committee briefing on "2007 Priority Initiatives in the Energy Sector" with DOE Usec Balce, who discussed GRP energy independence strategies to achieve 60% self-sufficiency by 2010, which include increase in oil and gas reserves and production, increase in coal production to reduce coal imports, increase use of renewable energy, promotion of CNG and biofuels for transportation, conversion of oil-based power plants to natural gas power plants and pursuit of energy efficiency and conservation program. He also gave updates on GENCO and transmission assets privatization, WESM, rural electrification and investment requirements of $31B from 2006 to 2014.

Specific to investment, a STEAG (German) senior official expressed his company's willingness to invest further in the Philippines, provided company is given a GRP power purchase agreement[8]. Sec Lotilla said the DOE will study the possibility of using Section 71 of EPIRA to allow STEAG to expand its capacity in Mindanao by as much as 150MW. Section 47j prohibits NAPOCOR from entering into new contracts with any IPP, but Section 71 empowers the President to request Congress for a waiver. Later, Sec Lotilla issued a statement that the GRP will pursue an option for distribution utilities and big users in Mindanao to enter into off-take contracts with STEAG. Off-takers can aggregate their demand and NPC could assist by joint sales agreement that would blend higher-priced new capacity with cheaper volumes from existing NPC hydro plants. A fallback option is for Congress to pass a joint resolution to authorize the NPC to enter into an amended BOT contract with STEAG for expansion in North Mindanao

Furthermore, Mirant (US) announced its decision to sell its subsidiary AmCham member Mirant Philippines the largest power generator (1,500MW) in the country, operating IPPs in Pangasinan and Quezon provinces. Mirant accepted a bid of $3.4B from a consortium of Tokyo Electric Power (Japan) and Marubeni (Japan). The transaction, believed to be the largest acquisition in RP history, is expected to close in the second quarter of 2007. Meanwhile, AmCham member CalEnergy (US) transferred its Leyte geothermal plant to PNOC-EDC, the first BOT power project to be turned over to the GRP.

[8] DOE plan requires Mindanao to add 100MW new capacity in 2009 and 2010 to maintain a 20% Reserve Margin.

Box 5. Grid-Specific developments in the Power Sector

Luzon Grid

- AmCham member GNPower (US) secured BOI incentives for a P44 billion coal-fired plant in Mariveles, Bataan, replacing its $1.2 billion LNG plant which received incentives in 2004 but for which funding ended when the project had insufficient power off take contracts. MERALCO reportedly is considering buying 100MW
- KEPCO (Korean) might add 330MW ($400 million) to its Ilijan Malampaya gas plant in Batangas
- DOE Sec Lotilla said TEPCO and Marubeni (both Japanese) plan to invest $400 million for a 400MW expansion of Mirant's 735MW Pagbilao coal-fired power plant in Quezon
- DOE Usec. Balce said Synergy International Resources Group (Chinese) and PNOC-EC expressed interest to enter into gas sales agreement with Malampaya consortium, for a possible 500MW greenfield gas-fired plant on Talim Island, Laguna Lake
- DOE Sec Lotilla said Electric Power Development and Sumitomo, both Japanese operators of 761MW Caliraya-Botocan-Kalayaan (CBK) Power, signified interest in expanding capacity of facility by 360MW
- AEV (Phil) signed agreement with Taiwan Cogeneration International (Taiwan) to jointly build and operate coal-fired power plant in Subic
- PSALM is considering the decommissioned 850MW Sucat Thermal Power Plant as a fallback generator in case no new capacity will be installed in the Luzon grid before the critical period in 2010

Visayas Grid

- KEPCO and Salcon Power (Singapore) signed a power agreement with NAPOCOR/TRANSCO to allow a 200MW coal-fired plant in Iloilo to move forward. KEPCO will start construction in May 2007, and the plant will be commissioned after 33 months by 2010
- NOC-EDC started commercial operation of its $68 million 49MW Northern Negros Geothermal Power Plant

Mindanao Grid

- Steag State Power (German) 200 MW coal-fired plant started full operations in January 2007, reducing potential supply shortfall in the grid
- AEV plans 2 new hydro plants in Mindanao with capacity of 70 MW
- MG Mining & Energy (RP) plans a $500 million power plant near a coal mine site in Sultan Kudarat
- NAPOCOR entered into a joint sales agreement with Lanao Hydropower Development Corporation (LHDC) to ensure reliable and reasonably-priced electricity in Mindanao grid. NAPOCOR president Del Callar also said LHDC, on its own, will put up 225-MW Agus 3 hydro plant in Lanao, whose commercial operation is scheduled in March 2011. LanaoHydro chair said the company is in talks with four foreign investors and lenders to secure more than $300 million to construct a 225MW Agus 3 hydropower plant
- A consortium led by Alsons Consolidated Resources and Electricity Generating Public Company of Thailand announced plans to build a $350 million 200MW coal-fired power plant in Davao by the end of 2007

Milestones and Actions: (Biofuels Sector)

Initiatives in support of biofuels development began when AmCham was briefed by the Philippine Sugar Millers Association on the opportunities of ethanol, while stressing the anticipated positive energy savings, environmental effects and employment generation. In July 2006, AmCham Amdesk met with US businessmen, exploring possible a $300 to

$500 million ethanol production and cogeneration plant on Luzon. The project would require 40,000 hectares of special sugarcane plantation and was predicted to employ thousands of Filipino workers. Meanwhile, ICIP continuously supported the passage of the Biofuels Act, which spurred large potential investment even prior to ratification of the said bill, including:

- PGMA opened a P1 billion Chemrez (Phil) coco-biodiesel plant in Quezon City;
- BOI approved a P2 billion bioethanol project of San Carlos Bio-Energy, joint venture between NDC and Bronzeoak Philippines, in Negros Occidental;
- BOI granted tax incentives to P795 million ethanol project of the Gokongwei group in Negros Occidental;
- Far East Biofuels (US) is developing a $140 million cane-based ethanol plant in Pampanga for export through Subic to Japan;
- Marubeni and Central Azucera de Don Pedro are exploring an ethanol plant in Batangas;
- Saudi Aramco may build an ethanol distillery or jathropa processing plant in Mindanao; Petron chairman said Petron would source at least 100,000 liters from the project starting in 2008;
- PNOC-Alternative Fuels Corp is talking to Samsung (Korean) as a possible strategic partner in an integrated jatropha plantation and biofuel refinery plant. PNOC-AFC announced it will start a 10,000-hectare jatropha nursery in Mindanao. PNOC-AFC signed a MOU with Samsung (Korea) for a P8 billion jatropha biofuel facility and refinery project;
- Biogreen Energy (Malaysian) is preparing to sign a MOU with PNOC-AFC to establish a jatropha nursery and plantation.
- The GRP cabinet approved a P500 million budget for the Philippine Forestry Corporation to plant jatropha on public lands, beginning with military lands in Central Luzon.
- Flying V may build an ethanol plant in Batangas with 60,000 liter/day capacity;
- Sumitomo (Japan) in talks with PNOC-AFC will build a biofuel central terminal in Bataan;
- Negros Southern Integrated Biofuels signed a MOA with China CAMC Engineering to build an ethanol plant in Negros Occidental;
- Zambo Norte Bio Energy Corp signed a P2 billion contract with China CAMC Engineering to construct a new integrated sugar mill and ethanol plant;
- PhilStar reported Bio-Energy (Phil) is planning to invest up to $300M for a biodiesel project. In a letter to Bio-Energy president, a Japan Bank for International Cooperation (JBIC) director reportedly approved funding for a feasibility study of the project, which is projected to plant 500,000 ha of idle land in Northern Luzon in coconut and to build a plant with 300M liter p. a. capacity;
- Bioenergy (Phil) announced it will build Mindanao's first biodiesel plant in Davao costing P50 million with a capacity of 30M liters a year;
- Seaoil (RP) president Yu said his company is drafting a plan for a refinery to produce 100,000 liters a day of ethanol;
- AmCham member Chemrez Technologies (RP) said it will allocate P691 million to build storage tanks and acquire barge and trailer trucks for a logistics system to

ensure adequate supply of coco-biodiesel in preparation for implementation of the Biofuels Act;

- Petron is investing $2.5 million for a fuel additives blending facility with a capacity of 12,000 MT per year at Subic. Pilipinas Shell (RP) will have ethanol-blended gasoline at 100 stations by mid-2007. AmCham member Chevron Philippines (US) announced the company will invest $11 million for its capital expenditures in 2007 in complying with the Biofuels Act requirements.

Meanwhile, the government, according to PNOC-AFC, is planning to put up at least three new biodiesel processing plants within the next three years. Interested joint venture partners include Samsung (Korea), Sumitomo (Japan), JGC (Japan), National Biofuels (US), HDZ (Malaysia), Brunei National Petroleum (Brunei), Chemrez (Phil), Biogreen Energy (Malaysia) and Limketkai Manufacturing (Phil). PNOC-AFC received board approval of a 2007 budget of P1.257 billion for biofuels development.

Milestones and Actions: (Fossil Fuels Sector)

In fossil fuels, limited progress was achieved in 2006, despite claims that various foreign firms reportedly are interested in oil and gas exploration opportunities in the country. In fact, the government expects new investments of US$300 million over the next seven years from four new oil and gas exploration contracts in southern Palawan.

The limited progress in oil and gas is partly attributable to the sudden cancellation by the government of the Mitra farm-in agreement. In August, President Arroyo issued EO 556 which terminated the "agreement" between PNOC and Mitra Energy (Malaysia) to produce crude oil from Camago-Malampaya reservoir in Palawan and ordered a new bidding. Eight firms had responded to a PNOC invitation to farm-in. Mitra was selected to negotiate a contract, which was on-going when the President intervened. President Arroyo's action produced negative press as a well-connected domestic firm which failed to win the concession was rumored to have used connections to place a hold on the award to Mitra. The JFC wrote PGMA expressing concern over the cancellation (see Appendix 36). Sec Lotilla announced a new bidding would take place in the first quarter of 2007, noting that the RP was losing potential revenue of P33 million each day of oil that was not extracted. However, in February 2007, DOE Sec Lotilla said the government still had to decide whether to proceed or not with the development of the CMOL project within the first quarter of 2007.

The situation was further aggravated when a DOE Usec said approval of oil exploration projects by Nido Petroleum (Australia) and Ranhill (Malaysia) were on hold so as not to violate EO 556 requiring competitive bidding. However, Nido Petroleum (Australian) entered into an agreement with PNOC for oil exploration in an area adjacent to Malampaya. Nido Petroleum Phil (Australian) allocated $25 million for development drilling in the Galoc oil field and to explore oil and gas prospects off NW Palawan in 2007.

Despite these conflicts, investments still flowed in the country, although limited to some extent. Investment commitments was observed as AmCham member Exxon Mobil (US)

announced subsidiary Esso Exploration International and Mitra Energy (Malaysia) entered into farm-in agreement to explore for hydrocarbons in Sandakan Basin in Sulu Sea near Malaysia. As well, Shell Petroleum Corporation (UK) approved up to $1 billion in new investments for future oil exploration and expansion projects in the Philippines. Another 12 foreign and local firms have expressed interest in contracts in oil and gas, coal and geothermal exploration projects and are conducting due diligence for various oil and gas exploration projects under the 3rd Philippine Energy Contracting Round (PECR 3). Finally, Pilipinas Shell Petroleum said CNG mother and daughter refilling stations will be operational by June 2007.

Milestones and Actions: (Water Sector)

ICIP also monitored investment developments particular to commercial water supply. In 2006, MWSS pre-qualified four domestic and international bidders for a $100 million bulk water supply project. Later in the same year, MWSS announced plans to bid out a $1B BOT project for the Laiban Dam in Taytay, Rizal.

DMCI Holdings (Phil) and Metro Pacific Holdings (Phil-HK) won the bid for the GRP stake in the Maynilad water concession for $447M. Government-owned MWSS formally turned over 84% of Maynilad to DMCI-Metro Pacific Water Company. The GRP previously acquired its stake at a greatly discounted cost from the Lopez Group to whom the concession had been privatized in mid-90s in partnership with IndoSuez (France).

Reform Cluster 3B. Infrastructure: Transportation: Subic-Clark-Batangas Corridor

Reform Cluster 3 focused on the promotion and establishment of key transportation projects in the Subic-Clark-Batangas (SCB) Corridor. In particular, under this reform cluster, the project recommended (1) the opening of the Ninoy Aquino International Airport (NAIA) International Passenger Terminal 3 (IPT3) and adequate compensation of owners; (2) rapidly develop Clark airport for cargo and passenger traffic; (3) connect Subic to Batangas in a smooth road system; (4) award contracts for long-delayed NCR rail projects; (5) recruit the most-experienced private sector manager to serve as Special Assistant to the Chairman of NEDA for Major Infrastructure Projects; (6) identify and resolve bottlenecks of key projects; (7) decide which projects to fund with JBIC or PRC loans and which to offer as PPPs, fund pre-feasibility studies and assure transparent bidding; and (8) amend the Build-Operate-Transfer (BOT) law IRRs and seek BOT law amendments.

Status during the Project

2006 may prove to be a turning point in transportation infrastructure modernization for the Philippine economy. Economic planners have certainly been acutely aware of the growing deficiencies in transportation infrastructure, and more high-level attention was given during the project period to major transportation infrastructure modernization than at any other time since the 1997 Asian financial crisis. After five years in office, PGMA showed signs of frustration over her administration having little to show in major infrastructure improvements. The World Economic Forum (WEF)'s Global Competitiveness Rating ranked Philippine infrastructure in 90th place of 117 countries.

An improved fiscal picture provided the government room to budget more resources for physical infrastructure. Increased revenues from the EVAT beginning in FY 2006 will allow the government to fund more projects itself and to budget counterpart funding to resume availing of JBIC project loans (usually around US$1B per year). The PRC has emerged as a large actual and potential source of concession funding, with US$1B committed to rail projects in Central Luzon.

President Arroyo used her annual State-of-the-Nation (SONA) in July 2006 to promise a large array of transportation and other projects spread throughout five "super-regions" costing nearly P2T over four years and raising future total infrastructure spending to a respectable 5% of GDP, following several years of an anemic public sector infrastructure budget. She highlighted the modernization of ground and rail transport in what she termed the "Luzon Urban Beltway" (the same concept as ICIP's "Subic to Batangas Transportation Corridor"). President Arroyo organized an Infrastructure Monitoring Task Force chaired by a cabinet heavyweight (an action long advocated by AmCham), although shortly thereafter she shifted responsibility to her new PMS head, whose skills at moving projects through the cumbersome and often resistant bureaucracy are

uncertain. In addition, the president designated close advisors to monitor infrastructure projects in each "super-region." The effectiveness of these bureaucratic structures is unproven and falls short of the "Infrastructure Czar" advocated by AmCham.

While construction of some financed projects is underway (the Subic-Clark-Tarlac expressway and Northrail Phase 1), work on other critical projects has barely started (SLEX rehabilitation). Progress for another group (LRT-1 extension, MRT-3 Phase 2, LRT-7, C-5 to NLEX connector) was difficult to confirm despite a stream of press reports of "progress" from bureaucrats who have a quite dismal track record of getting much actually constructed.

Two years after the government announced its expropriation of NAIA IPT-3, the new international passenger terminal remains unopened and its owners uncompensated. Plans announced by NAIA for a "soft" opening in March 2006 were postponed to allow repairs after a ceiling section collapsed. The GRP finally was allowed by courts to make an initial P3B payment to owners of NAIA IPT-3, while waiting for the conclusion of the three-year long international arbitration proceedings, being held in two venues, on the final total amount of compensation. The project period ended with the unopened airport remaining a negative symbolic "white elephant" of the country's uncertain investment climate and increasingly overcrowded and backward international air transport infrastructure. A looming issue is the possibility that Philippine Airlines would use its demonstrable influence to control IPT-3 in similar fashion to its monopoly of NAIA's Centennial Terminal, originally designed (by ADB) and funded (by the GOJ) as a domestic terminal open to all domestic carriers. A recent GRP assessment of the terminal's construction was completed alleging serious structural problems with the building.

Clark grew rapidly as a center for regional low-cost carriers providing encouragement that the Philippines might participate in the rapid growth of tourism that regional leaders Malaysia, Singapore, Thailand and, most recently, Vietnam enjoy. Arrivals at Clark in 2006 reached the 500,000 level (ten times 2003), and large enough to stimulate much new investment at the former US base. However, the protectionist character of influential Philippine Airlines, whose principal owner is a consistently generous political campaign contributor, asserted itself at the Palace arguing a narrow self-serving view of bilateral air reciprocity to PGMA who signed EO 500-A which could limit the growth of aviation at Clark for airlines not covered by GRP bilateral air agreements, none of which currently service Clark. Local civic and public sector leaders in Central Luzon and national-level supporters of liberalized aviation for the Philippines strongly objected.

Milestones and Actions

AmCham/ICIP prepared a list of top priority infrastructure projects listed in the *Roadmap II More Foreign Investment*, most of which were included in the President's SONA in July 2006, in which President Arroyo promised heavy public investment in airport, rail, roads and Ro-Ro infrastructure projects in four "super regions" which the government said it could afford because of improving fiscal conditions. The list was afterwards

provided to the Philippine Development Forum (PDF) Infrastructure Group and to consultants working with the chairman of the Infrastructure Monitoring Task Force (IMTF)[9]. These projects were included among the top 20 on the list of 79 high-priority projects which the IMTF is closely monitoring and also on a list of the top 11 projects supported by the NCC (see Appendix 2).

Box 6. Transportation Infrastructure Milestones

Overall

- Government planned P2 trillion worth of infrastructure projects from 2006-2010
- The Philippines and the PRC agreed to undertake $5 billion worth of projects under their Economic Partnership Framework Agreement
- President Arroyo, in her 6th SONA, promised heavy public investment in airport, rail, road and Ro-Ro infrastructure projects in four "super regions," including the Subic-Batangas Transportation Corridor
- President Arroyo issued EO 553, establishing an Infrastructure Monitoring Task Force

Airports

- The government paid PIATCO a P3 billion initial payment for IPT-3
- Mayors and representatives of congressmen composing Metro Clark Advisory Council issued Resolution No. 134 urging PGMA to repeal EO 500-A
- The CAB granted additional flight entitlements to Korean Air for Manila-Incheon route, Asiana for Manila-Pusan and Incheon-Clark and longer foreign air carrier permits to Air Asia and Malaysia Airlines (5 years each)

Seaports

- NEDA DG Neri stated that the Philippine Government intends to avail of $1 billion from JBIC placed at DBP, part of Japanese government's 27th yen loan package, to import used ferries and manufacture domestically for lease to private sector RO-RO operators.

Rail

- The government will acquire 12 four-car trains through a P9 billion JBIC loan as part of the LRT Line 1 Capacity Expansion Project
- Construction work on the NorthRail Caloocan train station began
- The Philippine government and the PRC signed a MOU for the Southrail (Calamba-Bicol) rehabilitation and extension using a concessional PRC loan

Roads

- The P21 billion 94km SCTEX is 53% finished and will be completed on schedule in November 2007
- Building of the 200-m flyover in Batangas City with a P3 billion JBIC loan is now on-going

Immediately after the SONA, President Arroyo issued EO 553, establishing an Infrastructure Monitoring Task Force (IMTF) to be headed by Presidential Management Staff (PMS) chief Yap which "shall take steps to speed up the implementation of projects as appropriate." AmCham intervention came in to play when it advocated that a senior official and an experienced manager must be recruited from the private sector to monitor and resolve problems of major infrastructure projects (as stated in the ICIP Advocacy Plan).

[9] President Arroyo issued EO 553, establishing the Infrastructure Monitoring Task Force (IMTF) to be headed by the PMS chief which "shall take steps to speed up the implementation of projects as appropriate." (AmCham advocated that a senior official close to the President monitor and resolve problems of major infrastructure projects.)

The government through NEDA plans P2T worth of infrastructure projects over four years (2006-10), of which 65% will be funded by the GRP and 35% by the private sector. Half will be spent on transportation projects. NEDA's goal is to increase infrastructure spending to 5% of GDP, while creating a conducive environment for PPPs, particularly a stable regulatory system.

During the visit of a large Chinese delegation, the Philippines and the PRC agreed to undertake $5 billion worth of projects under their Economic Partnership Framework Agreement. According to NEDA, the PRC has offered up to $2 billion in annual low-interest loans; project agreement signings are to be scheduled for the visit of the PRC Premier to Manila in January 2007. NEDA DG Neri said President Arroyo and Chinese Premier Wen Jiabao witnessed the signing of over $1 billion worth of loan agreements, including $500 million loan agreement for the continuation of the Northrail Project (to San Fernando, Pampanga) and a $500 million MOU for other key infrastructure projects (most of which will fund the PNR Southrail project).

In October 2006, the Makati Business Club (MBC) organized the "Government Infrastructure Forum 2006" Oct 4 for Infrastructure Task Force chairman Yap, NEDA DG Neri and chiefs of public works, transportation, irrigation and ICT to brief officers and members of domestic and foreign business associations on SONA infrastructure projects. Over 200 persons attended. They welcomed the government's emphasis on prioritizing infrastructure but also commented on the need for timely implementation and project prioritization. Former DOF Sec de Ocampo said the government list is too long and needs focus. Philamlife president Cuisia said the presentation lacked assurances of implementation; and PIDS fellow Llanto said the government's proposed infrastructure projects were simply a "long list" lacking priorities. At the October 6 National Competitiveness Summit, the business community urged the government to implement certain key infrastructure projects in the Subic-Batangas Corridor.

Also related to heavy infrastructure, ICIP organized a meeting for EMERGE Build-Operate-Transfer (BOT) experts to discuss proposals for BOT law reform, in response to House Economic Affairs chair Salceda's argument pertaining to the importance of HB 5002, which aims to create a BOT Authority to oversee BOT contracts The private sector supports IRR amendments and BOT law reform, but the real need is for leadership to get projects moving. AmCham underlined the need for stronger leadership to revitalize a BOT program moribund since the Asian financial crisis and to avoid further delays in implementing PPPs such as the MRT-3 Phase 2, the Manila Skyway Phase 2 and the LRT-1 Extension.

In preparation for the ICIP Workshop on the Subic-Batangas Corridor, the ICIP Senior Advisor and AmCham Transportation Committee Co-Chairman met with Japan Bank for International Cooperation (JBIC) representative in the Philippines, to review government process of implementing key infrastructure projects. JBIC currently has 45 projects ongoing but for three years has not started new projects because the government has not made counterpart funds available, which is expected to change soon with the improved

fiscal revenue situation. ICIP and JBIC reviewed the government infrastructure program in 2006, starting with President Arroyo initiative to raise competitiveness ratings, SONA emphasis on infrastructure, National Competitiveness Summit, FDI and Infrastructure workshops, Task Forces on Infrastructure Monitoring, Red Tape and National Competitiveness. Of the 400 projects listed in the SONA, the Task Force is monitoring 79, of which 20 have "priority focus." These overlap with the "10 priority projects" discussed in the PDF mid-term review.

Later in 2006, former Infrastructure Monitoring Task Force chair and DA Sec Yap said the GRP intends to complete in 2007 six infrastructure projects worth P60 billion: (1) expansion of the DMIA passenger terminal; (2) the STAR 2 expressway extension; (3) construction of the SCTEX; (4) Subic Port modernization; (5) EDSA rehabilitation and (6) NAIA IPT-3. The JFC sent a letter to President Arroyo on the government priority infrastructure projects requesting inclusion of LRT-1 Extension to Bacoor and MRT-7 in top nine infrastructure projects identified by the Private Sector Infrastructure Champion of the NCC (see Appendix 41). Consequently, the NCC list was expanded to 11 projects.

The AmCham Transportation and Infrastructure Committee co-chairs and ICIP staff met and agreed on a 2007 program of meetings for the committee focusing on speakers on airport, seaports, road and rail and related policy reforms. Invitations to brief the committee were sent to NAIA GM Cusi and NEDA DG Neri. The meetings will have an expanded invitee list to seek to include firms interested in infrastructure beyond the membership of AmCham. Also, at the request of AmCham, the JCCI agreed through JBIC to organize the ICIP workshop on Reform Cluster Subic-Batangas Transportation Corridor in February 2007.

In February 2007, the AmCham ED, Amdesk BOI, and ICIP Senior Advisor participated in an ICIP Workshop on the Subic-Batangas Corridor, JCCIPI/JBIC Investment Climate Improvement/Infrastructure forum (see Appendix 10). AmCham ICIP invited AmCham members interested in large infrastructure projects to attend the workshop by JBIC, which funds $1 billion a year in infrastructure loans to the country. A Japanese wire harness manufacturer with factories in the PRC, Philippines and Thailand praised Philippine workers but noted power rates are highest in the region and policies are inconsistent, workforce English skills are in decline and the country has a poor image. The Japanese Embassy Minister said some 1,000 Japanese companies operating in Philippines have invested P235 billion.

At the same forum a JETRO officer contrasted the fact that Japanese firms operating in RP are "satisfied" to the country's "stereotyped" bad image in Japan, such that the RP was dropped from the JETRO annual list of ASEAN favorite investment sites for new Japanese locators (Malaysia, Thailand, Vietnam are the top destinations). Concerning labor, he noted problems of late scheduling of holidays, rising minimum wages, radical unions and the need to raise worker education to increase labor productivity. Regarding investment incentives, he noted a proliferation of agencies offering incentives (compared with Thailand with a true 1-stop shop), constitutional constraints on land and equity and

more Japanese speakers in Thailand. Regarding taxes, the Philippines has the highest corporate tax, while Thailand has better tax administration.

In February 2007, ICIP staff attended the PDF-NCC-IMTF Tripartite Coordination Meeting on Infrastructure, in preparation for the March PDF meeting in Cebu. Export Development Council (EDC) Director Cala noted the NCC had expanded its recommended list of 9 priority infrastructure projects to 11 by including LRT-1 Extension to Bacoor and MRT-7 as proposed by the JFC. The PDF has a similar list, except it includes the Cavite-Laguna Toll Road and not Northrail/Southrail projects. Key issues identified for priority consideration at the Philippine Development Forum include reversing EO500-A, amending EPIRA to allow open access, allowing PEZA to regulate power distribution in private ecozones to bring down cost of electricity, opening NAIA IPT-3 and draft BOT-IRR amendments (note: The World Bank sent a letter to DOF Sec Teves expressing concern against limiting the role of the NEDA-ICC in reviewing BOT projects) and calling for full implementation of EO-308 for effective ports competition.

Airports

ICIP, with the JFC, continued to raise concerns over the much-delayed opening of the expropriated NAIA IPT-3.[10] The government planned a soft opening of the airport by the end of March 2007, which resulted from the government's initial payment of P3 billion to Philippine International Airport Terminal Corporation (PIATCO), a Philippine-German joint venture. President Arroyo visited IPT-3 to inspect connecting civil works. However, the collapse of a section of the airport's ceiling delayed the soft opening. She then ordered the Department of Transportation and Communication (DOTC) to complete repairs and construction of the terminal and to operationalize it by March 2007. However, in February 2007, DOTC Sec Mendoza said NAIA IPT-3 "rolling opening" is moved to April, with three unidentified airlines agreeing to use the new terminal as "pioneer" users. Airport GM Cusi told the US Embassy that qualifications for carriers to locate at IPT-3 are still being decided but might include size of the aircraft.

ICIP was also active in its advocacy of promoting Clark and Subic as premier international gateways through improving facilities and adopting sound aviation policies. Most importantly, ICIP became very active in supporting for the repeal of EO 500-A, which reversed EO 500 that allowed Clark to rapidly develop as a low-cost airline hub, increasing tourist arrivals by more than 100%.[11] This resulted in the deferment of Tiger Airways in setting up a $300M regional hub for Asia-Pacific operations at Clark.

In the first quarter of 2007, NEDA Director General Neri called for the reversal of EO 500-A to permit continued growth of developmental air routes at Clark and other priority tourist areas. However, the Civil Aeronautics Board (CAB) advised PGMA against returning to EO-500. The Philippine Airlines (PAL)-backed protectionist group "Save Our Skies" opposed the lifting of restrictions on flights of low-cost carriers to Clark.

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[10] Detailed discussion on the NAIA IPT-3 controversy can be found in the *Roadmap II More Foreign Investment*.
[11] A policy brief on the aviation policies at Clark can be found in the *Investment Climate Briefs.*

Thereafter, mayors and representatives of congressmen composing the Metro Clark Advisory Council issued Resolution No. 134 urging President Arroyo to repeal EO 500-A. The Metro Clark Advisory Council opposed EO 500-A, reaffirming support for the entry of low-cost carriers at DMIA. Cebu Pacific Air and other domestic carriers signed a statement with PAL opposing the reversal of EO 500-A.

Some expansion of new international service took place at Clark. CIAC president Luciano said three more low cost carriers will start service to DMIA. Hong Kong Airways started four weekly flights to Hong Kong. Tair Airlines will serve Riyadh-Jeddah-Clark route four times weekly beginning Jan 2007. Thai Air Asia will start flights from Bangkok in February 2007. The CAB approved an Asian Spirit petition to operate regular flights to Seoul. Meanwhile, SEAIR leased two Airbus 320 aircraft to fly between Clark and Macau and Singapore. SEAIR president Zapanta said the company is looking to apply for BOI incentives under the 2006 IPP to acquire new aircraft.

Such developments contributed to the influx of tourists. DMIA alone registered a record high of 470,867 passenger arrivals in 2006, or a 110% increase from 2005, thanks to low-cost carriers. CIAC announced plan to spend Php 19 billion in the next three years for DMIA improvements.

At other airports in the country, DOTC Sec Mendoza reported to the President that several ongoing airport projects will be completed in 2007, including the new Php 8.6 billion Iloilo "International" Airport (will commence operations in April), Bacolod (Silay) Airport Project (80% complete and targeted for completion by July 2007), upgrading of NAIA Runway 13-13 (completed), Zamboanga Airport runway overlay, expansion of DMIA Passenger Terminal Building expansion (targeted for completion by September 2007).

Seaports

ICIP advocacies in this area primarily focused on competition policy at the major ports of Manila, Batangas and Subic. ICIP attended and participated in several consensus building exercises and forums in order to further its advocacy. ICIP wrote a letter to the Philippine Ports Authority (PPA) to encourage competition for domestic and international shipping at the port of Manila. During the consultation process to privatize North Harbor, ICIP supported PCCI in forwarding the idea of having two terminal ports to foster competition, which should reduce handling fees and promote efficiency. Despite this however, the PPA, during its public hearing, was moving to have a single operator.

Consultation with PPA revealed that the government may allow international port companies to bid for cargo-handling operations at Batangas Port by June 2007. According to the PPA general manager, the agency aims to privatize operations of the Batangas Port by December 2007. He added that the PPA and Zhenghua Port Machinery (PRC) have signed a purchase agreement for cranes worth Php 1 billion set for late 2007 delivery. In addition, the PPA said it would no longer seek national government approval (NEDA-ICC) for a proposal to allow a private entity to manage Manila North Harbor.

The privatization would no longer be done through the BOT process, which requires ICC approval. PCCI officers said the PCCI would continue lobbying to prevent the GRP from allowing a single private operator to manage all facilities and operations of Manila North Harbor.

Meanwhile, NEDA DG Neri stated that the government intends to avail of $1 billion from JBIC placed at DBP, part of a GOJ 27th yen loan package, to import used ferries and manufacture domestically for lease to private sector RO-RO operators. Returning from a Japan trip, SBMA chairman Salonga said Japanese shipbuilders expressed interest in participating in a RP domestic Ro-Ro building plan. A $100 million loan for a BOC container inspection system will be made by the PRC Export Import Bank.

Rail

While some financed projects have started construction, work on others has stalled at development and planning stage. For instance, the Light Railway Transit (LRT)-1 South Extension (Baclaran-Bacoor) project, which had been contemplated years ago, faced new delays as its prominent Canadian proponent was forced to withdraw its unsolicited offer, for which the government paid $10 million for development costs. The situation was further confused when the LRTA said prospective bidders for a $683 million LRT-1 South Extension had until October 2006 to submit expressions of interest but the NEDA-Infrastructure Committee (NEDA-INFRACOM) said updated proposal for LRT-1 South Extension has still to be approved by NEDA Investment Coordination Committee (ICC). Nevertheless, interest in the project by international firms was reported in the press; 12 foreign and local firms reportedly registered interest to bid. The WB/IFC provided technical assistance to prepare a RFP for a PPP bidding, possibly to include the operation of the entire LRT-1 line currently operated by the government-owned LRTA.

The government continued to spend on railroad development in 2006. The government was reported to acquire 12 four-car trains through a Php 9 billion JBIC loan as part of the LRT Line 1 Capacity Expansion Project, payable in 30 years at 1% interest and 10-year grace period. New trains will increase the capacity of the LRT-1 from 27,000 to 40,000 passengers per hour per direction.

Meanwhile, bidders may respond under the Swiss challenge to the 6-year old unsolicited bid of United LRT Corporation for the $1.2 billion Metro Rail Transit (MRT)-7 project Northeast of Manila until the latter part of 2006. Development in these areas was observed when BusinessWorld reported that the government will hold a Swiss challenge for the 23-km $1.23 billion MRT-7 Universal LRT project. Universal LRT is targeting start of construction in late 2008 and completion by mid-2012. DOTC reportedly opened the Swiss Challenge with deadline for proposals set for May 25, 2007.

Construction of MRT-3 phase 2 (EDSA North Transit) was still for bidding out by DOTC following government procurement rules and placed under LRTA. The DOTC invited interested parties to prequalify for $550 million EDSA North Transit project connecting MRT-3 from North Avenue to Caloocan. In a contradictory report, the LRTA was

reportedly tasked to construct 5.4km railway connecting MRT-3 and LRT-1, estimated to cost $120 million. In February 2007 the LRTA prequalified three bidders out of seven to bid to construct a Php 6.6 billion LRT North extension project, which include: Metrolink JV; Schema Konsult-DCCD Engineering Corporation-Katahira & Engineers Asia-Asia Halcrow; and SPI-JCCS-WCI Joint Venture.

MRTC chair Sobrepena announced a plan to add more trains to accommodate rising passenger volume on EDSA MRT-3. The existing system capacity is 350,000, but the daily passenger volume has reached 480,000.

Construction of Northrail Phase 1 started with operations projected for 2009. The CDC welcomed NEDA approval of the Northrail Phase 2 Php 35 billion 48-km Malolos-Clark component of project to be financed with a PRC concessional loan. A MOU for the Southrail (Calamba-Bicol) rehabilitation and extension project using a concessional loan from the PRC was signed with the Philippine government. Finally, Panay Railways said the Laguna-Rizal Ecological Transport System consortium (US-PRC-HK) is working on a master plan for the initial phase of a $2.4 billion 220-km BOT project for submission to NEDA to meet its target of starting construction within 18 months.

Roads

ICIP, with the JFC, raised their concern over the much-delayed South Luzon Expressway (SLEX) and Alabang viaduct rehabilitation to Executive Sec. Ermita and DTI Sec. Favila, who promised work would start in March, which did not push through and only limited work was underway at end of 2006. Related developments include MTD Capital reportedly transferring some of its Php 3 billion equity into its subsidiary MTD Manila Expressway, and the International Finance Corporation (IFC) was expected to approve a loan for project. Project completion is targeted for 2009.

As regards the 25-year extension of the Philippine National Construction Corporation (PNCC) franchise, AmCham wrote a letter to PNCC president Aguilar explaining why AmCham could not write to Senator Arroyo to support any extension of a franchise which allowed broad rights to monopolize toll roads in Central Luzon (see Appendix 29).

WB country manager Von Amsberg said the WB/IFC has allotted $300 million for the RP to finance PPP road projects. The release of funds will depend on the pace of projects.

BCDA president Abaya reported a 56-percent completion of the Subic-Clark-Tarlac Expressway (SCTEX), which he said would be completed on schedule in November 2007. The BCDA has allocated Php 230 million for the construction of a 9-km access road to Clark from the SCTEX by December 2007. Two prominent local firms were pre-qualified to bid for a 10-year contract to operate/maintain the expressway to be awarded in 2007.

Meanwhile, the Manila North Tollways Corporation (MNTC) has allocated Php 2.5 billion for a NLEX 6-km highway expansion scheduled for late 2007.

For the proposed connection of NLEX and SLEX, President Arroyo directed NEDA to study 3 options, namely: (1) new C6 along the coast of Laguna de Bay, (2) via a new elevated Skyway or (3) using the existing C5 route.

DTI Sec Favila said that the China Roads and Bridges Corporation (PRC) expressed interest in completing the Manila Skyway project 2nd stage from Bicutan to Alabang, as well as the longer 3rd stage to link the SLEX with the NLEX (Buendia to Balintawak). The 10km 2nd stage is estimated to cost Php 12 billion, while the 3rd stage is estimated at Php 42 billion.

The Star Infrastructure Development Corp was set to enter into Php 1.5 billion loan agreement with First Metro Investments and DBP to fund part of the Php 2.1 billion STAR toll road project in Batangas. SLTC was reportedly obtaining a $50 million loan from the IFC to help fund the $170 million SLEX project, which comprises the southern end of the Subic-Clark-Batangas network of linked expressways.

Other significant developments that ICIP monitored during the period include the on-going 200-m flyover in Batangas City funded by a Php 3 billion JBIC loan which will cut travel time to the Batangas International Port by at least 20 minutes; signing by UEM-MARA (Phils) of the Php 3.5 billion funding with the DBP and four banks for the long-delayed Manila-Cavite Coastal Road extension; construction of a Php 14 billion ($280 million) 27-km Cavite-Laguna North-South Expressway being proposed for partial IFC financing; and the possible Php 5 billion “trans-axial” highway in Cebu, which would run the length of the island through a BOT scheme. Cebu Governor Garcia said the UEM Group (Malaysia) expressed interest in the project.

Reform Cluster 4. Judicial/Regulatory/Enforcement

Reform Cluster 4 focused on addressing delayed cases in court, rampant smuggling and ubiquitous Intellectual Property Rights (IPR) violations. Recommended reforms included the introduction of continuous trial, intensification of anti-smuggling enforcement and BOC lifestyle checks, and arrest and successful prosecution of large smugglers and their political protectors, and increase in IPR enforcement, especial for optical media.

Status during the Project

There were few indications of major improvements in the reform tasks during the project period. While some low and mid-level BOC personnel were suspended or dismissed as the result of life-style checks (see Reform Cluster 1 above), no cases were brought against so-called "big fish." Smuggling of used cars through freeports, primarily the SBMA, has continued without abatement despite a Supreme Court decision affirming GRP authority to prevent their entry into its customs territory. Consequently, the domestic market for new cars remains stagnant. A rough estimate of the monetary value to the syndicate that operates the smuggling is in the range of $150 to $200 million annually.

Milestones and Actions

ICIP advocacy on establishing and implementing the Continuous Trial System (CTS) yielded significant results during the project period. The SWS 2005/06 Diagnostic Study of the Judiciary showed that the proportion of judges feeling poorly paid had fallen steadily over the past decade. It also showed that the proportion of judges saying that the CTS works had risen to a plurality of 43% from a minority of 31% two years ago and the proportion saying CTS does not work had fallen to a minority 35% now from a majority 60% before. Moreover, Department of Justice (DOJ) Sec Gonzalez ordered government prosecutors nationwide to resolve all pending cases before them within 60 days from day complaint was filed.

Box 7. Judicial/Regulatory/Enforcement Milestones

- SC affirmed a decision upholding the right of the GRP to prohibit the importation of used motor vehicles from freeports into Philippine customs territory
- The IRRs for the Attrition Act were released
- BOC and AmCham member Philip Morris signed a MOU to eradicate rampant smuggling and proliferation of counterfeit and contraband cigarettes in local market

ICIP was successful in advocating for the revision and release of the Attrition Law Implementing Rules and Regulation (IRR). This increased pressure on the BIR and BOC in meeting their revenue targets. Nonetheless, resistance developed among BOC personnel to enforcement of the targets.

In AmCham, ICIP was engaged in questioning at a Taxes and Tariff committee briefing on Updates on BIR Legal and Enforcement Reforms with speaker BIR Deputy Commissioner Cabantac, who noted increase in revenue collections, but stressed shortage of personnel hinders effectiveness and efficiency of tax generation. He also pointed out planned creation of investment and audit manuals to reduce cost of doing business, adoption of arbitration or mediation for tax cases, revival of policy cases division to handle cases of industry groups, and aim to increase number of conviction of those filed with cases under the RATE program.

BOC Commissioner Morales filed criminal charges against 6 persons suspected to be involved in technical smuggling. The JFC sent a 20-page letter to Senate Ways and Means Committee (SWMC) chairman Recto proposing numerous improvements in the anti-smuggling bill passed by the House and under consideration in the House Ways and Means Committee (HWMC). Despite those efforts, there were few indications of major improvements in the reform tasks during the project period. The smuggling of used cars through freeports, primarily SBMA, continued despite a Supreme Court decision affirming the government's authority to prevent entry into its customs territory. Consequently, the domestic market for new cars remained stagnant.

In another industry, the BOC and AmCham member Philip Morris signed a MOU to eradicate the rampant smuggling and the proliferation of counterfeit and contraband cigarettes in the local market. Moreover, the ECCP issued a statement calling on the government to crack down on the proliferation of counterfeit European goods as the European Commission included the RP on its list of countries with rampant IPR violations. The DTI/IPO said Php 752 million worth of contraband was confiscated during the first half of 2006. In a threatrical announcement, President Arroyo ordered police raids on the 168 Mall in downtown Manila. Notwithstanding, the establishment soon returned to normal operations after the goods of small shops were confiscated.

In January 2007, 30 Chinese fishermen were arrested and released on bail for poaching at the UN World Heritage Site Tubbataha marine reserve. Hundreds of banned live fish headed for Hong Kong restaurants were found aboard their vessel, which was held in Palawan. The DOJ dismissed two cases filed against a different group of 22 Chinese fishermen for allegedly poaching in Palawan waters in October 2006.

The JFC met with SC Chief Justice Puno and discussed the role of the judiciary in cases involving outsourcing and labor disputes, sanctity of contracts, arbitration, IPR protection, political killings, and creation of a special court for infrastructure projects (see Appendix 11).

Reform Cluster 5. Legislation

Reform Cluster 5 sought to address the low productivity of the Philippine Congress, as well as the worrisome pattern of passing and proposing poor laws, despite the many needed reform measures proposed. Since the bicameral Congress was restored under the 1987 Constitution, the rate at which the seven successive Congresses (each lasting three years) have passed major legislation had slowed down. The current 13th Congress is setting a post-Marcos record for low legislative productivity, despite the large number of good bills proposed in committee. The opposition-controlled Senate passed few major bills, while the House focused on defeating opposition efforts to impeach President Arroyo and an overhaul of the 1987 Constitution.

ICIP also aimed to tackle issues pertaining to amending the 1987 Constitution by removing restrictions on foreign investment. No liberalization of the foreign investment regime has taken place since the passage of the Retail Trade Act in 2000.

ICIP also recommended the revitalization of the Legislative-Executive Development Advisory Council (LEDAC), a successful coordination mechanism in the Ramos and early PGMA administrations, which was not functioning when the ICIP began in March 2006.

Status during the Project

The third and final year of a Congress should be a time of heightened legislative activity, as both houses seek to achieve final passage of bills to send to the president before the 90-day election campaign recess begins in February 2007. Bills that are not signed into law must start the legislative process again in the next Congress.

However, neither the Executive Branch nor the current Congressional leadership embraced ambitious legislative reform agendas, appearing largely comfortable with the status quo and proposing fairly conservative reforms, reflecting the prevailing views of the political, business and religious elites. When goals and expectations are modest, then both branches of government can appear relatively satisfied when not achieving a strong legislative record, which is invariably portrayed as significantly progressive.

Perhaps characteristic of this legislative torpor was the absence of any legislative agenda from the president's July SONA. By late 2006 with only a few months of sessions remaining on the Congressional calendar, many analysts believed the 13th Congress would adjourn with the poorest record of legislating in two decades. However, in these waning weeks of the Congressional session, in December and January, there was a rush of legislative activity, so that by early February a growing list of bills had been approved to be forwarded to the president for her signature (see Appendix 1).

In recent years, AmCham has prepared three lists of priority legislative reforms:

1. in the Roadmap II More Foreign Investment (June 2004);
2. in the ICIP Advocacy Plan (April 2006); and
3. in a National Legislative Competitiveness List prepared at the time of the National Competitive Summit (October 2006) (see Appendix 38).

Some - but certainly not enough – of these proposals have become law (see Appendix 1). The role of the American and other foreign chambers in supporting or opposing legislation has been substantial and continuing. Coordination with other business associations has included the BAP, BPAP, CMDC, EDC, FINEX, MBC, MAP, NCC, PCCI, SEIPI and others.

In May and November 2006 LEDAC meetings were held, restoring the usefulness of the group to some extent.

Milestones and Actions

During the project period, AmCham members and committees, in coordination with selected ICIP allies, convened and communicated with the Executive Secretary, appropriate officers, senior Congressional leaders and committee chairs and congressional staff to urge passage of ICIP priority legislation. ICIP also generated wide media coverage in support of these.

Relating to national competitiveness, the JFC wrote Congressman Cua endorsing a proposed legislative agenda for competitiveness of more than 30 measures (see Appendix 38). Later on, the JFC released a statement urging the Philippine Congress to complete final legislative action on several important bills prior to its February recess for 2007 election campaign. Statement covered in The Philippine Star. More so, JFC sent letter to President Arroyo commending her call for Congress special session to work on pending legislation, including anti-red tape act, credit information system act, customs brokers act amendment, human security act, national tourism act, and PERA act. AmCham ED personally gave letter to President Arroyo during PCCI induction of new officers (see Appendix 42).

As it ended its 2nd session in June 2006, the 13th Congress failed to send to the president any LEDAC priority bills, including the 2006 national budget which should have passed by late 2005. LEDAC had been moribund, not meeting and without staff. The LEDAC finally met in May 2006, and again in November, prioritizing bills to pass in the few remaining months of the 3rd session. During the meeting, LEDAC prioritized 11 laws, including ICIP priorities (Clark SEZ, credit bureau, fiscal incentive rationalization, anti-smuggling, and anti-terrorism) and agreed that the Senate and House constitutional committees would meet to explore ways to amend the Constitution; they subsequently met twice without any agreement.

Box 8. Legislation Milestones

LEDAC
- LEDAC finally met in May and again in November 2006

Foreign Investment Restrictions
- The House Committee on Constitutional Amendments approved House Resolution 1230, seeking changes to RP Constitution including the reduction of most restrictions on FDI and some on land ownership

Priority Legislation
Signed into Law:
- RA 9369 Automated Elections signed January 23, 2007
- RA 9367 Biofuels Act of 2007 signed January 12, 2007
- RA 9401, or the General Appropriations Act of 2007 signed on March 23, 2007
- RA 9358, or the Supplemental Budget for FY 2006, signed on October 17, 2006
- RA 9399 and RA 9400 Clark Tax Amnesty and Cark Tax Incentives signed March 20, 2007
- RA 9361 EVAT Amendment signed November 21, 2006
- RA 9372 Human Security Act (Anti-Terrorism) signed March 6, 2007
- RA 9343 SPV Extension signed April 24, 2006

Waiting for the President's Signature:
- SB 2589 Anti-Red Tape Act
- SB 1949 Lending Company Regulation
- SB 2233 (1343) Personal Equity and Retirement Account (PERA)

For Ratification and Bicam when 13th Congress Resumes in June 2007:
- Credit Information Bureau Act
- Customs Brokers Act Amendment

Passed by the House but not the Senate:
- HB 4069 Anti-Smuggling Act
- HB 3295 Fiscal Incentives Rationalization
- HB 4846 Land Administration Reform Act
- HB 5563 Renewable Energy
- HB 5296 SNITS/Individual Income Tax
- HB 5284 VOIP
- HB 345 Minimum Wage Law

Passed by the Senate but not the House:
- HB 2625 National Tourism Policy Act

Passed by the Senate but not the House:
- HB 5002 BOT amendments
- HB 5282 DICT bill
- HB 4343 and SB 2169 Pre-Need Code
- EPIRA Amendments
- 25-year extension of the PNCC franchise

At its November 2006, LEDAC prioritized bills to pass in the few remaining months of the 3rd session. Among the bills identified by LEDAC as the most urgent were six ICIP priorities: poll automation, biofuels, anti-terrorism bill, Clark SEZ and amnesty bills and creation of a credit information bureau.

Aside from supporting LEDAC, ICIP also chaired monthly AmCham Legislative Committee meetings to review the status of 2006 priority legislation and coordinating with other committees on key bills moving in Congress. Key bills focused on during the period were Anti-Smuggling, biofuels, Clark SEZ, removal of EVAT 70% input cap and rationalization of fiscal incentives. The group also called on Senate President Villar to discuss ICIP legislative priorities.

In their advocacy towards lifting of restrictions on foreign investments, the House Committee on Constitutional Amendments approved House Resolution 1230, seeking changes to the Constitution including the shift to a parliamentary form and reducing most restrictions on FDI and some on land ownership.

ICIP, with the JFC, sent a letter to NEDA Director General Neri requesting for consultation before the 7th Foreign Investment Negative List was issued, as well as consideration of a Foreign Professional Partners in National Development Act and Rationalization of Foreign Investment Restrictions Act (see Appendix 33). The JFC letter to Sec. Neri was also released to media and sent to congressional leaders, appearing as its lead front page story in BusinessWorld and BusinessMirror and reported in other major broadsheets. Nonetheless, the advocacy was ignored.

In March 2007, ICIP Senior Advisor raised with DOF Sec Teves and AmCham ED later wrote DOF Sec Teves regarding the static nature of FDI Negative List and encouraged Teves (as "father" of the Foreign Investment Act) to discuss issue with other government economic managers (DTI Sec Favila and NEDA DG Neri) to adopt a strategy to liberalize further the Philippine foreign investment regime. Earlier, President Arroyo issued EO 584 or the 7th Foreign Investment Negative List. No changes have been made in the FINL for six consecutive years.

ICIP was also instrumental in urging the government to enact several bills into law, including those related to biofuels, EVAT amendments, automated elections, human security and the national budget of 2007 (see statements in Appendices).

ICIP was instrumental in the passage and enactment of the law that will implement automated elections. The Senate approved in October 2006 SB 2231 to computerize elections. The COMELEC predicted that partial automation of the 2007 elections was unlikely because of lack of time and a SC restraining order on the use of the MegaPacific machines purchased for use in 2004. One month later, the Congressional Bicameral Committee approved the bill on poll automation in 12 areas (2 provinces and 2 highly urban cities in Luzon, Visayas and Mindanao to be determined by the COMELEC with the consent of respective local councils) in the May 2007 elections. Nationwide implementation of poll automation will take place in the 2010 elections. Finally in January 2007, President Arroyo signed RA 9369, amending RA 8436, which mandates automation of elections starting with the May 2007 senatorial and local elections. Notwithstanding, the COMELEC doubts the law can be implemented in time.

ICIP was also successful in pushing for the establishment of a law concerning the promotion of biofuels in the country. The initiative started when Senate committees reported the Biofuels bill with investment incentives creating investor and consumer interest in biodiesel, ethanol and other new fuels. American Desk/BOI reported US investor interest. The AmCham Agribusiness and Energy Committees hosted the DOE Biofuels Office Director to discuss issues and the legislation.

Upon consultation with concerned AmCham member firms on policy issues and legislation with DOE Biofuels Director Marasigan, AmCham released a statement on biofuels bill supporting incentives to develop domestic production but opposing mandated additives to gasoline/diesel and urging that neither petroleum retailers nor car manufacturers be liable for possible engine damage and that new fuels should be fully tested. The Chamber of Automotive Manufacturers of the Philippines, Inc. (CAMPI) expressed support for government alternative fuels program but said the "percentage blend and time frame should not be in the law." Later in November 2006, the Congressional Bicam approved the Biofuels Act of 2006. The Senate had passed on final reading SB 2226 requiring minimum 5% ethanol fuel by volume to be blended in all gasoline within 2 years and 10% ethanol within 4 years. Key differences which the Bicam had to resolve included (a) Senate provisions making ethanol mandatory, (b) giving BOI incentives to biofuels projects and (c) a 3-year ban on locating ethanol plants near existing sugar lands. Finally, in January, President Arroyo signed RA 9637, or the Biofuels Act, into law. The law promotes alternative energy options to petroleum imports, seek to enhance energy security and reduce the impact of climate change. It also contains provisions for fiscal incentives to developers of renewable energy sources.

Probably the most urgent legislation where ICIP played a major was the General Appropriations Act of 2007, or RA 9401, which was signed by the President in March 2007. The Bicameral Conference finally resolved disagreements in the proposed P1.126 trillion national budget for 2007, splitting the difference to break the deadlock on DepEd food-for-school program and paving way for final approval of P1.13 trillion national budget for 2007[12].

In addition to RA 9401, the president signed in October 2007 RA 9258 or the Supplemental Budget for FY 2006. Accordingly, Senate and House ratified final version of 2006 Php 47 billion supplemental budget, needed because of Congress' failure to pass the 2006 budget bill.

ICIP has also been very active in pushing for the passage of EVAT amendments, particularly the removal of the 70 percent cap on input VAT and the 5-year recovery treatment of VAT for the purchase of capital equipment costing above P1 million.[13] In November 2006, RA 9361, repealing the 70% cap on input VAT, was signed and fully implemented. ICIP was successful in mobilizing key stakeholders, such as the JFC and Philippine business groups towards this, which involved several policy dialogues with

[12] Congress has failed to pass budget for the previous three years.
[13] The first of these two issues was resolved by RA 9361 while the 5-year recovery period remained unresolved in the 14th Congress.

Executive Sec. Ermita, DTI Sec. Favila, DOF Sec Teves, BIR Commissioner Buñag, Sen. Recto and Rep. Lapus. ICIP also advocated in the media, through a position paper describing the problem and calling for its removal.

In particular, AmCham organized a meeting for CEOs of Coca Cola, Makro, P&G and PMMPI to discuss the impact of cap on small retailers with House Ways and Means Committee chairman Lapus, the committee vice-chair Teves and BIR Commission Buñag. Unless remedied, hundreds of thousands of retailers could close resulting in revenue collection losses for the government. Buñag requested Taxes and Tariffs Committee chairman to submit a full memo (16 pages); however, BIR Mancom did not approve the recommended remedies. The DOF/BIR did not favor a stand-alone bill to remove the cap for fear of opening EVAT law to other amendments which could undermine the government's fiscal picture.

The AmCham and the JCCPI also met with Senate Ways and Means Committee chair Sen Recto and House Ways and Means Committee chair Rep Lapus to discuss the EVAT input cap, Clark SEZ and fiscal incentives rationalization. Both chairmen said they would seek to rectify the input cap problem in the SNITS bill restructuring income tax rates and would include the Clark measures in the Fiscal Rationalization bill, if separate remedial bills were not passed earlier.

Finally, in November 2006, President Arroyo signed RA9361, amending Section 110(B) of the National Internal Revenue Code of 1997 as amended, repealing 70% cap on input VAT. The Senate passed in October its bill repealing the 70% cap on input EVAT, which the House passed earlier. Following effectivity of EVAT amendment to correct the 70% input cap problem, the BIR issued Revenue Regulation (RR) 2-2007, dated 12/12/06, which changes RR 16-2005 or the Consolidated VAT Regulations of 2005, allowing taxpayer input VAT that exceeds their output tax to be carried over to next quarter.

Another achievement of ICIP in the area of legislation was the passage into law of RA 9372 or the Human Security Act (Anti-Terrorism), which was signed in March 2007.

Advocacy on the extension of the Special Purpose Vehicle (SPV)[14] Law was also successful as the President signed RA 9343 in April 2006 extending SPV for two years to help reduce bank bad loan ratios, which declined in February to 8.3%, its lowest since April 1998. The BSP estimated the extension would enable the banking industry to dispose of P100 billion more of non-performing assets by granting tax exemptions and reduced registration and transfer fees.

Significant efforts were witnessed not only of ICIP but also of other business organizations concerning Clark-focused bills, which were signed into law in March 2007.[15] AmCham and the JFC undertook a "full-court press" regarding Clark SEZ remedial bills, speaking with Secs. Claudio, Ermita, Favila and Teves, Sen. Recto and Reps. De Venecia and Lapuz, as well as BCDA and Clark officials. As an intermediate

[14] SPVs acquire non-performing assets at substantial discounts and seek to sell them later for a profit.
[15] President Arroyo signed RA 9399 (Clark Tax Amnesty) and RA 9400 (Clark Tax Incentives) on March 20, 2007.

step following the adverse mid-2005 Supreme Court decision, PGMA signed proclamation 1035 on March 10, 2006 extending PEZA fiscal incentives to present and future locators at Clark but not addressing the tax amnesty issue.

HB 4900 and 4901, which provides for the granting of perks and restoration of fiscal incentives at Clark-Subic Export Zone (Clark SEZ), was successfully approved by the Lower House but remained pending in the Senate for interpellation until the latter part of 2006. As a result, AmCham wrote Senate President Drilon to request expeditious passage and sent letter of appreciation to HWMC chair Lapus (see Appendix 19).

Notably, AmCham ICIP, together with the JFC, conducted series of dialogues to push for the Clark SEZ remedial bills in the last quarter of 2006. ICIP spoke with Secretaries Claudio, Ermita, Favila and Teves, Sen. Recto and Reps. De Venecia and Lapus, and BCDA and Clark officials. Moreover, AmCham requested presidential political advisor Claudio to place the Clark SEZ issue on the May 16 LEDAC agenda (and sent letter forwarding ICIP legislative priority list) (see Appendix 16). AmCham ICIP also drafted a policy statement regarding the Clark SEZ remedial legislation, which was later released as a policy statement of JFC, urging the government to fix problem before foreign investors leave (see Appendix 49). The statement was carried in major newspapers and subject of a supportive editorial. ICIP initiatives in this area bore fruit when the Senate approved SB 2259 in December, seeking to extend a tax amnesty to locators at former bases outside of Subic, and SB 2260, which seeks to provide tax incentives to locators of Clark, John Hay Morong and Poro Point. Nevertheless, during the meeting with DTI Sec Favila, the ICIP Senior Advisor discussed the two Clark bills passed in Senate and noted House-passed bill would extend ITH option under the 1995 PEZA Act to future investors at Clark and Subic but the Senate-passed bill did not.

The AmCham ED, ICIP Senior Advisor and Knowledge Institute president also called on DTI U/Sec and BOI Managing Director Hernandez to discuss the GRP position on four House and Senate bills on the Clark SEZ and tax amnesty issues. They urged the GRP to seek standardized fiscal incentives for all SEZs, using PEZA rules and incentives as a common base and would support HB 5064 which brings Clark, John Hay, Morong and Poro Point SEZ under RA 7227.

After which, the JFC released Statement on Clark Bills before Bicam urging passage of the House version re bringing Clark and Subic under PEZA Law and eliminating the Senate VAT provision (see Appendix 55). The statement covered in Philippine Star, BusinessWorld and BusinessMirror. The LEGCOM chair also contacted Senators Gordon, Osmeña and Roxas and Congressmen Cua, Golez and Villafuerte regarding the AmCham position on the Clark bills.

In January 2007, the Bicameral Committee approved the two Clark bills.[16] The Bicam then endorsed for approval the committee report granting tax amnesty to locators at the

[16] In the Bicam-approved committee report amending the BCDA ACT, the DOF will require information on foregone tax revenues resulting from fiscal incentives enjoyed by locators at former US bases, while the DOF will submit a yearly report on this to the President and Congress.

former US bases (except Subic where this is not needed) and creating a freeport zone at Clark and SEZs at John Hay, Morong and Poro Point. The Senate ratified the Bicam Committee report and PGMA signed the amendments to the BCDA Act and One-Time Tax Amnesty to Locators in Special Economic Zones into law in March 2007.

ICIP also played a major role in counteracting the so-called Recto Bill on the rationalization of fiscal incentives, entitled the "Consolidated Investments and Incentives Code of the Philippines." The bill proposed to abolish the BOI and reorganize the Philippine Economic Zone Authority (PEZA) to become the Philippine Investment Promotion Administration (PIPA) and end all income tax holidays (ITH) while keeping net operating loss carry over (NOLCO) and some other incentives for export projects and in poor provinces. Knowing the adverse consequences of the proposed reform, AmCham ICIP and ECCP discussed the Recto Bill with CFOs of SEIPI member firms, SWMC chairman Recto and COS Liwag and economists Habito and Medalla. As debate over fiscal incentives for investment intensified in the latter part of 2006, AmCham widely discussed the bill with the automotive, business processing and semiconductor associations, PCCI, the Finance and Trade secretaries, not to mention that it also co-sponsored with ECCP a forum that tackled the bill along with other concerns such as EVAT 70% cap and the anti-smuggling bill. Concerned legislative personalities were also consulted in line with the rationalization of fiscal incentives.

ICIP, with the JFC, issued a very strong statement urging caution and revealing a poll of JFC members which illustrated preference for the existing incentives regime. Considerable media coverage ensued, which was later followed by statements from the BPAP, PCCI and SEIPI, all favoring retention of ITH and the BOI. CAMPI expressed concern over SB 2411, saying repeal of EO 226 would also automatically repeal EO 156, the basis for the Motor Vehicle Development Program.

ICIP also discussed fiscal incentives rationalization with concerned legislators including House Appropriation chair Rep. Salceda (concurrently House Economics chair) and Sen. Recto. Moreover, AmCham also organized meetings among industry representatives and representatives from the WB, IFC, and USAID. It was pointed out that the appearance of DOF support for SB 2411 was creating uncertainty over the future incentives regime for new and expansion projects. But the DOF and Sen. Recto reasoned that infrastructure and education would be improved enough in the near future so that ITH would no longer be needed, adding that the 10-year NOLCO should be an attractive substitute incentive. However, AmCham stressed that foreign investors had been told for years that the government would improve infrastructure and education, but the truth was that both were still deteriorating despite government plans and that it would be unwise to remove ITH until sufficient infrastructure and education improvements were recognized as in place by investors in annual global competitiveness ratings. Also, competing countries who already have better education and physical infrastructure in place still offer fiscal incentives. Therefore, it was hard to understand the support for such legislation, which would likely make RP less competitive.

AmCham, together with the ECCP and CanCham also met with Ateneo and UP economists, including two former NEDA Director Generals Habito and Medalla, who also prepared reports similar to that of the Reside report. Also, ICIP Senior Advisor met with Hans Shrader of the IFC Jakarta office to discuss fiscal incentives rationalization bills. Furthermore, ICIP Senior Advisor and representatives from BPAP, ECCP, SEIPI, Ford and Intel called on Senators Angara, Drilon, Lim, Magsaysay and Pimentel separately to discuss SWMC-reported SB 2411 on rationalization of fiscal incentives. Industry concerns were raised regarding provisions of SB 2411 (1) changing from zero-rated to 12% VAT on raw materials, (2) abolishing the BOI and IPP, (3) ending or phasing out ITH and (4) absence of successor legislation to EO 226 as the basis for the auto industry and control of used car imports. Sen. Angara agreed the proposal to collect 12% VAT on raw materials used in exports was unreasonable. He expressed belief that ITH should continue for exporters but not for domestic investments, including FDI in BOT infrastructure projects. He told BPAP he believed call centers and back office operations were in a "gray" area; he favored a small levy (1-3%) on call center/back office firms for a national training trust fund. Sen. Drilon was convinced the BOI had abused its authority by awarding ITH and that changes in EO 226 were needed. Sen. Lim said he did not support legislation making the Philippines less competitive and would support industry views. Sen. Magsaysay said he fully supported improving Philippine competitiveness and said "I will oppose SB 2411 if the industries which are coming to the Philippines to provide jobs to our countrymen oppose the bill." He said he favored an improved version of the House-passed bill but not such radical changes as in SB 2411. Sen Pimentel said industry views should be heard.

At a Quarterly Roundtable of Wallace Business Forum, the ICIP Senior Advisor raised SB 2411 on fiscal incentives with Sec. Teves and Senate President Villar. Teves explained that the Philippine government would improve infrastructure and education in order that ITH would not be needed to attract investments. He said he believed ITH should be phased out over several years in anticipation of the to-be-improved investment climate and that - should these improvements be insufficient - then the phase-out could be extended. Senate President Villar indicated that he was aware of the many objections raised to SB 2411 by business groups and had asked Sen Recto to work out a bill acceptable to industry before the Senate proceeds with interpellation and floor passage.

ICIP staff also attended a PhilExport technical working group on SB 2411 on fiscal incentives and discussed strategy to best address concerns about pending legislation, while the ICIP Senior Advisor spoke with House Trade and Industry Committee chair Junie Cua to urge a cautious and considered approach in meetings held to rework SB 2411 and to fully take into account industry views so that final legislation could reflect global best practices and not reduce Philippine competitiveness.

The Amdesk BOI also discussed the DTI position on SB2411 with BOI officers, while the ICIP Senior Advisor discussed industry concerns on SB 2411 with Presidential Advisor for Competitiveness Roberto Romulo.

The ICIP Senior Advisor and the Amdesk BOI organized and attended a meeting with DTI Sec Favila to discuss the status of the rationalization of fiscal incentives legislation. The ECCP, JCCPI, KCCP, PCCI, SEIPI and auto parts association attended. AmCham was represented by the VP country head of Coca Cola, the head of Ford Phils, the ICIP Senior Advisor and the Amdesk BOI. Favila explained he had conveyed industry concerns regarding the Senate bill in a series of meetings seeking to narrow differences on SB 2411. The DTI was explaining that ITH was needed until infrastructure and corruption issues were much improved, thus ITH functions as "insurance against the cost of doing business." Secs. Teves and Recto were proposing a 3-year phase-out of ITH, with extension possible if infrastructure is not built in time. Future decisions on which investment activities receive ITH would be decided in consultation with industry and the Congress. PGMA said she was not "comfortable" with SB 2411, as DOF Sec Teves agreed to support export industries and indirect/constructive exports and said a positive list of investments to be given incentives would be created. DTI Sec Favila, however, did not commit to issue a public statement on the bill.

In the case of the renewable energy bill, intervention of the project was limited through support to LEGCOM as it was briefed by DOE Dir. Marasigan, together with the AmCham Energy Committee and the JCCPI. The bill aims to develop 5,000 MW of geothermal, hydro, solar, and wind power. During the discussion, it was clarified that consolidated bills would not mandate greenfield power plants to invest in renewable energy. In November, the House approved HB 5563 – Renewable Energy Act of 2006.

Meanwhile, success was achieved as the Lower House approved on 3rd reading HB 5284 also known as the Voice-Over-Internet Protocol Act. The bill aims to liberalize internet-based telephone services.

Endorsed by the BSP, HB 3819 and SB 1936 seek to create the first centralized credit bureau in the Philippines to address the lack of reliable credit information for both individual and corporate borrowers, including credit card users. SB 1936 was approved by the Senate on 3rd reading but was pending in the House Banks Committee. Realizing the need to establish the institution, AmCham president Dallas sent a letter to House Speaker De Venecia, urging the immediate passage of HB 5948 on establishing a credit information system in the country, which was reported in the press.

Insufficient progress, however, was observed with the National Tourism Policy Act and the Pre-Need Code, the former passed by the Senate but still pending in the House of Representatives while the latter remained in the committee. For the former, AmCham issued statement urging Congress to pass SB 2138 (see Appendix 48). Similarly, the JFC sent separate letters to Senate President Villar and House Speaker De Venecia urging passage of the PERA bill. The letters were covered in BusinessWorld, BusinessMirror and Philippine Daily Inquirer.

ICIP also identified major "bad" legislation during the project period. One centered on EPIRA Amendments which called for reduction of the open access GENCO privatization

minimum from 70% to 50%. AmCham's position was to implement rather than weaken the privatization mandate of EPIRA, signed in 2001.

Another one focused the issue of increasing the minimum wage. In December 2006, the House of Representatives approved HB 345, legislating a P125 across-the-board wage increase for private workers in three annual steps. The last legislated wage was in 1999. Business associations complained that layoffs would result and investments be deterred if bill is enacted.

The Palace press spokesman said the president would veto the House-approved P125 wage hike bill, adding Malacañang agreed with Philippine economic managers and business groups that Regional Tripartite Wages and Productivity Boards (RTWPB) should set salary adjustments. Also, the RTWPB passed a resolution urging the House to reconsider its approval of a P125 wage increase, saying implementing it would be disastrous to employment, as many businesses could not afford the increase and would close.

Major Philippine business groups, including PCCI, FFCCCI, ECOP, BAP, MBC, PHILEXPORT, CONGEP and SEIPI, ran a full-page ad in national broadsheets expressing opposition to the wage hike. DOLE Sec Brion said the wage hike would be "disastrous for labor and employment", while NEDA Dir Gen Neri said about one million Filipinos would lose their jobs. For its part, AmCham released a statement opposing the House bill (see Appendix 47). The statement was reported in the Philippine Daily Inquirer, BusinessWorld, and BusinessMirror.

Meanwhile, the Senate Labor and Employment Committee held an unusual holiday hearing and was set to file SB 2030, supporting instead a P100 across-the-board daily wage hike for private sector workers. Other senators objected to House-approved P125 wage hike, stressing instead the need for "non-wage" incentives and strengthening of the regional tripartite wage boards. In late January 2007, the Committee submitted for plenary deliberations, without amendments, HB 345. Cavite Rep. Remulla, however, moved for reconsideration of the House approval due to an inserted provision in the bill approved on 3rd reading making initial P45 wage increase retroactive to October 2006, which was absent in bill approved on 2nd reading. Thereafter, the House of Representatives reversed the approval of HB 345 on these procedural grounds.

AmCham also opposed the approval of a 25-year extension of the PNCC franchise. Responding to a request from PNCC Chairman and CEO Art Aguilar to support a 25-year extension of the PNCC franchise before the Senate, the AmCham ED wrote Mr. Aguilar to explain that AmCham prefers the privatization of PNCC or a limitation of its broad franchise to monopolize toll roads in Central Luzon by having separate franchise holders for different toll roads (see Appendix 29). Senate Public Services Committee chairman Arroyo said further hearings were scheduled on the House-approved PNCC franchise, after senators moved to scrutinize compromise deal being worked out between PNCC and Marubeni (Japan), which sold its Php 13 billion collectibles from PNCC for $2 million to an offshore company.

Reform Cluster 6. Security/Political Stability

This reform cluster sought to address internal security, crime and political instability, which continue to deter both domestic and foreign investment and tourism in the Philippines, severely harming the country's international image. Key to these concerns include extra-constitutional political maneuvers by the political opposition, military officers and communist and irredentist insurgencies, which have impeded internal security for more than three decades, with cross-border terrorism presenting a more recent additional security threat. In addition, this reform cluster sought the modernization of COMELEC to have faster, less controversial election results, to reduce the instability that followed the 1986 and 2004 elections, which involved widespread allegations of fraud and subsequent controversy.

Status during the Project

The Philippine international image continues to feature negative security issues, creating concern for new investors. Kidnappings of foreigners and local Chinese eased compared to previous years and were not an issue during the project period. However, large numbers (in the hundreds) of unsolved political killings, mostly of leftist political organizers activists, as well as a large number of journalists occasioned domestic as well as international criticism, with suggestions that military/police death squads were often responsible. The Melo Commission named by President Arroyo to investigate killings was stymied by the unwillingness of relatives of victims to appear for fear of brutal retaliation.

The Government of the Republic of the Philippines-Moro Islamic Liberation Front (GRP-MILF) peace talks broke down over differences over the territorial extent of ancestral domain, but the ceasefire generally held with only occasional incidents. The Armed Forces of the Philippines (AFP) made important advances against terrorism killing several Abu Sayaff Group (ASG) terrorist leaders who acquired global notoriety for the brazen kidnapping of foreign tourists in 1999 and 2001.

With national elections less than a year away, President Arroyo's 2004 SONA goal of electoral reform seemed to have forgotten. Two COMELEC commissioner vacancies filled by the President were filled by respected personalities. Important reforms recommended by former Supreme Court Chief Justice Davide at the president's request were kept confidential and were not being followed. A law for the partial automation of the May 2007 elections was signed too late for implementation (in the view of the COMELEC but not the law's impatient Senate proponent Richard Gordon). The action of the Ombudsman to absolve COMELEC over a controversial automation contract for the 2004 elections undermined the Ombudsman's reputation for political independence.

A second move to impeach the president was defeated in the House. The Supreme Court ruled against a write-in campaign to allow Congress to rewrite the 1987 Constitution.

When the House proceeded to attempt to amend the Constitution without the Senate, protests by major religious leaders threatening massive demonstrations in Manila caused administration proponents, sensitive to how large anti-government crowds had brought an end to the Marcos and Estrada administrations, to back-off. As of February 2007, it appeared constitutional change could still be years away.

Milestones and Actions

The most immediate ICIP intervention occurred when AmCham released a statement in relation to the state of emergency (Proclamation 1017), which created concern over political stability (see Appendix 43). Month's later, "career" coup plotter and former Senator Gregorio Honasan was arrested for alleged *coup d'etat* against the Arroyo administration[17].

Box 9. Security/Political Stability Milestones

- "Career" coup plotter and former senator Gregorio Honasan was arrested for alleged "coup d'etat" against Arroyo administration
- President Arroyo formed a 5-person commission headed by former SC Justice Melo to investigate the killings of journalists and militant activists; its report was released in February 2007
- Presidential Advisor on Electoral Reforms former SC CJ Hilario Davide submitted political and electoral reform proposals to President Arroyo
- COMELEC dismissed Sigaw ng Bayan and Union of Local Authorities of the Philippines petition for a People's Initiative to amend the 1987 Constitution
- PGMA approved P707 million contracts to upgrade five PN ships and two PAF aircraft, using AFP Modernization Program funds
- PGMA, as acting DND Secretary, ordered bidding for 12 AFP Modernization Program

Assassinations of leftist activists occurred at a steady pace throughout 2006, receiving extensive negative international publicity and becoming a serious human rights problem for the government. The government repeatedly suggested New People's Army (NPA) culpability, either as internal purges or assassinations against party enemies. The left accused military death squads of using murder to suppress legal political activity by communist front groups and other activists. Critics often pointed to a senior Philippine Army (PA) general whose successive commands in different provinces were accompanied by increased murders of local human rights activists. Amnesty International reported a "climate of impunity" for vigilantes. Paris-based international journalist organization Reporters Without Borders rated the Philippines the 2nd most dangerous country after Iraq. The International Labor Rights Fund in Washington, DC claimed the Philippines to be the 2nd most dangerous country for organizers after Columbia; claiming 60 persons had been killed since 2001. EU officials raised the killings issue with PGMA in Helsinki.

Human rights group Karapatan labeled 2006 as "worst" for human rights since 1986, documenting 338 cases (representing 12,204 individuals) of "violations of right to life" which include extra-judicial killings and disappearances. Aglipayan Bishop Alberto

[17] In April 2007, he was released on bail to pursue his campaign for the Senate.

Ramento, chair of the Supreme Council of Bishops of the Philippine Independent Church, was stabbed to death in his home in Tarlac. Ramento had spoken out against extrajudicial killings under the Arroyo administration.

With the number of extrajudicial and political killings and assassinations of journalists rising in 2006, the JFC issued an ICIP-drafted statement on political killings (see Appendix 53), expressing concern over political killings, calling on the government to better protect citizens and to investigate and prosecute killers. The Philippine Daily Inquirer ran the statement on its frontpage and major papers reported the statement. In response, President Arroyo ordered the DILG and PNP to conduct a dialogue with the JFC and the foreign business community to explain government efforts to address the problem. The ensuing PNP-proposed briefing was postponed until after the Melo Commission report was completed. AmCham later wrote to the Melo Commission requesting a copy of the report. The PCCI and other business groups added their voice of concern over the proliferation of political killings

Nevertheless, killings continued. For instance, three militants were killed – the union president at Alaska Milk Factory in San Pedro, Laguna was shot dead by four armed men; in Surigao City, an organizer of United Workers of Surigao del Norte was gunned down by four men while watching television at home with his family; in Sorsogon, the relative of an activist was shot dead after being tortured. A farmer rights activist in Cagayan Valley was shot dead on the way to his farm. The KMP affiliate provincial chairman in Cagayan was shot three times and wounded by two armed men. Visayan human rights group chairman was assassinated, bringing the total of political killings in the Eastern Visayas since 2001 to 90. A labor leader and his companion were killed at the gate of the EMI-Yazaki factory in Imus, Cavite. An activist was shot dead by six men in military uniform in Cagayan. He was 3rd activist killed in Cagayan within a month and 802nd in RP since 2001, based on records of Karapatan organization. The Sorsogon Bayan Muna provincial chairman was shot dead in front of the Donsol Tourism Office. Bayan Muna Albay chairman was murdered by motorcycle-riding gunmen while driving his car. Bayan Muna said more than 120 of its members have been killed since 2001.

The International Federation of Journalists reported 2006 as the deadliest year for journalists and media workers worldwide, noting 13 journalists died in RP. Reporters Without Borders World Press Freedom Index showed the Philippines placed 142nd out of 168 countries, down from 139 last year, and highlighted killings of journalists and the harassment cases against journalists by First Gentleman Mike Arroyo. The press reported Japanese Foreign Minister Taro Aso expressed Japan's concern over rising political killings in the Philippines and tied this to the release of economic aid. 14 Japan-based NGOs wrote the Japanese government urging the GRP to end the spate of political and extra-judicial killings.

The government announced the PNP had "solved" 21 cases of extrajudicial killings in 9 weeks. PNP DG Calderon said the PNP registered a high crime solution rate, particularly in the killing of journalists, saying the police had solved 21 of 26 killings of journalists since 2001. PNP DG Calderon ordered PNP commanders in provinces, towns and cities

to solve political and media killings in their areas or face relief if they fail but gave no deadline. PNP accused human rights groups of "overstating figures and manipulating facts" to "sensationalize" allegations of extrajudicial executions and undermine government.

Notwithstanding these, murders of leftist activists continued as of February 2007. A party-list Anakpawis member was gunned down by armed men riding motorcycle near his house in Davao del Sur. A Bayan Muna provincial chairman was shot dead inside his home in Misamis Oriental. In Samar, a Bayan Muna member was murdered by gunmen on a motorcycle; he was the 271st militant killed in political violence during the Arroyo administration, according to the PDI count. An Waray party-list official was also shot dead by several men armed with automatic handguns while tending his coconut farm. A 22-year old League of Filipino Students member was shot dead near the main gate of Camarines Norte State College. Seven persons were shot dead in six days in Legazpi City, including a lawyer (shot in Sorsogon while walking home after court hearing); a councilor in Cumadcad town (shot several times while gardening); Mayor Rosal's executive assistant and city cooperative officer (shot to death); and Oras Barangay Captain (shot 9 times while riding his motorcycle). A newspaper publisher was gunned down in front of his house in Sultan Kudarat.

In a press statement, UN Special Rapporteur on Extrajudicial, Summary or Special Executions Alston asked the President, DND Sec, and AFP Chief of Staff to acknowledge the reality of extrajudicial killings, stressing that the AFP is in an "almost total state of denial." AFP Chief of Staff Esperon rejected statement, claiming a purge within the communist movement was to blame for the wave of extrajudicial killings.

Alarmed by the deteriorating politically-related security, the CBCP issued another statement condemning the "inadequate" GRP response to political killings, saying "The government and military's response to the shameful 'extrajudicial' killings of unarmed crusaders for justice and equality is most unsatisfactory and their protestations of concern not too convincing."

In February 2007, Malacañang released the Melo Commission report to the public. The report named retired Army Major General Palparan as a "prime suspect behind the extrajudicial killings" and asserted that the state is responsible for protecting its citizens. The Commission recommended Palparan and other commanders be held responsible for extrajudicial killings in their respective areas during their tours of duty as part of "command responsibility." Foreign Secretary Romulo sent letter to EU ambassadors requesting assistance to help the Melo Commission. Speaking to diplomats at Malacañang, PGMA directed the Melo Commission to continue with its inquiry into the killing of political activists and said she would ask the EU to assist in the Commission's work.

On COMELEC modernization, following repeated SC admonishing, the Ombudsman agreed to investigate COMELEC officials who approved the controversial 2002 Php 1.3 billion MegaPacific computerization deal. The SC granted the Ombudsman's request for

an extension of its investigation on the voided poll automation project. The SC, however, dismissed the petition seeking to allow the COMELEC to use MegaPacific machines. Under pressure from the SC, the Ombudsman recommended the impeachment of COMELEC commissioners for involvement in the MegaPacific project and filing of graft charges against 5 members of the COMELEC Bids and Awards Committee.

Senator Gordon urged the immediate passage of the poll automation bill. Malacañang said it had considered using counting machines purchased by COMELEC under the voided MegaPacific deal. The CBCP issued a statement renewing its call for COMELEC reform. President Arroyo certified as urgent the poll automation bill, in response to the CBCP statement. The Ombudsman, surprisingly, absolved of any liability COMELEC chair Abalos et al in the voided MegaPacific Php 1.3 billion purchase. Charges against MegaPacific were also dropped. Nine senators asked the SC to annul the decision and sanction Ombudsman Gutierrez for reversing its position. Various groups, including CBCP, MBC and NAMFREL, voiced dismay over the Ombudsman's actions.

Presidential Advisor on Electoral Reform former SC Chief Justice Hilario Davide submitted political and electoral reform proposals to PGMA. Surprisingly, his report was not released to the public, thus creating the impression that the administration is unwilling to accept his recommendations. Davide was appointed RP ambassador to the UN and moved to New York.

Concerning the recurring conflict between the Philippine government and the MILF, negotiations between the two parties faltered over the territorial coverage of ancestral domain. The MILF asked that 1,000 villages and municipalities be designated as ancestral lands, but the GRP agreed to only 600. New formulas were being studied as of February 2007, but the long-awaited settlement does not appear imminent.

The ceasefire between the MILF and the AFP was broken on only a few occasions with limited casualties and refugee flows. Once such incident took place in 2007 which ended three days of hostilities, killing six and displacing 4,000 residents in three villages in Midsayap, North Cotabato.

President Arroyo also approved Php 700 million contracts to upgrade five Philippine Navy ships and two Philippine Air Force aircraft, using AFP Modernization Program funds. President Arroyo, as acting DND Secretary, also ordered bidding for 12 AFP Modernization Program projects budgeted at Php 4 billion.

Reform Cluster 7. Others

Reform Cluster 7 focused on reforms that arose during the period of ICIP but have been no been identified at the time the Advocacy Plan was formulated. Included among the identified reform agenda dwelled on national competitiveness, international trade, industry and investment promotions, and networking, which could not be directly related to but greatly influenced the flow of investment to the country.

Below is a detailed discussion of each ICIP activities that fell in this category.

In 2006, ICIP Senior Advisor attended 4 meetings to prepare recommendations for National Competitiveness Summit (NCS) with DTI Sec Favila, former DTI Secs Bautista and Navarro and president of PCCI and PHILEXPORT, SC Chief Justice Panganiban and House Trade & Industry COM chair Cua, who said he would discuss with the House Speaker organizing a Competitiveness Core Group of House committee chairs to support legislation enhancing competitiveness. ICIP also attended and proactively participated in an AIM preparatory workshop for the National Competitiveness Summit, wherein the action agenda for each competitiveness component were initially identified.

Importantly, the ICIP Senior Advisor discussed with the NCS consultant inclusion of ICIP reforms in the Summit output and provided copies of the ICIP Advocacy Plan. As a result, the Summit adopted the recommendations identified in the Oct 5 Workshop on FDI organized by AmCham for inclusion in the National Competitiveness Action Agenda.

The National Competitiveness Summit was held on October 6, 2006 at Malacañang with 300 participants from the private and public sectors. The NCS focused on improving competitiveness as measured by leading international surveys in which the Philippines has increasingly lagged behind dynamic Asian economies. It endorsed an Action Agenda focused on competitive human resources, efficient public and private sector management, effective access to financing, improved transaction flows and costs, seamless infrastructure network and energy cost-competitiveness and self-sufficiency. As discussed, it also included recommendations of the Oct 5 Workshop on FDI organized by ICIP. In January 2007, the JFC released a Statement on Philippine National Competitiveness drafted by AmCham ICIP (see Appendix 52).

ICIP also participated in, and sometimes hosted, numerous consensus building exercises and meetings covering different subject area all leading to an improved investment climate and ultimately encouraging investment in the country. Foremost among these was its active participation in the JFC. On many occasions, ICIP participation in the JFC resulted in statements and actions (such as meeting with government officials) to advance common advocacies.

ICIP also participated in the 32nd annual Philippine Business Conference of PCCI, in which the ICIP Senior Advisor was panelist with DOF Sec Teves and NEDA DG Neri and again with DOE Usec Ocampo and PNOC president Mañalac and was interviewed by ANC after. ICIP was also engaged in the MAP annual CEO conference, on the theme of improving competitiveness. Breakout sessions focused on new opportunities in Education, Health Care and Information Technology. The Amdesk at BOI participated in the Retirement/ Tourism Forum.

ICIP has also been active in putting forward its investment advocacies internationally. For example, in June 2006, ICIP participated in the APCAC annual Washington door-knock meeting with White House, State, Treasury, Commerce and other officials and held several dozen meetings in Congress. Several interlocutors voiced concern over the slow pace of reform and political fragility in the Philippines.

The JFC also released in January 2007 an ICIP-drafted statement applauding a 75% increase in net FDI inflow into the Philippines from January to October 2006 at $1.96 billion. The statement also reiterated that urgent reforms are necessary to realize the potential for RP to receive $9 billion in FDI each year over the next four years, as estimated at the JFC Workshop on FDI in October 2006 (see Appendix 9).

AmCham ICIP also hosted various speakers/briefings/meetings related to the investment climate, including, among others:

- US Amb. Kenney in her first major speech in Philippines;
- IMF Resident Representative Baqir;
- USTR official Wiesel;
- COGEP re its advocacy for sectoral US-RP FTA;
- WB meeting to prepare for PDF. JFC representative at PDF in Tagaytay reported minimal discussion took place re improving foreign investment and accelerating large BOT infrastructure projects;
- MOPC investment briefing dinner with DOF, DTI and NEDA secretaries. AmCham sat on panel of questioners with the heads of the British, Chinese and PCCI chambers.

AmCham ICIP was also active in meeting with, attending to or organizing several events, including, among others:

- Kelly Bird, ADB SEA Dept Trade Policy Specialist;
- co-hosted lunch with MBC/MAP to honor former RP Amb to US Albert Del Rosario;
- PCCI debate "Liberalization of Constitutional Restrictions of FDI";
- Discussion of US-RP bilateral trade policy with PCCI president Dee;
- ICIP Senior Advisor joined Sen. Majority Leader Pangilinan in addressing RP-US relations before the Makati Rotary Club;
- MAP Forum on Responsible Mining to discuss mining reform;
- MAP executive briefing on "National Roadmap 2030";
- PDF semester review chaired by the WB with secretaries Andaya, Favila, Teves, Ombudsman Gutierrez, BIR and BOC heads. Peter Wallace presented PDF Infrastructure Group comments; the ICIP Senior Advisor provided views of the JFC;
- Greg Rushford, publisher of Washington DC trade journal "The Rushford Report;"

- Senior Associate for Asia of Washington, DC firm Kissinger McLarty;
- US Ambassador for APEC Michael Michalak;
- Philippine Star executives and columnists Pamintuan, Romualdez and Soliven;
- hosted luncheon for US Sen. Daniel Inouye;
- Dow Chemical Asia president re current Philippine business environment;
- Philippine Chamber of Industrial Estates and EcoZone General Assembly entitled FDI issues and opportunities "Turning Industrial Parks into BPO Zones";
- Mindanao Business Council meeting in Zamboanga;
- Spoke at Workshop on Infrastructure for House staffers;
- MAP luncheon "Best Practices in Local Governance" with presentations by several governors and mayors;
- chairman of US company planning $140 million investment in plant to produce ethanol for export and local consumption;
- AIM-MBC-WB luncheon forum with WB Managing Director Daboub who described WB's intensified anti-corruption campaign and encouraged the Philippines to do more to combat corruption;
- AmCham ED wrote DA Sec to object to court decision to provide contract growers benefits of firm employees, which could raise cost of agricultural exports;
- Met with former Fin Sec de Ocampo and agreed to collaborate on advocacy with new AIM-RFO Center for Public Finance and Regional Economic Cooperation;
- MIGA officers Whyte and Sager from Washington who are studying GRP foreign investment promotion;
- Reviewed the investment climate with a senior US Department of Commerce official from Washington;
- NEDA National Legal Forum on Infrastructure Development in which a Covenant for the Facilitation of Implementation of Public Infrastructure Projects was signed by the leadership of the executive and judicial branches and members of the private sector and external development funding institutions. NEDA DG Neri pointed to numerous projects delayed by legal tangles in government offices, thereby deterring foreign investors, and called on government lawyers to become more involved in projects at an early stage;
- PEZA Director General de Lima and BI Asst Comm Almoro at the annual JFC Public-Private Night;
- ASEAN Business and Investment Summit 2006 by Philippine Business Leaders Forum and PCCI;
- US Deputy Immigration and Customs Enforcement Attaché Theodore Lopez re updates on security issues;
- Immigration Commissioner Fernandez to discuss ACR-I card and one-stop desk at the BOI for JFC members;
- Briefing for visiting US-ASEAN Business Council delegation composed of 14 representatives from nine companies led by Council President Matthew Daley and US-Philippines Business Council chairman and Mirant SVP Robert Driscoll. Among issues discussed were reforms to improve RP competitiveness, pending legislation (fiscal incentives rationalization, Clark SEZ perks, and credit bureau), national security (terrorism and NPA insurgency), IPR protection, biofuel use promotion, and

ASEAN integration. Delegation met with President Arroyo, Senate President Villar, Sen Recto, Sen Gordon, DOF Sec Teves, DTI Sec Favila, DOE Sec Lotilla, NEDA Dir Gen Neri, DBM Sec Andaya and Deputy BSP Governor Gunigundo;

- AmCham Board, ICIP, ED and Amdesk BOI met with US Ambassador Kenney to discuss current business and economic policy issues, including competitiveness, FDI, FTA, infrastructure, fiscal incentives, Mindanao, red tape and travel advisories;
- Trade and Investment Committee meeting at which UPS presented Regional and Philippine SME Business Environment Survey;
- Agribusiness Committee meeting hosted DA Sec Arturo Yap on 2007 priorities. Yap explained plans to increase irrigation coverage, reduce post-harvest crop loss and refrigerate fish catch, improve farm-to-market roads and open as much as 4 M ha of new lands to investors. China National Machineries will provide 100 2-ton refrigerators for fish. Guandung fresh fruit market will provide space for Philippine fruit sales. He invited private sector to participate in logistics and cold storage projects. The government will assist investors to lease "new lands": 1M ha. in Agriculture Reform Communities, 1.5M ha. in upland areas and 15M ha in intercropping under coconuts;
- discussed with Dole legal counsel RP position that "contract" growers for Dole's Mindanao farms are employees and receive benefits of employees;
- with Ruy Moreno, associate of former DTI Sec Navarro for projects such as Competitiveness Summit, Competitiveness Task Force and US-RP FTA. He explained the RP strategy for a bilateral FTA is to encourage industry associations to prepare positions so that the RP can draft a proposal to give the USG. We agreed the mid-2007 timetable for talks reported in Manila press is unlikely, and he fully appreciated obstacles to success of the late government request to President Bush;
- attended briefing by Economist Philippine office head Dr. Michael Clancy on ASEAN BAC meetings;
- met with and requested Industrial Relations Committee members to fax, email or write their Congressmen and Senators to pass Pre-Need Code and PERA bills in Congress and to express their concerns on fiscal incentives bill pending in Senate;
- PBEC meeting with IFC director Marshall on Doing Business report and planned Philippine version at local level. ICIP Senior Advisor stressed need to consult with industry groups once the IFC notes on fiscal incentives rationalization is done;
- AmCham January General Membership Lunch Meeting with speaker WBF president Peter Wallace. Wallace expressed guarded optimism in 2007 for the RP, noting the vibrancy of the economy during an election year;
- 2007 SWS Survey Review with SWS President Mangahas, MBC chairman Del Rosario and Ateneo School of Government dean La Viña. Mangahas noted the highlights of 2006 surveys, including the unpopularity of charter change, dissatisfaction with PGMA administration, record-high levels of hunger, declining involvement of business in corruption, declining English proficiency and improvements in judicial reforms;
- FOCAP "State of the Nation" briefing where Senator Gordon, MBC president del Rosario, DOF Sec Teves, ECCP EVP Schumacher and former National Security Advisor Almonte spoke. Several speakers favored removing constitutional restrictions on the economy. The ICIP Senior Advisor networked with reporters from

AFP, Christian Science Monitor, Guanming Daily (Beijing), Newsbreak, Newsweek, Time and VOA;

- ISM board briefing on proposed amendments to ISM by-laws and discussed AmCham informing the JFC of the issue as it has been done in the past;
- AmCham ED sent letter to DTI Sec Favila, sharing concern of Soap and Detergents Association of the Philippines on the imposition of provisional safeguard measure on STPP detergent raw material that raises the cost of manufacturing detergents locally and threatens thousands of jobs;
- AmCham Joint Philippine Business Environment and Financial Services Committees briefing with DOF Sec Teves on the "Impact of Enacted 2007 National Budget on Economic Growth." Sec Teves pointed out the govenment gains in fiscal reforms and plans for increased expenditures in social services, particularly education and infrastructure. The ICIP Senior Advisor advocated increase of DepEd budget to Php 300 billion by 2010. Privately, he discussed the Tourism Policy bill with Sec Teves, urging that a compromise be worked out with Senator Gordon over the 3% tax on gross revenue earned provisions which Sec Teves opposes because it goes beyond 5% in other legislation;
- visiting US Department of State Philippine desk officer;
- swearing in of MOPC board, attended by President Arroyo and former PFVR;
- Trade and Investment Committee briefing on "Arbitration in the Philippines and Enforcement of Intellectual Property Rights" with Quisumbing Torres Atty. Laurence Arroyo in which he discussed the alternative dispute resolution law and process in RP;
- DTI/BOI Dir Ilagan regarding perceived legal threat to RP cyberservices industry and discussed possible BOI and BPAP action;
- FOCAP briefing with DOF Sec Teves;
- PCCI Business Meeting with WTO Dir Gen Pascal Lamy, who emphasized developing countries need to build capacity (such as reducing red tape and customs clearance procedures) to get the most out of the international trading system;
- BOI Investments Promotion Group ED Ilagan, Japan Desk officer Suzuki, Korea Desk officer Kwon and US FCS Counselor Reinke. Topics discussed include 2006 accomplishments, proposed 2007 IPP, fiscal incentives, national competitiveness and anti-red tape initiatives.

The American Desk at the Board of Investments (AmDesk), which is in a key position to identify investment trends and problems having a negative impact on actual investment, also contributed significantly in the improvement of the investment climate in the Philippines through direct contact with investors, both existing and prospective, on a frequent basis and its access through counterparts from other nations to the views of their investors. The significant contributions and activities of AmDesk include, among others:

- discussions with the BOI, Bureau of Immigration, NEDA, ECCP and JCCP regarding ACR I-Card implementation;
- provision of information to a US software firm regarding possible local operations;
- participation in briefing for a visiting US delegation planning to open a USA Nursing Testing Center;

- briefing of GE – Money / GE - Finance regarding issues concerning operations of its Philippine Cyber Services Office;
- meeting at USFCS with a current American investor planning to expand Philippine operations;
- briefing of IT companies from New York, California, and Massachusetts on possible setting-up of operations in RP;
- consultation with the British Chamber of Commerce on operations of a British Desk at the BOI;
- discussion within the BOI on the issue of transfer price tax of the cyberservices industry;
- attendance at AIM Conference "APEC - 10 years After Subic" and addressed by former president Ramos; ASEAN Electronics Business Opportunities Conference; and launch of new Ford models and discussed future of Philippine auto industry with AmCham member Ford (US) chairman. Current local production will become less economical as trade barriers with Japan and others are reduced;
- participation at Philippine Business Registry workshop for government and private sector stakeholders organized by DTI and AIM to develop a seamless web-based transaction environment to facilitate business registration;
- meeting with AmCham member Procter & Gamble regarding a strategy to deal with a DTI tariff order protecting a local producer to detriment of RP soap and detergent industry.
- calling attention of the BOI regarding the imposition of safeguard measures on importation of sodium tripolyphospate raised by Procter and Gamble (US) and implications on viability of manufacturing detergents in the Philippines;
- discussion with BOI Usec Elmer Hernandez regarding revised IRR of E.O. 51 or Milk Code raised by COCUSA and implications for FDI in the Philippines;
- conduct of Subic SEZ Field Survey. Wistron (Taiwan) and NEDIC (Japan) remain main players in IT, employing 9,000 workers; Hanjin (South Korean) is undertaking a $1 billion investment to employ 10,000 workers; a Chinese firm will invest $300 million for glass manufacturing plant; Ayala Land is developing a 350-ha resort community near Morong; and Subic Bay Freeport Chamber reported declining importation of used vehicles. Negative developments include: FedEx will move to Guangdong, China in 2008; and cyberservices have not picked up (Comment: Most probably because Subic does not have ITH as do other SEZs.);
- meeting with USAID/Booz Allen Hamilton Mission on "Trade and Commercial Legal and Institutional Reform Assessment Methodology". Amdesk BOI attended a briefing at BOI for the Oregon State Phil AmCham Mission (30 participants) regarding Trade and Investment Opportunities in the Philippines. Amdesk met with BOI Executive Director on RP FDI and other issues relevant to US Business Community. Amdesk BOI held briefing for visiting Lehman Brothers (New York) SVP head of "Global Sovereign Risk Management" regarding RP country risk issues;
- AmDesk / FCS dialogue with State of Minnesota International Trade Representative regarding Philippine business opportunities.
- briefing for a large US consulting firm regarding a possible call center for a pharmaceutical client;

- granting of assistance to a US software encoding firm which faced the attempted seizure of its company's office equipment upon the court order of a Makati judge;
- visit to the Clark SEZ and meeting with various foreign firms located there;
- meeting with AmCham member Dole (US) and others to discuss a contract growing issue involving government interpretations of laws and rulings regarding whether or not contract growers are employees;
- participated in a BOI briefing for a large US pharmaceutical firm interested in building a new manufacturing plant in the Philippines.

In addition to the above activities, Amdesk also joined meetings/briefings for visiting US firms considering new investment. Among these firms were:

- a US supplier of pens to a US office supply retailer is considering manufacturing in Philippines. The Philippines will need to retain Generalized System of Preference (GSP) covering pen imports;
- a health group regarding call center
- a software development center;
- a firm providing BOT water supply for rural LGUs;
- a US bank interested in setting up a Customer Service Center for real estate loan operations;
- a firm with a potential investment to manufacture SIM cards in RP to replace imports for domestic use and for export to China and SEA;
- a major US pharmaceutical firm considering RP as manufacturing site;
- a US machinery firm regarding opening a RHQ to service ASEAN;
- a briefing for Owens Online;
- a US furniture manufacturer re setting-up company in Cebu for export.

Reform Cluster 8.

ICIP also sought sector-specific reforms to encourage investment in five leading sectors where the Philippines could generate and exploit its comparative advantage, global competitiveness and/or unrealized potential. Each sector, Recommended Reform Tasks, Reform Allies and Reform Results are discussed below.

Reform Sector 1. Health and Retirement

In general, the project supported the Philippine health and retirement industry attracting increasing numbers of medical tourists and retired persons from developed countries. With more than 1,200 hospitals and many medical and nursing schools, the country has a considerable health infrastructure, including several US-certified facilities in Metro Manila. Still, few non-resident foreigners receive treatment in the country.

Part of the advocacy of ICIP included urging the government to allow foreign doctors to practice at medical/retirement facilities used by foreign nationals. The project also recommended to the government allowing foreign ownership of land for commercial, industrial, and residential purposes. The project also sought the development of foreign retirement communities in Central Luzon and Cebu and to improve transportation infrastructure in Metro Manila and Cebu.

Box 10. Health and Retirement Milestones

Government Actions

- PGMA declared the retirement industry a "flagship" program
- HB 5696 to create medical tourism zones filed

Investment

- Asian Hospital planned expansion with its partner, Thailand's leading hospital group Cardiovascular Hospitals of America plans P1B medical facility in Cebu
- UST Hospital earmarked P3 billion for facilities upgrading to be medical tourism destination
- UST Hospital opened P350 million Benavides Cancer Institute, first of its kind in the country
- SBMA chairman Salonga signed contract with Bay Pointe Hospital and Medical Center for a P200 million hospital to be built in the central business district
- BOI registered as expansion project of Medical City, which will invest P446 million in new equipment and facility modernization

During the project duration, ICIP welcomed the development of medical tourism and foreign retirement which are receiving more attention with planning, seminars and some international promotional activity underway by the government and the private sector. President Arroyo declared the retirement industry as a "flagship" program in June 2006. The new Philippine Retirement Agency chair former PNP chief Aglipay and the new Philippine Retirement, Inc. (PRI) head Ordoñez announced an extremely ambitious target of one million foreign retirees by 2015 while targeting at least 3,000 foreign retirees to settle the Philippines in 2007 (Note: a reasonable target), after meeting with executives of

Japanese companies Honda, Mitsubishi, Marubeni and Fujitsu in Tokyo to ask them to offer RP as retirement location to their employees. HB 5696, which aims to create medical tourism zones, was filed, in support to the President's flagship program. The JFC agreed to organize its own retirement committee to help support the government's retirement program.

ICIP attended the Philippine Retirement Industry and Investment Summit where economist Bernardo Villegas predicted the Philippines could earn $40 billion over the next 10 years as a retirement hub for foreigners. During the summit, the plan of declaring retirement villages as SEZs was approved by government agencies. An announcement by the PRI was made of four possible projects of US and Asian investors in the industry.

ICIP partner ECCP also worked to support the emerging Philippine retirement industry. ECCP announced a plan to "inspect" Philippine retirement facilities and urged the government to enter into bilateral agreements with target countries for retirees. ICIP attended the JFC Retirement Committee meetings and recommended that the government allow the foreign ownership of land, especially for retirees, and the practice of foreign doctors in the country. In fact, a share in the $42 billion market for second home foreigners might be lost if the government does not repeal obsolete laws, according to AmCham member Palafox Associates. Major results of these activities include the PRI drafting model leasehold rights contract to allow foreign retirees to rent properties in the country to up to 75 years. Aside from this, the PRI president said new standards for retirement facilities would be issued and firms maintaining retirement facilities would have until April 2007 to comply or have accreditation removed. Meanwhile, PRA chairman Aglipay reported the Hyatt and Hilton groups may send teams to the country to survey the retirement industry.

The Breakout Session on Health Care/Retirement & Tourism during the ICIP-organized Workshop on FDI in October 2006 estimated that as much as $775 million in FDI per year from 2007-10 can flow into the country, potentially creating approximately 80,000 direct and indirect jobs, if certain reforms are implemented. These reforms include rescinding EO 500-A and declaring open skies in Clark, Laoag, Subic, and Davao, liberalizing the practice of professions aligned with medical and retirement tourism, allowing foreigners to own residential real estate (with limitations), minimizing the processing, maintenance and other fees for retirees, and addressing red tape and corruption on the local government level (see Appendix 9). The Breakout Session also held further meetings with the heads of the Asian and UST Hospitals and the DOT Office Director in charge of medical tourism. Because of the long period to recover investment, the meeting considered there was little potential for FDI in Philippine hospitals. However, it was noted that patients were arriving from unusual places including Syria, Zimbabwe and Middle East for treatment in the Philippines, for cancer, eye, and heart treatment operations.

In November 2006, "Paradise Philippines," country brand for the Philippine medical tourism program, was launched at the 1st Philippine Medical Tourism Congress. In the same event, former DTI Sec Navarro said the Philippines needs to display market

excellence and innovation, amid competition from leaders in the medical tourism industry, such as India, Singapore, and Thailand. DOT Asst. Sec. Carrion said the country should focus on niche services like health screening, health management, as well as dental, renal, optical and cosmetic procedures.

In January 2007, AmCham ED and ICIP Senior Advisor attended the meeting of the ECCP-led JFC committee on foreign retirement industry and agreed to move forward to establish a non-profit company to work with the PRA and the PRI which would monitor the credentials of RP retirement sites and advocate ownership of land, practice of professions and access to foreign doctors. The Amdesk BOI discussed retirement and medical tourism opportunities with the Cebu Investment Promotion Office

During the project period, several new investment plans were announced including Asian Hospital plan to expand with a partner, Thailand's leading hospital group, and Cardiovascular Hospitals of America planned P1 billion medical facility in Cebu. Meanwhile, the UST Hospital earmarked P3 billion for facilities upgrading to be a medical tourism destination and also opened its P350 million Benavides Cancer Institute, the first of its kind in the country. Hospital planning integrated retirement village facility in Naga, utilizing 250-bed Cebu Doctors' South General Hospital as medical component. SBMA chairman Salonga signed contract with Bay Pointe Hospital and Medical Center for P200 million hospital to be built in the central business district. The BOI registered an expansion project of Medical City, which will invest P446 million in new equipment and in facility modernization.

Reform Sector 2. Information and Communications Technology

After India, the Philippines is viewed as the best low-cost location – although far smaller in the size and skills of its workforce – for the growth of ITES, such as call centers, business processing, animation, medical transcription, engineering/design and other services provided remotely over the internet. Several new locations in low-cost countries are entering the market, adding to the competition. Nevertheless, the demand for such work to be performed in the Philippines exceeds the supply and would only be met by improvement in the HR skills of the workforce, both near-term remedial training and longer term through reversing the decline of education in the country. ICIP addressed this challenge through its advocacy towards improving proficiency in English amongst the Filipino workforce. ICIP also supported the establishment of DICT as discussed in Reform Cluster 2. Finally, under this reform sector, ICIP supported the modernization of the Philippine Labor Code.

The first quarter of ICIP saw continuing strong activity in the booming ITES sector with many investor inquiries, firms visiting to evaluate and announce the start of operations and expansions. Two of the largest Philippine companies were buying into established BPO firms. Some new office buildings were fully-rented before construction. President

Arroyo's statement "When America calls, the Philippines answers" could become a national slogan. Investment in 3G was also underway.

Box 11. Significant developments in ICT

- AmCham member Accenture (US) will invest $20 million over the next 18 months, expanding its workforce to 12,000 from current 7,500
- APAC Customer Services to open 3rd call center by the end of 2006
- Bigfoot Entertainment invested $10+ million in its digital entertainment production facility in Cebu. Clark Cyberservices and Shogee Studios announced a $10 million computer movie studio project at Clark employing 500
- AmCham member Convergys (US) received the PEZA 2005 Outstanding Employer award from President Arroyo After 18 months, Convergys employs 8,500 in 7 facilities
- AmCham member Dell (US) chairman Michael Dell dedicated a new customer care center located in the country's newest and largest mall, the Mall of Asia, where he announced doubling of employees to 1,400; Dell later announced a 2nd RP call center at Eastwood SEZ
- AmCham member GE Indian affiliate GENPACT opened 500-person shared services center
- AmCham member eTelecare announced it will hire 3,000 more agents
- Harte-Hanks announced 400-seat Manila call center
- AmCham member ICT Group (US) announced it will add 800 more seats at Philippine call centers; Chairman Brennan said ICT to spend $5 million in new RP investment in 2007. ICT Group opened its 3rd contact center located in a former textile plant in Marikina
- AmCham member People Support said it will invest $15 million to add 2,000 seats in 2006
- President Arroyo inaugurated new P1 billion facility of Sutherland Global Services (US) at the Clark SEZ, its 3rd in the RP; at the launch, President Arroyo announced a P500 million scholarship program for remedial training for 100,000 near-hires; Sutherland later set up call center in Clark SEZ, hiring about 1,200 workers
- AmCham member TeleTech (US) hopes to employ 10,000 by the end of 2006, up from current 6,000. President Arroyo attended the opening of TeleTech call center. Firm will open call centers in Bacolod and Batangas
- The Chairman of a large American bank quietly visited Manila, called on President Arroyo and reportedly will approve Philippine back office project
- AmCham member Convergys (US) dedicated a new facility in Makati with President Arroyo as guest. Convergys announced it will open its 2nd call center in Cebu (8th in RP) with 700 employees, raising its total RP workforce to more than 10,000 after only two years of operations in the country
- AmCham member TeleTech (US) plans to open four more call center sites and increase its workforce from 8,000 to 15,000 next year
- Ayala Land (Phil) announced a plan to invest P6 billion in a science and technology park on a 38-ha property of the UP Diliman campus
- Berthaphil Business Park (US) held a groundbreaking on January 31 of its 14-ha "The Center at Clark" expected to employ 20,000 workers, mostly in call centers
- LiveIT Solutions (Phil) acquired an outsourced graphics and design services provider Affinity Express (US) for $28 million
- AmCham member Cyber City Teleservices (US) announced plan to open 150-seat call center facility in Zamboanga, adding to operations in Clark and Davao
- Cebu City Mayor Osmeña said Bigfoot Entertainment signed a 25-year lease on 2-ha lot in South Road Properties to build a multimillion-dollar movie production facility
- ProV International (US) said it chose the RP as hub for its global, integrated IT consulting and networking services
- XMG Asia Pacific director Tolentino said the RP BPO industry is set to grow to $3.3 billion in terms of revenues in 2007, 38% higher than $2.5 billion in 2006
- SPi (Phil) announced it is setting P5B in capital outlay for healthcare services expansion and outsourced publishing and legal services for 2007. SPi also announced the opening of a new 300-seat facility in Chennai, India and a 450-seat facility in Hanoi, Vietnam, both expected to be operational by mid-2007
- President Arroyo inaugurated the BPO Center of AmCham member TeleTech (US) in Bacolod

In November, President Arroyo issued a memorandum which called on state agencies and offices to further intensify IPR protection to raise the country's competitiveness. While these developments were laudable, there were nevertheless cautions of ICT weaknesses needing fixing for further growth. DBM Sec Andaya said at least P1 billion has been allocated to E-Government Fund and another P1 billion to CICT for implementation of a cyberservices corridor project.

The Amdesk was involved in ICT development. During the period, Amdesk participated in briefing ICT visitors coming from different countries evaluating the Philippines, including: a US financial services firm (55,000 employees); a Fortune 500 #1 firm (1.6M employees); the second-largest US bank (177,000 employees); the largest US diversified business group (360,000 employees); a Texas firm regarding outsourcing base for engineering; a Delaware firm regarding steel engineering design/fabrication operation; the chairman of a large US research services firm (40,000 employees) planning expansion of its 700 employee operation; a US firm considering financial research operations; and a US Fortune 200 ITES company with 79,000 employees. Key issues ranged from investment incentives and IT capabilities to human resource sustainability and security risks.

Data from the NSCB showed that approved FDI in the ICT industry showed a 96 percent increase, from Php 12 billion in 2005 to Php 24 billion in 2006. Filipino nationals, meanwhile, pledged less investment in ICT during the period, with only Php 2 billion, a decline of 41 percent from Php 3 billon.

In September 2006, a delegation from India's National Association of Software & Service Companies (NASSCOM) visited Manila to explore call center and other opportunities. Four members of the delegation reportedly expressed intentions to open Philippine operations. NASSCOM and BPAP agreed to work together under one team by marketing their respective BPO sectors as a combined business proposition.

Another development in the industry came when the Philippines and the US signed MOU for improvement in administration of IP protection system, identification of effectiveness of legal protection for and in use of IP and, development of professional skills through information sharing and exchange and capacity building. The US will provide technical assistance on development of patents, particularly utility model and industrial design, and trademark examination manuals, automated patent and trademark examination tools and other modernization projects.

The Breakout Session on IT/ITES during the ICIP-organized Workshop on FDI in October 2006 estimated that as much as $863 million in FDI per year from 2007-10 can flow into the country, potentially creating approximately 750,000 direct and indirect jobs, if certain reforms are implemented. These reforms include the improvement of English proficiency and college curriculum, implementation of data privacy and security laws, enforce IPR protection, and elevating the CICT to a DICT (see Appendix 9).

Reform Sector 3. Manufacturing

There were numerous challenges that faced the manufacturing sector and several of these were reflected under the main ICIP reform groups: red tape, power pricing and availability, education, security and transportation infrastructure. Wages were not a major concern for exporters, but the labor and immigration laws needed modernization. The Philippines retains its potential to grow export manufacturing significantly if labor productivity can be increased and reforms implemented to make the country a more efficient operating location.

Specific to manufacturing, the ICIP recommended reform tasks included reduction in the costs of doing business (labor, regulatory, transportation, utilities); limiting minimum wage increases; modernization of the Labor Code; allowing foreign ownership of commercial, industrial and residential land; reduction in smuggling and hijacking; training of more engineers and scientists; and development of electronics testing and R&D subsectors.

The open debate over the future of fiscal incentives for new investment created a cloud of uncertainty but the failure of the radical SB 2411 Recto bill in the Senate lead experts to conclude the current incentive regime would remain in place for at least several years.

BOI and PEZA data showed a continuing modest expansion of many existing export manufacturing plants and some new firms locating in the country. A few export plants have closed to centralize elsewhere in ASEAN after low AFTA tariffs created regional economies of scale. Manufacturing for the domestic market appeared to be in gradual decline as cheaper goods from China were competing in local markets.

Although local manufacturing continued to decline, manufactured exports increased, led by electronics, and foreign investment in the sector strengthened in 2006. For example, Philippine exports increased 21% in August 2006 to $4.3 billion from $4 billion in the same period in 2005, the 7th straight month of double-digit growth. January to August exports grew 17% to $31 billion.

Several large foreign manufacturing investments were announced. The electronics industry association predicted its members would invest up to $1 billion in 2006 to meet growing global demand. In fact, the Semiconductor and Electronics Industries of the Philippines, Inc. (SEIPI) reported that PEZA-registered new investment by 20 semiconductor and electronic firms which totaled P4.4 billion in the first quarter of 2006 compared to P663 million in the same period in 2005.

The CAMPI and the Truck Manufacturers Association (TMA) reduced their 2006 full-year sales target to 97,000 units from the original 102,000 units, as Jan-Oct 2006 sales fell to 80,334 units from 80,843 units in the same period in 2005. CAMPI and TMA reported small 2.6% rise in sales in 2006 to 99,541 units (Note. Auto production growth

in RP has been stagnant for decade as smuggling of used-vehicles through Subic and other ports have filled more market demand.)

Box 12. Significant projects in Manufacturing

- Cold chain facilities being constructed in three cities in Mindanao
- Colgate Palmolive Philippines (US) will undertake $40 million expansion
- Ford Philippines (US) launched FFV (Flexible Fuel Vehicle) Technology. Ford plans a $40 million investment to manufacture FFV engines in the Philippines
- Hanjin Heavy Industries and Construction (ROK) began work on a $1 billion shipyard at Subic to employ up to 20,000
- Hebei Jingniu Group (PRC) was said to be going ahead with $312 million glass project at Subic;
- Honda (Japan) inaugurated a $25 million motorcycle plant
- Hyundai Motor (ROK) may assemble vehicles
- Temic Automotive (German) plans 4-year, $100 million investment program for parts manufacturing operations
- Tsuneishi Heavy Industries (Japan) committed to invest $100 million to expand its Cebu shipyard with joint venture partner Aboitiz
- Wistron (Taiwan) will invest an additional P400 million to assemble GPS devices at Subic
- AmCham member Texas Instruments (US) considering $1 billion investment in new semiconductor factory in Philippines and/or PRC
- AmCham member SunPower (US) will invest P13 billion in an additional facility at the First Philippine Industrial Park in Tanauan, Batangas to expand production of solar panels
- The BOI approved $200 million investment of SW Cement in a new clinker-based cement plant in Cebu with pioneer status but granted non-pioneer ITH
- Ichia Technologies (Taiwan) expressed interest to build $60 million manufacturing facility for keypad and circuit boards in the Philippines
- Intel received DRVN approval to build $1 billion semiconductor plant near HCMC. Bloomberg reported that Intel won approval from PRC to build chip manufacturing factory in Dalian reportedly costing $2 billion. Although Intel's first plant in Asia was in the Philippines, current Asian investment by the world's largest semiconductor company is being won by the country's regional competitors
- Royal Dutch Shell (Dutch-UK), expressed concern over possible changes in RP fiscal incentive regime, saying it is significant factor in whether to invest up to $1.5 billion to expand its Batangas refinery or close the refinery and import refined products. Pilipinas Shell (UK-Dutch) deferred indefinitely the planned expansion of the Batangas refinery project due to current high construction costs

The Breakout Session on Manufacturing during the ICIP-organized Workshop on FDI in October 2006 estimated that as much as $1.25 billion in FDI per year from 2007-10 can flow into the country, potentially creating approximately 500,000 direct and indirect jobs, if certain reforms are implemented. These reforms include reducing the costs of doing business (especially power, transportation, and red tape), eradicating smuggling, providing necessary infrastructure, and aggressively marketing the country.

Reform Sector 4. Mining

A 2004 SC decision that affirmed foreign participation in mining rekindled considerable international interest in several dozen potential mining projects. Mining in the Philippines remains to have great potential to create considerable numbers of jobs and to provide the government with large royalties. While the government was very supportive, there was a strong distrust of the mining industry among some local communities including Roman Catholic bishops in dioceses where the mining projects were located.

ICIP advocated a balance between the economic benefits of mining and respect for the environment and the local community. ICIP encouraged the resumption of Rapu-Rapu mining project with better safeguards and local consultation. The project also supported the MAP's initiative of proposing that some of its experienced members work with local communities to improve consultation, leading to effective provision and discussion of information on sound mining projects and benefits. Finally, ICIP also recommended workers near mining sites to be trained for better jobs.

Milestones and Actions

The immediate future of the much-promoted mining sector was thrown into question after the suspension of operations following a minor spill at an Australian firm's mine on Rapu Rapu island, Albay. After the CBCP issued anti-mining statement, PGMA caused foreign investor concerns by naming an outspoken anti-mining bishop to head a "fact-finding" commission and by telling the press the GRP would amend the 1995 Mining Law which experts regard as meeting world standards. The DENR subsequently allowed Rapu Rapu 30-day test operations and by April 2007 the mine had resumed operations and made its first shipment in a year. Several mining projects moving forward despite the negative attention focused on the Rapu Rapu incident.

Overall the project period saw a continued high level of activity by foreign mining companies in exploring new projects in the RP and gradually decreasing public controversy as the Rapu Rapu incident became better understood as not endangering the environment. Australian, Canadian, Chinese, Philippine and South African firms became the most active in the country's mining sector. DENR instituted more complicated review of permit applications, creating backlog and CMP postponed annual conference.

By the end of the project period there were clear indications that the world's four largest mining firms were taking steps to pursue large commercial mining opportunities in the Philippines. Militant anti-mining groups will continue to distort media and combat even the most responsible international mining operations.

In the beginning of the project, ICIP's partner, JFC, requested clarification of government mining policy with Sec Ermita after the CBCP issued a statement opposing all new mining licenses. The DENR Secretary and NEDA DG advised that government support

had not changed. Sec Neri told the JFC that bishops were not against mining provided operations were done responsibly, benefits were shared and people affected consulted and the environment restored.

Box 13. Significant developments in Mining

- Atlas Mining (Phil) expects to generate up to $3 billion over 12 years once it reopens Toledo copper mine, once one of world's largest copper mines; Carmen Copper, wholly owned unit of Atlas, will borrow $100 million from Deutsche Bank to rehabilitate Toledo; Carmen Copper (Phil) received approval from BOI for its copper production project
- Atlas Consolidated Mining is targeting to increase production of Berong nickel mine to one million dry metric tons in 2007
- DENR Sec Reyes announced signing of deed of assignment of 7 mining tenement holders to world's largest mining company BHP Billiton (Aus) local partners Hallmark Mining and AustralAsia Link
- Chemical Vapour Metal Refining (Canadian) executive director Duenas said company is in talks with five Philippine companies to buy nickel ore and expresses hope to include Jilin Nickel Group (Chinese) in possible bid for Nonoc mine
- Crew Gold infuses additional $20 million in Masaro Gold Mine in Mindanao
- Filminera Resources (Canadian) said it will start Aroroy gold mining project in Masbate in 2007, involving $100 million in new investment
- Indophil Resources NL has raised fresh funds of $58 million to develop copper and gold mining project in Tampakan, S. Cotabato; Indophil Resources (Aus) completed pre-feasibility study, confirming copper-gold deposits. Indophil said Xstrata Queensland (Aus) funded $30 million feasibility study of copper-gold mining in Tampakan (South Cotabato), Columbio (Sultan Kudarat) and Kiblawan (Davao del Sur); Indophil spokesman said estimated development cost of Tampakan mine is $1.4billion; Xstrata (Swiss) said it would exercise option to acquire by December 2007 63% stake in $1.4 billion Tampakan
- Philnico (Phil) agreed to pay initial $45 million for Nonoc nickel mine. News reports said move would bring Jinchuan Non-Ferrous Metals (PRC) closer to $1 billion investment; GRP made formal proposal to Jinchuan Non-Ferrous Metals (Chinese) to take over PHILNICO in a potential $1 billion investment; negotiations between PHILNICO and Jinchuan collapsed; PHILNICO president said he ended the talks after Jinchuan insisted on doing another feasibility study, pushing back the project launch for 6-12 months
- Jinchuan Group (Chinese) conducting due diligence on MacroAsia's nickel mine in Brooke's Point, Palawan
- DENR allowed Lafayette to reopen $259 million Rapu-Rapu mine for 30-day test run; mine later resumed commercial operations after DENR granted its motion to permanently lift its suspension order
- Lepanto (Phil) will resume copper operations in Benguet as global prices rise
- MGB said three Chinese mining firms expressed interest in North Davao Mining;
- Philex Mining (Phil) will revive Bulawan gold mine project in Surigao; Pioneer Metals (PRC) president Chen said company interested in spending at least $100 million in initial investment in RP mining sector
- PHILNICO president said the company is talking with four overseas companies to develop the project after negotiations with Jinchuan broke down. The MGB reported Chemical Vapour Metal Refining (Canadian) is interested in investing $3 billion in Nonoc
- MGB Director Ramos said Rio Tinto Group (Australian) and Chemical Vapour Metal Refining (Canadian) may invest as much as $3 billion in nickel mining in RP
- During RP visit, AngloGold, MRI Resources, Harmony Gold Mining (all African) expressed interest in mining projects in RP
- The Canadian government hosted visit of natives to explain their positive experience with mining to Philippine minority groups at seminars in Baguio, Dagupan or Davao

Subsequently, AmCham discussed mining with Cardinal Rosales and the three top CBCP bishops, who said bishops with mining projects in their dioceses were opposed. After meeting with bishops from mineral-rich dioceses, President Arroyo and Speaker de Venecia announced the government's intention to amend the Mining Act to include "up-to-date" environmental protection, notwithstanding that the law and government regulations already meet world standards.

In May 2006, ICIP attended a dinner on mining organized by Chamber of Mines of the Philippines president Romualdez to review quality of current mining law. Secs. Neri, Reyes and Teves attended, as well as the ambassadors of Canada, Japan, South Africa, UK and IFC and WB representatives. Mr. Romualdez said there was no need to repeal or amend the Philippines Mining Act, citing independent reviews by four law firms. A coalition of 17 Alternative Law Groups filed motion for intervention before SC seeking to reverse approval of Mining Act. According to the ASEAN Federation of Mining Associations, the Philippine Mining Act was better in several key areas than laws in advanced countries. Also, a UA&P study claimed the Mining Act to be sufficient in safeguarding environmental safety, but lacks provisions for host community development.

In June 2006, the House approved on 3rd reading HB1445 allowing LGUs to collect directly their 40% share of the tax imposed by the national government on mining firms.

The Mines and Geosciences Bureau (MGB) reported mining investment increase of US$48M as of May 2006, bringing a total to $494 million by local and foreign investors. The MGB targeted $122 million for 2006. Major mining developments included the Philippine government making a formal proposal to Jinchuan Non-Ferrous Metals (Chinese) to take over Philnico in a potential $1 billion investment; Lafayette beginning its 30-day test-run in Rapu-Rapu Island, with the hope of being allowed to resume normal operation by the DENR; Lepanto resumed copper operations in Benguet as global prices rise; Philex Mining revived the Bulawan gold mine project in Surigao due to rising prices; and TVI Resources invested $23 million for Canatuan Gold Project mine expansion in Zambales.

In June 2006, the JFC released a statement on mining, expressing support for the government policy of responsible mining and calling for effective enforcement of Mining Act. A SWS poll showed 56% of respondents agree "Mining companies should be given a chance to…protect the environment as they offer needed jobs" (see Appendix 50).

MGB chief Ramos said $6.5 billion in investments targeted for 24 priority mining exploration and development projects from 2007 to 2010. FIve projects are in operation: the Coral Bay Nickel (Japanese) in Palawan; the silver-gold project of TVI Resource Development (Canadian) in Zamboanga del Norte; the Rapu-Rapu Polymetallic project of Lafayette (Australian) in Albay; the gold project of Lepanto (Phils) in Benguet; and the copper mine expansion of Philex Mining (Phils) in Benguet. Under construction and development are: the copper-gold project of Australasian Philippines Mining in Didipio, Nueva Vizcaya; and the nickel project of Surigao Integrated Resource in Surigao del

Norte. In final feasibility and financing stages are: the gold project of Filminera Resources in Masbate; the Carmen copper project of Atlas in Cebu; the Nonoc nickel project of Pacific Nickel Philippines in Surigao del Norte; the King King copper project of Benguet and NDC in Mindanao; the Far Southeast Gold project of Lepanto in Benguet; the Itogon gold project of Itogon Suyoc Mines in Benguet; and the cement project Eagle Cement in Bulacan. Subject of pre-feasibility studies and advanced exploration are: the Berong nickel project of TMM Management in Palawan; the gold project of Greenstone Resources, Red V and JCG Resources (Australian) in Surigao del Norte; the copper-gold project of Colet Mining and Development in Negros Occidental; the Tampakan copper project of Sagittarius Mines in South Cotabato; and the copper project of Silangan Mindanao Mining in Surigao del Norte.

DENR Sec Reyes said the world's four largest mining companies AmCham member Phelps Dodge (US), Anglo-American Holdings (UK), BHP-Billiton (Aus), Xstrata Copper (Swiss), and Chemical Vapor Metal Refinery (Canadian) are negotiating possible projects in the Philippine mining industry.

In a September 2006 ruling slowing new mining investment approvals, DENR Sec Reyes ruled investors must present before a large panel of environment officials and mining experts their social and technical plans before engaging in any exploration or production activity, "in order to ensure" responsible mining. ICIP Senior Advisor attended meeting of informal Mining Group with foreign mining investors and embassies.

In letter to President Arroyo, the Chamber of Mines of the Philippines postponed their October 3-5, 2006 Philippine Mining Conference, because of "seeming policy shift from active promotion…to cautious re-consideration of policy reforms…[which] has led to stymied investment inflows affecting …our competitiveness as a mining destination, and wait-and-see attitude once again from our foreign investors." The Philippine Star reported AmCham and PCCI support for the Chamber of Mines of the Philippines in urging the Philippine government not to flip-flop on mining and other policy issues.

The Breakout Session on Mining during the ICIP-organized Workshop on FDI in October 2006 estimated that as much as $1.25 billion in FDI per year from 2007-10 can flow into the country, potentially creating approximately 125,000 direct and indirect jobs, if certain reforms are implemented. These reforms include the government's implementation of the mining revitalization program, creating a department of mines, allot funding for mining promotion through the MGB, setting up a mine site rehabilitation facility, develop 3 to 5 world class mines as showcases of best practices, work on gaining the support of LGUs, local NGOs and the Church for sustainable mining through better information campaign, provide necessary mining and geological training in colleges and universities to address manpower requirements, and accelerating the approval of exploration and mining permits.

Also in October, the JFC sent a letter to PGMA recommending faster processing of mining exploration permits and mineral processing sharing agreements (see Appendix 37). This partially led to DENR's approval of issuance of three mining exploration

permits to explore gold, copper and other mineral deposits in Surigao del Norte and Batangas.

In December, the SC upheld Proclamation No. 297 allowing the Philippine government through DENR to assume full control and supervision over Mt. Diwalwal mining operations in Mindanao. During the same month, ICIP Senior Advisor attended FOCAP breakfast briefing by Philippine Chamber of Mines president (and Benguet mining president) Romualdez who presented extensive, detailed tour d'horizon of the mining industry. He noted dialogue with bishops and moderate NGOs (e.g. WWF, PBSP) was creating better understanding by them of modern mining and a more balanced position. Applicants for permits filed with DENR grew rapidly to exceed 1,000 causing Sec Reyes to adopt a "use it or lose it" policy to weed out speculators. Mining exports were rising. Potential mining investment in 24 projects was estimated at $10 billion, with $1 billion coming in 2007 and 2008, after $500 million in 2006.

Reform Sector 5. Tourism

The potential for tourism in the Philippines has remained largely unrealized, while neighboring Malaysia, Thailand and Vietnam have experienced dynamic growth. The Philippines receives a mere 1% of the global tourist market. However, with tourism rising within Asia, the Philippines is experiencing 20% growth in overall tourist arrivals. The job multiplier of tourism spending is high, with one downstream job created from the spending of every visitor to the country.

While the country offers great natural beauty, good weather, eco-tourism and varied recreational activities, there are major challenges to tourism growth. Inadequate infrastructure reduces mobility. Hotels, food and service are often below international standards. There are too few international flights and points of entry. English in the hospitality sector is deteriorating, and often workers with better skills take overseas jobs. Internal security concerns and negative travel advisories discourage many potential first-time visitors. Foreign investors cannot own land for resorts and are legally prevented from retail services (restaurants, rentals, tourist operations, etc) by the high investment threshold of the Retail Trade Act.

ICIP advocated for the growth of tourism in the Philippines. Part of its advocacies center on improving infrastructure of key tourism areas (e.g. Bicol, Bohol, Cagayan de Oro/Camiguin, Cordilleras, Davao, Palawan, Subic/Clark). ICIP also sought the passage of the Tourism Act of 2006 with amendments to encourage foreign investment in tourism and open skies (see Appendix 9). Also included were advocacies towards more open skies and discount airlines to increase flights and more international flights to destinations outside Central Luzon. ICIP also worked for more balanced travel advisories and improve surface traffic flow.

Probably the first intervention of ICIP began when the President signed EO 500-A, as discussed in the previous section. The JFC Workshop on FDI in October 2006, which

was organized AmCham ICIP, recommended to the President to rescind EO 500-A to reinstate open skies at Clark. Pocket open skies was also advocated for Laoag, Cebu and Davao. A resolution in the workshop also suggested that tourism development promotions be concentrated in a few strategic areas such as Subic, Clark, Cebu, Western Visayas, and Davao. To encourage more investments, it was recommended that PEZA and BOI consider the consolidation of retirement locations as one project to be registered under the PEZA Law; expand the opportunities allowed for investments required by the PRA; provide incentives for small hotel projects in the provinces; allow foreigners to own residential real estate; and liberalize the practice of professions aligned with medical and retirement tourism such as, but not limited to doctors. Red tape and corruption must also be addressed, especially at the local government level, including minimizing processing, maintenance and other fees for retirees; establishing One Stop Shop processing of visas and other required documents and permits; and faster processing at the Bureau of Importation and Deportation.

In the first quarter of 2006, ICIP supported the PCCI-initiated "Biz Tour 5" comprehensive tourism program. The program envisioned to generate 5 million visitors, 5 million jobs and 5 billion in revenues in 5 years. The program is headed by then PCCI Vice-President for Tourism Mr. Samie Lim and implemented through the Tourism and Trade and Investment Committees of PCCI.

AmCham/CanCham hosted a luncheon meeting where DOT presented its initiatives on tourism promotion. AmCham submitted questions on policy issues. AmCham ED, Amdesk BOI and ICIP staff attended Tourism Committee meeting with Philippine Hotel Federation president Morris who gave updates on hotel industry and expressed general support for the proposed Tourism Act (SB 2138), but opposed inclusion of any "minimal tourism fee" collection in the bill and indicated reservations on creation of Philippine Tourism Assets Corporation.

AmCham ED and the ICIP Senior Advisor attended a MBC lunch with Tourism Sec Durano who provided details of DOT plans to increase tourist arrivals to 5M by 2010. AmCham PBEC chair Wallace urged aggressive open skies policy to stimulate tourism growth, while the ICIP Senior Advisor urged the Secretary to support the National Tourism Policy bill.

The total number of visitor arrivals in the Philippines reached a new record high of 2.84 million in 2006, an increase of 8 percent from the 2.6 million in 2005.

The most significant trend was a 16.9-percent rise in Korean visitors. Koreans was noted to have displaced Americans at the top of the list of number of tourist arrivals in the Philippines, with its ballooning 572,133 recorded arrivals in 2006. Small Korean businessmen have been able to work around Retail Trade Act investment limits, and, along with DOT promotion in Korea, had provided a positive image of the country to Koreans. English study had also been popular with Koreans with tens of thousands enrolled in schools centered in Baguio, Cebu and Manila.

Box 14. Significant developments in Tourism

- DOT Sec Durano called on investors to construct 30,000 hotel rooms worth P90 billion to accommodate the targeted rise in tourist arrivals to 5M by 2010
- CDC president Laus signed an agreement with Widus International Leisure (Korean) to build a $4 million condotel
- Landco Pacific (HK) and the Escudero family (RP) launched a multibillion-peso tourism and real estate project on 250 hectares of the Villa Escudero coconut plantation on Laguna/Quezon border, to include building lots, hotels, 18-hole golf course, food and entertainment, themed shopping centers and spas
- The BOI granted tax perks to Philippine Hoteliers' P520 million renovation of 520 rooms and to Mactan Shangri-la Hotel&Resort's P336 million modernization program for 188 rooms
- The SBMA is planning to construct a P1 billion convention complex
- MGfnd (Korean) will invest in a P495 million condo-hotel at the Subic Free Port
- Robinson's Land will build a new hotel in Tagaytay
- Freeport Service Corporation president reported Sema & Lyk (ROK) will invest P600 million to develop beach resort in Cubi-Triboa waterfront with 124 guest rooms for high-end foreign tourists

In terms of employment, the tourism industry generated 300,000 new jobs in 2006, raising the total number of workers employed by the industry to 3.7 million from 3.4 million in 2005. Employment opportunities came mostly from hotel chains and restaurants.

- With the increased tourist influx to the Philippines, the number of new accommodation facilities increased, while existing hotels were venturing into expansion, rehabilitation, and refurbishment. Since 2004, de luxe hotels had been enjoying occupancy rates of at least 70%, especially hotels in Metro Manila, Palawan, Cebu, Boracay, Bohol, and Davao.

Notably, the government also plans to improve airports in major tourist destinations: Busuanga, Caticlan, Cebu, Laguindingan, Panglao. Similarly, the Clark International Airport Corporation plans to spend $4 million to expand the low-cost carrier terminal; weekly flights at Clark are expected to rise from 39 in 2005 to 70 in 2006.

Competitiveness is all about the Investment Climate

The Philippines for several years has experienced declining ratings in major international competitiveness surveys. ICIP prepared the table below to demonstrate the negative trend. These ratings reflect the opinions of investors on the quality of the investment climate in the Philippines.

Table 1. International Measures of Philippine Competitiveness

	2001	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*
World Competitiveness Yearbook (61 countries)		40	49	52	49	49	
Global Competitiveness Report (117 countries)	48	62	66	76	77	77	
Ease of Doing Business (175 countries)					113	121	126
Index of Economic Freedom (161 countries)	81	70	62	74	90	98	
Corruption Perceptions Index (163 countries)	65	77	92	102	117	121	
Human Development Index (177 countries)	70	77	85	83	84	84	
Globalization Index (62 countries)	34	52	54	33	32	31	
Failed States Index (148 countries)					56	68	

AmCham ICIP and JFC held the Workshop on Foreign Direct Investment on "How to Attract $3 Billion a Year" on October 5, 2006 in Makati with 400 participants. Welcome statements were delivered by AmCham Vice President Co, JCCIPI Vice President Fukami, ECCP President Vermeulen, Pilipinas Shell Chairman Chua and PEZA DG De Lima. Panel presenters included former DOF Sec De Ocampo, WB Country Director Von Amsberg, ADB Country Director Crouch, AmCham ICIP Senior Advisor Forbes, former BOI Usec Domingo, UA&P SVP Villegas, Merritt Partners Managing Dir De Dios, EY Transaction Advisory Services President Valdes, ECCP EVP Schumacher, McKinsey and Co. Philippines President Beshouri, SEIPI Pres Tan, and Philippine

Mineral Exploration Assocation President Robbins. The keynote speech was delivered by former President Fidel Ramos and a policy statement was given by President Gloria-Macapagal Arroyo. Almost 250 business and industry experts, including public sector officials, participated in breakout sessions on Constitutional and Legal Restrictions on FDI; Energy, Power and Biofuels; Infrastructure: Subic-Batangas Corridor; Health care/Retirement and Tourism; IT/ITES; Manufacturing; and Mining. DTI Sec Favila received the Workshop Recommendations. Many local and foreign press covered the event, including BusinessWorld, BusinessMirror, Philippine Daily Inquirer, the Philippine Star, Straits Times and Time magazine, as well as several television stations which broadcasted key speeches live (see Appendix 9).

The Workshop on FDI for the first time estimated potential FDI inflows for the Philippines. For sectors covered by the breakout sessions for 2007-10 period, potential FDI was estimated in the range of $1.7 billion (pessimistic), $4 billion (status quo) and almost $9 billion (optimistic). To achieve the latter, participants recommended an extensive action agenda. Workshop-timed and subsequent AmCham and JFC press releases repeated these themes (see Appendix 54).

At the Workshop on FDI, former President Ramos advocated the acceleration of GRP flagship transport infrastructure projects, the opening of NAIA IPT3, further reforms to lower the price of power, hasten sale of GENCOs, implement mining reform, reduce business costs for exporters, establish a FDI Ombudsman at DTI, double spending on education, realize potential in healthcare, retirement and tourism, further liberalize the economy, improve competitiveness and called for stronger reformist political will by the public and private sectors. (FVR column with these recommendations appeared in the Manila Bulletin).

In Workshop on FDI, PGMA supported the removal from the Constitution of the Philippines of restrictions on foreign investment, gave assurance that investors in RP will not become less competitive in fiscal incentives offered to foreign and domestic investors and expressed support for modern mining. She used the occasion to assure exporters her economic managers will assist them amidst the strengthening of the peso.

At the 32nd Philippine Business Conference (PBC), WB country director von Amsberg said the GRP should guard against complacency to follow through on fiscal reforms to help make the economy take off, stressing that the "keys… are investment climate reforms and the implementation of public-private sector partnership reforms." PCCI president Dee expressed confidence that the Philippines is on track for takeoff, but warned against reform derailment during the election season in 2007.

ICIP partner PCCI submitted reform "wish-list" to GRP in the 32nd PBC. Among the recommendations were amendments to EPIRA, open skies policy, roads (including EDSA, Subic-Clark-Tarlac EX, Manila-Cavite EX Extension, SLEX rehab and extension, SLEX and NLEX interconnection via C5, Alabang-South Super Highway-Quirino-Nagtahan-Araneta project and S. Tagalog Arterial Road 2), interconnection of LRT1 and MRT3, taxation (removal of automatic 5% VAT on business deals with

government, retention of incentives granted to registered export enterprises, reduction of BIR's processing time for VAT claims, review of zonal valuation process and fast-tracking of valid tax-credit claims and tax refunds), energy (make energy costs more competitive, ensure energy self-sufficiency, creation of Renewable Energy Authority and passage of Biofuels bill) and education (urged GRP to give priority in education in math, science, English, as well as good manners and conduct).

The National Competitiveness Council updated recommendations made in October 2006 National Competitiveness Summit. These include:

- *Competitive human resources*: implementation of international standards that would be used to measure government and private agencies as well as quality of labor pool;
- *Efficient public and private sector management*: implementation of quality management system for at least 20% of government offices to achieve ISO 9000 Certification by 2010; cities should achieve world-class performance by 2008, and 20% of municipalities should also get there by 2010;
- *Improved transaction flows and costs*: fast-track rationalization program and implement e-governance in all public offices; improve and enhance procedures for entry and exit of business persons and goods, and processes in starting and closing businesses; DTI should position itself as one-stop shop and ensure consistency in implementation of business rules;
- *Seamless infrastructure network*: increase infrastructure spending to 4-5% starting 2007; open NAIA IPT-3 by 2007 and improve lighting systems in selected airports by end of year; fast-track development of Subic Bay and Batangas ports by 2008; finish rehabilitation and construction of SLEX, STAR, NLEX-SLEX interconnection, and LRT-MRT loop; develop clear policy on privatization efforts for key ports and pocket open skies; reduce shipping and port costs in key routes such as Cebu-Manila and Davao-Manila;
- *Effective access to financing*: massive information campaigns to make micro businesses and SMEs aware of state financing programs; hike in authorized capital of Small Business Corporation;
- *Energy cost-competitiveness and self-sufficiency*: tackle issue of lack of competition vis-a-vis privatization to promote real, open access in distribution of power; temporarily reduce royalties from Malampaya gas for four years and hasten development of renewable energy sector to reduce fuel costs starting in 2007; undertake "no-nonsense" energy savings drive to cut public's energy consumption in 2008;
- For *education*, NCC recommended GRP and private schools should identify metrics by 2010 to measure proficiencies in Math, Science, and English; add two more years to basic education track from present 10 to make Filipino students more competitive; urged schools to develop core competencies by 2008; address mismatch of skills as well as strengthen higher education system by pursuing on-the-job training projects;
- NCC co-chair Bautista added another project, to be implemented in medium term, is about *policy re-orientation*, which involves getting "government agencies to think more of competitiveness so that we can generate more jobs and economic activities." Private sector members of NCC also got in touch with *judiciary* to familiarize judges with business realities, and asked *Ombudsman's* help in enforcing decisions against

economic crimes. They also proposed creation of an *ad hoc committee on competitiveness* in House and Senate.

AmCham attended and was a leader in the monthly JFC meetings to coordinate various foreign investor advocacies, including FDI levels and restrictions, NAIA IPT-3 and other infrastructure, IRRs for EVAT 70% cap amendment, political killings, unpaid TCCs, Clark bills, statements on RP competitiveness and extra-judicial killings, letter to PGMA on mineral exploration permits, letter to Sen Recto on anti-smuggling and letter to Rep. Cua on Competitiveness Legislation List.

AmCham also exerted efforts to resolve the corporate governance crisis at the International School Manila (ISM), which AmCham has supported since its founding in 1920 and which is needed for expatriate business, diplomatic, and ADB families. AmCham communicated with 28 Sustaining Members. Then AmCham president Santos agreed to join the slate of 10 high-level persons of several nationalities willing to stand for election to serve as "interim" Board to replace resigned trustees. AmCham director Johnson was elected new ISM Board president.

III. IMPACT ASSESSMENT

A. Impact on the Investment Climate in the Philippines

The World Bank noted that the macroeconomic situation of the country improved in 2006. GDP grew by 5.4% in 2006. Inflation was on a downward trend throughout the year, ending at 4.3% in December and further going down to 3.9% in January 2007. The Consolidated Public Sector Deficit fell below 0.7% of GDP from 4.9% in 2004, implying a primary surplus of over 5% in 2006. The national government deficit was also reduced to P62 billion (1% of GDP) in 2006 from 2.7% in 2005, due to the implementation of VAT reforms, which raised tax revenue by 22% in 2006.[18]

The country's balance-of-payments also improved, much as a result of the record $12.8 billion in OFW remittances in 2006. The peso appreciated 7% to the US dollar. About P97 billion worth of NPAs were sold through the SPV Act, reducing by about 19% the stock of NPAs in the banking system. With the SPV extension in 2006, commercial banks were able to reduce their stock of NPLs by another 18%.

With regard to governance, the GRP recognized in 2006 the urgent need to address the declining competitiveness of the Philippines. In her State of the Nation Address, President Arroyo enumerated five comprehensive strategies for global competitiveness, which include the reduction of red tape in all agencies to cut business costs. Subsequently, the President created an Anti-Red Tape Task Force (ARTTF), chaired by the DTI, to deal with bureaucratic impediments to doing business in the country. Results of AmCham's "Worst Red Tape Survey" and the Workshop on Anti-Red Tape and Corruption co-hosted with the PCCI in August were received by the Task Force. In October 2006, the GRP organized a National Competitiveness Summit to develop a strategy to improve the country's competitiveness. During the Summit, ARTTF chair and DTI Sec Favila reported on the progress of the government's efforts to reduce red tape. The recommendations of the Workshop on FDI were also adopted into the National Competitiveness Action Agenda.

The passage, or non-passage, of certain legislation was also important to improving the investment climate in the country during the project period. The enactment of RA 9361, which deleted the 70% cap on the input VAT, RA 9399 and 9400, which extended a tax amnesty and provide fiscal incentives to locators in Clark SEZ that was earlier removed by the Supreme Court reassured investors of a better business environment in the country. The proposed PERA Act, once enacted, will provide Filipinos with a program similar to US IRAs beginning 2009, while the Biofuels Act will stimulate many billion dollars of investment in the Philippine economy over the next few years. Moreover, the non-passage of the Senate version of the fiscal incentives rationalization bill was significant because the bill was creating uncertainty as regards the incentives available for potential investors. In addition, the reversal of the House approval of the proposed Php 125

[18] *World Bank Update-Philippines: Invigorating Growth, Enhancing Its Impact* (April 2007). Manila: The World Bank-Philippines.

across-the-board wage hike was critical because wages in the Philippines are relatively high compared to countries in the region.

As regards infrastructure, President Arroyo identified as one of her administration's comprehensive strategies for global competitiveness to be the modernization of infrastructure at least cost to efficiently transport goods and people. She announced the development of the country's natural "super-regions", which she named the North Luzon Agribusiness Quadrangle, the Metro Luzon Urban Beltway, Central Philippines, Mindanao and the Cyber Corridor. The Subic-Clark-Manila-Batangas transport corridor, an ICIP reform advocacy, is among the priority infrastructure projects in the "super-regions" and has also received wide support from the World Bank, the business community, and the ongoing attention of the president and the head of her Infrastructure Monitoring Task Force. With the passage of the national budget for 2007 and the improvement in the government's fiscal situation, the GRP is expected to increase spending on infrastructure as a percentage of GDP in 2007. Nevertheless, investors await actual funding, construction and operation of these major transportation projects.

B. Impact on Investment Levels

In March 2007, the BSP announced that total net FDI inflow into the Philippines in 2006 reached $2.35 billion, up by $491 million from 2005 level of $1.85 billion. However, the amount is still low compared to what several other countries in the region received in the same period. Foreign inflows into stocks and similar short-term financial investments reached $1.29 billion, and the PSE index closed 2006 at a 10-year high of 3,448. At the end of the project, early FDI data as measured by the BSP and PEZA indicated further strong increases and a record level of $3 billion in FDI in 2007 appears within reach, in line with record levels of FDI expected in ASEAN.

The Institute of International Finance, Washington, D.C. estimated capital flows into developing economies during 2004-06 at $500 billion, twice the amount in the 2001-03 period. Measured against this total, the Philippines received roughly one percent of total FDI and other private capital flows (excluding remittances) in the 2004-06 period.

Investment pledges for the first nine months in 2006 stood at Php 283 billion, 88 percent more than the Php 150 billion reported for the equivalent period. An upsurge in local investments was reportedly boosted by a BOI-approved project to engage in power generation valued at Php 44 billion, representing 60 percent of total pledges from Filipino nationals.

Approved FDI for the first nine months of the year posted a 156 percent growth, totaling 152 billion compared to the Php 60 billion worth of FDI approvals in the same period in 2005. Growth rate was driven by the manufacturing sector which gained cumulative approved FDI of Php 106 billion, an expansion of 163 percent over 2005. The cumulative projected employment for this FDI was estimated at 110,279 jobs, 45 percent higher than last year.

Meanwhile, domestic capital formation increased to Php 215 from Php 219 billion in 2005, posting a 2 percent growth in real terms, reflecting strong confidence in future economic conditions. Foreign capital inflows increased, in line with global trends of increased capital flows into ASEAN and other emerging markets.

Net FDI inflow, as measured by the BSP for the first nine months of 2006, rose to Php 85 billion, an encouraging increase of 54 percent from Php 55 billion in 2005, and even higher than the global FDI inflow growth rate of 34 percent.

IV. OVERALL ASSESSMENT AND RECOMMENDATIONS

A. Overall Assessment

ICIP should be rated a highly successful advocacy project. The project design was relevant to the Philippines, having addressed the most critical weaknesses of its investment climate, specifically red tape and cost of doing business, education and English, power and transport infrastructure, and legislation and regulation policies. Program goals were also consistent with the thrusts of the national government to attract more FDI and improve its competitiveness.

ICIP was also effective in improving the investment climate on one hand, and encouraging investments on the other. Through various activities (including statements, press releases and interviews, and meetings with government officials) and working with other foreign and local business organizations, ICIP has effectively pushed its advocacies and induced government agencies to implement reforms necessary to improve governance, reduce the cost of doing business, ensure a predictable business environment, and attract more investment.

Strong commitment on the part of the government and continued public-private partnership as well as USAID's continued support to investment-related reforms would most likely ensure sustainability of the results of the project.

B. Lessons

Need for a Long-Term View of the Reform Process. Investment climate reforms deal with a variety of issues pertaining to a country's policies, laws, and institutions. Considering the very vast coverage of issues impacting on the investment climate as well as the availability of resources, it was acknowledged during the project implementation that all concerns cannot be suitably addressed by a single round of reforms. For example, the manifestation of a single legislation, which was seen to address a portion of the issues in the subject matter, usually takes a long period of time, from deliberation to its enactment. In general, the process takes time and requires a long-term view. Results of the project therefore made it clear that a follow-up assistance was essential to advance and continue the reform process.

Need for Sustained Policy Dialogue. The fulfillment of each policy reform or recommended reform tasks highly depends on how policy makers would act on it, especially those that require amendment or passage of a certain law. Hence, it is important to undertake upfront and sustained policy dialogue with policymakers and other stakeholders. More so, it is important to institutionalize public-private partnership in the reform process. Related to this, seminars and workshops were seen to be effective in disseminating and discussing the benefits of reforms being advocated.

Benefit of Organizational Cooperation. Improving the investment climate requires intensive and ongoing cooperation and coordination among stakeholders, especially

business organizations. Seminars and workshops provide a good venue for inter-organizational discussions and a convenient lunching pad for public-private talks. Such conventions also build good working relationships among officials and they help foster organizational cooperation. More importantly, the events generate consensus among stakeholders, thereby bonding them to lobby collectively and more effectively.

C. Recommendations

Further Action or Follow-Up. Government authorities and business groups should ensure that the results of the project are sustained and continuously pursued. In particular, new laws and corresponding regulations and procedures should be enforced, pending laws passed and enacted, and investment plans implemented.

Additional Assistance. Further support from the donor agency is needed as follow-up assistance was deemed essential in advancing and continuing the reform process that ICIP has initiated.

USAID Support. Given its positive experience and expertise in advocating for the improvement of investment climate in the Philippines, USAID should continue its support, especially in making institutions more effective and efficient. Further support is recommended to focus on providing mechanisms, both legal and process-oriented, to these institutions as well as organizational initiatives to actively promote policy dialogue and consensus-based agreements, all leading to an improved investment climate and increased investment.

Annex 1. Project Framework and Policy Matrix

Overall Goal

The overall goal of the project is to improve the investment climate in the Philippines leading to increase in total investments.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Reform Task 1. Bureaucracy/Corruption			
Reduce, simplify and make regulations transparent	In her SONA in July 2006, PGMA declared "Reduc[ing] red tape in all agencies to cut business costs" as one of five comprehensive strategies for global competitiveness. She subsequently issued EO 428, 554, 557, 571, 587	AmCham Worst Red Tape Survey sent to ARTTF chair Favila. Delayed implementation of Customs Brokers Act RA 9280 IRR; supported amendments to Act	Private sector should monitor and ensure the implementation of executive issuances, agency-specific administrative orders, and enacted legislations. AmCham, together with its allied organizations, should continue advocating to the government to streamiline government functions and bureaucratic processes.
Urge the government to establish Anti-Red Tape Program with "wardens" in agencies where corruption/red tape most hurt business	HB 3776 and SB 2589 Anti-Red Tape Act approved by the House and Senate, respectively. In February 2007, DTI Sec Favila announced the creation of an investment ombudsman who will oversee graft charges against government officials perceived to be blocking investment activities.	AmCham-PCCI Anti-Red Tape and Corruption Workshop	AmCham, together with its allied organizations, should continue its advocacy for the enactment of SB 2589 (Anti-Red Tape Act)
Enforce fixed deadlines to approve paperwork after which approval is automatic		In December 2006, Sen Lacson introduced SB 2589, identical to the House-passed bill, and held a hearing on January 31, at which the ICIP Senior Advisor appeared.	
Implement eGovernance	DTI and DOF issued Joint Department AO "Guidelines Implementing RA 8792 on Electronic Payment and Collection System in Government," which allows businesses to pay taxes and fees electronically. GSIS launched G-W@PS, a secure, paperless electronic transaction system for members.	ICIP Senior Advisor attended WorldBank Consultation on Governance and Anti-Corruption and made several comments encouraging more activity and especially harder measurements of success/failure.	Private sector should support the implementation of electronic payment, starting from BOC and BIR.
Intensify lifestyle checks and RATE program and operations of Ombudsman	The DOF reported the GRP filed a total of 141 cases in 2006: 70 on tax evasion filed under the RATE program, 28 on anti-smuggling filed under the RATS program, and 43 cases of corruption filed under the RIPS program. Of 141 cases filed, most are still pending in courts and a few were dismissed. (Note: No convictions were reported.).	At Wallace Business Forum Quarterly AmCham recommended to Ombudsman Guttierez reviving the proposal of her predecessor to establish confidential channel for foreign firms to report suspected corruption by officials. Copy of memo sent by former Ombudsman Marcelo to foreign chambers was sent to Ombudsman Gutierrez.	Private sector should monitor the progress of RATE- and RATS-related cases, especiallt those pending in courts. Monitoring and advocacy should go beyond filing cases; smuggling should still remain as a major concern; and thus the private sector should participate through being a "whistle-blower". A formal group from the private sector that would put this into practice would be very helpful.
Report incidents of corruption to Ombudsman and DOF and place on website			

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Education			
Triple per capita spending on education by 2010; improve education quality	National budget for education was P122B in 2006 and allocated a projected P135B in 2007.	PEP-commissioned SWS survey revealed decline in English proficiency. Self-evaluated spoken English declined 41% between 2000 and 2006 to 32%. Survey received extensive media coverage, including two editorials.	The 135-B projected budget allocation must be ensured and released to significant projects (i.e. building of new schools, hiring of teachers, etc.) Private sector could partiicpate in improving education through suporting the "Adopt-a-school" Program.
Achieve better quality spoken English among high school/college graduates	TESDA is implementing a P500M remedial training program for 100,000 “near-hire” beneficiaries for the ICT sector, where the government ambitiously projects employment quadrupling to 1 million by 2010.	DepEd Sec Jesli Lapus announced intention to fully restore English as medium of instruction. AmCham wrote Lapus informing him of the ICIP education sector advocacies, notably PEP, later met with Lapus and National English Proficiency Program co-chair. AmCham discussed its English advocacy with Cardinal Rosales and and other CBCP leaders, presidential jobs advisor Sec Yap, DepEd Sec Hidalgo and her successor DepEd Secretary Lapus. Amcham also appeared on Probe TV program on English.	Private sector should support the restoration of English as the medium of instruction. Amcham, on the other hand, should continue and further broaden PEP, along with ECCP's *English is Cool* Project.
Improve engineering, math and science skills among graduates	DepEd announced P581M will be budgeted for remedial training of up to 50,000 teachers in English, math and science during summer 2007. TESDA will distribute P500M in remedial training vouchers to 100,000 “near hires” of animation, call center, medical transcription and software firms.	PEP Co-chair spoke at PBEd forum on English attended by over 100 persons at AIM with Miriam College president Licuanan, MBC chairman del Rosario, DEPED U/S Labrador and former DEPED U/S/ Luz. Former DepEd Secretary de Jesus, Mr. Washington Sycip, PDI publisher Prieto, USAID Education chief and Dell Philippines country head were among those attending	Private sector should ensure the realization of P581M of DepEd and the P500M of TESDA.
CHED to approve a call center curriculum for colleges and universities			Collaborate with the academe and other stakeholders to advocate for the inclusion a call center curriculum for colleges and universities.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Infrastructure: Power			
Implement EPIRA; accelerate sale of NPC GENCOs and privatize TRANSCO	In her SONA in July 2006, PGMA declared "Reduc[ing] the cost of electricity to make our factories regionally competitive" as one of five comprehensive strategies for global competitiveness. Progress towards privatization of NPC GENCOs and the TRANSCO concession remained limited. By end 2006, only 11% of GENCOs had been sold – far short of the legislated required 70% threshold to allow open access.	AmCham and the JFC continued to raise their power sector advocacies re pricing and supply, meeting Sec Ermita at Malacañang and at the JFC Energy Workshop chaired by DOE Sec. Lotilla and on other occasions.	AmCham and JFC should seek alliance from other business organizations to advocate for faster advancement of power reforms, expecially in open access and privatization. . 2007 will be a critical year for the Power Sector Assets and Liabilities Management (PSALM) Corporation to demonstrate real progress on sales of generation and transmission assets
Lower industrial power rates through open access for consumers of 1+MW	Progress occurred during the project period in developing programs to offer lower power prices through (a) NPC's time-of-use program, allowing lower pricing during periods of low demand, (b) MERALCO's customer choice lower-priced power for commercial and industrial consumers using 1KW+ monthly, and (c) the start of WESM wholesale trading operations.	AmCham welcomed Meralco's decision and wrote the ERC chairman requesting early implementation. In 2007, the DOJ issued a legal opinion affirming that the PEZA has the authority to regulate power in ecozones. PEZA DG De Lima said the legal opinion removes ERC authority over firms operating within ecozones. NEDA DG Neri said locators in private ecozones could save as much as P1.30 kwh if they can get same rates as those in public sector-owned ecozones regulated by PEZA.	
Start operations of WESM	WESM started commercial operations in mid-2006 and by end of the year had 23 suppliers and 157 customers trading power at reduced rates.	ICIP and Amdesk attended launch.	
Allow IPPs to import coal directly	The NPC reported more transparency in its coal import contracts and improved terms for long-term supply to avoid the price squeezes it encountered when forced to purchase on spot markets in 2005. NPC has shown no willingness to allow IPPs to contract fuel supplies directly. However, the NCC has placed this procurement reform on its list of project tasks for 2007.	ICIP Senior Advisor urged NPC president to allow IPPs to import coal directly.	AmCham should continue urging NPC to allow IPP to import coal directly.
Fully dispatch Malampaya gas to maximize GRP royalty revenue	In the upstream/downstream energy sector, the suspension by presidential order of the Mitra farm-in contract negotiations for the oil associated with the Malampaya gas field was a significant setback, confusing future foreign investment in oil and gas exploration. Two Australian and US firms proceeded with plans to explore in the Palawan and Sandakan Basin areas.	JFC issued statement expressing concern over cancellation by PGMA of Mitra Energy farm-in agreement in Camago-Malampaya reservoir in Palawan.	

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Infrastructure: Subic-Batangas Corridor			
Open NAIA IPT 3 and adequately compensate owners	The GRP finally was allowed by courts to make an initial P3B payment to owners of NAIA-3, while waiting for the conclusion of the three-year long international arbitration proceedings being held in two venues on the final total amount of compensation. Targted opening is in 2007.	The JFC continued to raise the NAIA IPT-3 opening at high GRP levels; In a meeting at Malacanang chaired by Executive Secretary Ermita, it was stated the planned a “soft” opening by the end of March 2007; the governement assured the JFC that a P3B initial payment of funds is held in escrow pending legal clarification, which includes assurance that the funds will reach Fraport.	Continue to press GRP to open NAIA IPT-3 for all carriers.
Rapidly develop Clark airport for cargo and passenger traffic	Clark grew rapidly as a center for regional low-cost carriers providing encouragement that the Philippines might participate in the rapid growth of tourism that regional leaders Malaysia, Singapore, Thailand and, most recently, Vietnam enjoy. Arrivals at Clark in 2006 reached the 500,000 level ten times 2003, and large enough to stimulate many new investments at the former US base. However, the protectionist character of influential Philippine Airlines, whose principal owner is a consistently generous political campaign contributor, asserted itself at the Palace arguing a narrow self-serving view of bilateral air reciprocity to PGMA who signed EO 500-A which could limit the growth of aviation at Clark for airlines not covered by GRP bilateral air agreements, none of which currently service Clark. Local civic and public sector leaders in Central Luzon and national-level supporters of liberalized aviation for the Philippines strongly objected.	(JFC issued in March a statement endorsing NCC-drafted EO500-B, which seeks to reverse EO500-A. PGMA issued in August 2006 EO 500-A “clarifying” EO-500 issued in January 2006, specifying that only airlines from the 60 countries with existing bilateral Air Service Agreements with the RP can operate at Clark and Subic. The protectionist EO-500-A reverses the liberal EO-500 under which Clark has rapidly developed as low-cost airline hub.)	AmCham, together with JFC and orther private stakeholders should urge the government to rescind EO 500-A and support fot the issuance of the proposed EO 500-B.
Identify and resolve bottlenecks of key projects	In her SONA in July 2006, President Arroyo declared "Moderniz[ing] infrastructure at least cost to efficiently transport goods and people" as one of five comprehensive strategies for global competitiveness.	AmCham prepared a list of top priority infrastructure projects listed in the Roadmap II More Foreign Investment	

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
onnect Subic to Batangas in smooth road system	PGMA used her annual SONA in July 2006 to promise a large array of transportation and other projects spread throughout five "super-regions" costing nearly P2T over four years and raising future total infrastructure spending to a respectable 5% of GDP, following several years of an anemic public sector infrastructure budget. She highlighted the modernization of ground and rail transport in what she termed the "Luzon Urban Beltway" (the same concept as ICIP's "Subic to Batangas Transportation Corridor"). PGMA issued EO 553, establishing an Infrastructure Monitoring Task Force (IMTF) chaired by a cabinet heavyweight (an action long advocated by AmCham), although shortly thereafter she shifted responsibility to her new PMS head, whose skills at moving projects through the cumbersome and often resistant bureaucracy are uncertain. In addition, the president designated close advisors to monitor infrastructure projects in each "super-region." The effectiveness of these bureaucratic structures is unproven and falls short of the "Infrastructure Czar" advocated by	most of which were included in the SONA. The list was provided to the PDF Infrastructure Group co-chaired by the GOJ and the WB and to consultants working with the chairman of the IMTF. These projects were included among the top 20 on the list of 79 high-priority projects which the IMTF is closely monitoring and also on a list of the top 11 projects supported by the NCC. The JFC sent a letter to PGMA on GRP priority infrastructure projects, (reported in BusinessWorld) requesting inclusion of LRT-1 Extension to Bacoor and MRT-7 in top nine infrastructure projects identified by the Private Sector Infrastructure Champion of the NCC. Consequently, the NCC list was expanded to 11 projects.	AmCham should monitor the implementation of the priotity infrastructure projects mentioned in the SONA 2006 though proactive participation particualrly through IMTF.
Recruit most-experienced private sector manager to serve as Special Assistant to NEDA Chair for Major Infrastructure Projects		AmCham spoke out on need for this position	Private sector must continue to monitor.
Decide which projects to fund with JBIC or PRC loans and which to offer as PPPs; fund pre-feasibility studies and assure transparent bidding	During the visit of a large Chinese delegation, the GRP and the PRC agreed to undertake $5B worth of projects under their Economic Partnership Framework Agreement. NEDA DG Neri stated the PRC has offered up to $2B in annual low-interest loans; project agreement signings are to be scheduled for the visit of the PRC Premier to Manila in January 2007. NEDA DG Neri said PGMA and Chinese Premier Wen Jiabao witnessed signing of over $1B worth of loan agreements, including $500M loan agreement for the continuation of the Northrail Project (to San Fernando, Pampanga) and a $500M MOU for other key infrastructure projects (most of which will fund the PNR Southrail project).	At the request of AmCham, the JCCI agreed through JBIC to organize the ICIP workshop on Reform Cluster Subic-Batangas Transportation Corridor in February 2007. AmCham ED, Amdesk BOI, and ICIP Senior Advisor participated in JCCIPI/JBIC Investment Climate Improvement/Infrastructure forum. AmCham ICIP invited AmCham members interested in large infrastructure projects to attend the workshop by JBIC, which funds $1B a year in infrastructure loans to the RP. Japanese wire harness manufacturer with factories in PRC, RP and Thailand praised Philippine workers but noted power rates are highest in the region and policies are inconsistent, workforce English skills are in decline and the country has a poor image. Japanese Embassy Minister said some 1,000 Japanese companies operating in Philippines have invested P235B.	Press government to move forward to offer PPP projects to investors.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Amend BOT law IRRs and seek BOT law amendments	House Economic Affairs chair Salceda argued the importance of HB 5002, creating a BOT Authority to oversee BOT contracts.	AmCham organized a meeting for EMERGE BOT experts to discuss proposals for BOT law reform. The private sector supports IRR amendments and BOT law reform, but the real need is for leadership to get projects moving. AmCham underlined the need for stronger leadership to revitalize a BOT program moribund since the Asian financial crisis and to avoid further delays in implementing PPPs such as the MRT-3 phase 2, the Manila Skyway Phase 2 and the LRT-1 Extension.	Amcham to urge the House to pass HB 5002.
Judicial/Regulatory/Enfrocement			
Introduce continuous trial	While some low and mid-level BOC personnel were suspended or dismissed as the result of life-style checks (see Reform Cluster 1 above), no cases were brought against so-called "big fish." Smuggling of used cars through freeports, primarily the SBMA, has continued without abatement despite a Supreme Court decision affirming government authority to prevent entry into its customs territory. Consequently, the domestic market for new cars remains stagnant. A rough estimate of the monetary value to the syndicate that operates the smuggling is in the range of $150 to $200 million annually.	JFC met with SC Chief Justice Puno and discussed role of judiciary in cases involving outsourcing and labor disputes, sanctity of contracts, arbitration, IPR protection, political killings, and creation of special court for infrastructure projects.	
Intensify anti-smuggling enforcement and BOC lifestyle checks; jail smuggling big fish and GRP protectors			Investigate and enforce syndicates in control of used vehicles, diesel fuels, cigarettes, textile, plastics and other smuggling operators.
Increase IPR enforcement, especially for optical media			
Legislation			
Seek removal from Constitution of all restrictions on foreign investment and professions; work for early passage of any required implementing legislation	Efforts to amend the Constitution moved in the Lower House, which contained amendments to economic provisions.	The JFC sent a letter to NEDA DG Neri requesting consultation before 7th Foreign Investment Negative List issued, as well as consideration of a proposed Foreign Professional Partners in National Development Act and a proposed Rationalization of Foreign Investment Restrictions Act. Letter was released to media and sent to Congressional leaders. Letter was lead front page story in Business World and Business Mirror and reported in other newspapers. ICIP Senior Advisor raised with DOF Sec Teves and AmCham ED later wrote DOF Sec Teves regarding static nature of FDI Negative List and encouraged Teves (as "father" of the Foreign Investment Act) to discuss issue with other GRP economic managers (DTI Sec Favila and NEDA DG Neri) to adopt strategy to liberalize RP foreign investment regime.	AmCham should still advocate for the lifting of restrictions among foreign investors, particularly on health services and education.
Reduce minimum foreign equity thresholds in Retail Trade Act and Foreign Investment Act; otherwise, reduce restrictions on FDI in Negative List	6th and 7th Foreign Investment Negative Lists were issued, but no significant changes were made.		Further advocacy.
In future laws concerning FDI, seek waiver provisions to provide flexibility to approve projects especially beneficial in technology, capital or employment			Further advocacy.
Correct discriminatory or unenforced foreign investment regime rules			Further advocacy.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Revitalize LEDAC	In May and November 2006 LEDAC meetings were held. At its May 2006 meeting LEDAC prioritized 11 laws, including ICIP priorities (Clark SEZ, credit bureau, fiscal incentive rationalization, anti-smuggling, and anti-terrorism) and agreed that Senate and House Constitutional committees would meet to explore ways to amend the Constitution; they subsequently met only twice without any agreement. At its November 2006, LEDAC prioritized bills to pass in the few remaining months of the 3rd session. Among the bills identified by LEDAC as the most urgent were six ICIP priorities: poll automation, biofuels, anti-terrorism bill, Clark SEZ and amnesty bills and creation of credit information bureau.	AmCham ED wrote to office of the President to communicate AmCham legislative priorities and provided Executive Secretary copy of AmCham and JFC statements.	Continue advocacy.
Pass priority legislation		In recent years, AmCham has prepared three lists of priority legislative reforms: (1) in the Roadmap II More Foreign Investment (June 2004); (2) in the ICIP Advocacy Plan (April 2006); and (3) in a National Legislative Competitiveness List prepared at the time of the National Competitive Summit (October 2006). The JFC also sent letter to Congressman Cua endorsing proposed legislative agenda for competitiveness of more than 30 measures. JFC released statement urging Philippine Congress to complete final legislative action on several important bills prior to its February recess for 2007 election campaign. Statement covered in The Philippine Star. JFC sent letter to PGMA commending her call for Congress special session to work on pending legislation, including anti-red tape act, credit information system act, customs brokers act amendment, human security act, national tourism act, and PERA act. AmCham ED personally gave letter to PGMA during PCCI induction of new officers.	
--Anti-red tape	Approved by the Congressional Bicameral Conference Committee and awaiting the President's signature, the Anti-Red Tape Act seeks to promote integrity, accountability, proper management of public affairs and public property as well as to establish effective practices aimed at the prevention of graft and corruption in government.	AmCham sent letter to Senator Lacson, chair of Senate Committee on Civil Service and Government Reorganization, stating support for passage of anti-red tape bill. ICIP Senior Advisor testified in public hearing on anti-red tape bill conducted by Sen. Lacson; INQUIRER.net and Philippine Chronicle carried story	Review IRRs.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
--Anti-Smuggling	Approved by the House in June 2005, HB 4069 seeks to provide stiffer penalties, both fines and imprisonment, for outright and technical smuggling and other violations of the Tariff and Customs Code. It also calls for the establishment of a special body to curb smuggling. The measure requires advance transmission of inward foreign manifests to allow the Bureau of Customs to verify the value of imported goods. Its counterpart in the Senate remains pending in the Ways and Means Committee.	The JFC sent a 20-page position paper to SWMC chairman Recto proposing improvements in anti-smuggling bill passed by the House and under consideration in the Senate Ways and Means Committee	AmCham should urge the government to seek private sector consultation regarding HB 4069.
--Anti-Terrorism	Enacted in March 2007, R.A. 9372 seeks to enhance Philippine capability to meet threats from regional and global terrorism. It establishes various mechanisms to prevent terrorism from being committed and set penalties.	AmCham decided to support bill.	Review IRRs.
--Automated elections	Enacted into law in January 2007, RA 9369 allows the COMELEC to use automated machines in the counting and canvassing of votes. Twelve highly-urbanized cities were selected as pilot testing areas while the rest of the country will use the traditional election procedures. The nationwide implementation of poll automation is scheduled in 2010.	AmCham decided to support bill. ICIP Senior Advisor had discussions with Senator Gordon on poll automation for political stability in RP.	Review IRRs.
--Biofuels	Enacted in January 2007, the Biofuels Act mandates that diesel contain at least a 1% blend of biofuel within three months from the effectivity of the law and a 2% blend within two years. On the other hand, at least 5% of bioethanol has to be blended into gasoline within two years after the law comes into effect and then increased to a 10% ethanol blend within four years.	AmCham released a statement on biofuels bill supporting incentives to develop domestic production but opposing mandated additives to gasoline/diesel and urging that neither petroleum retailers nor car manufacturers be liable for engine damage and that new fuels should be fully tested.	Review IRRs.
--BOT amendments	Filed by then House Economics Committee Chairman Salceda, HB 5002 seeks to enunciate a clear-cut policy on government support, adhere to best practices on risk allocation, set the reasonable rate of return for solicited or unsolicited or negotiated projects, institutionalize a fair, honest and competitive procurement process, establish a BOT Authority to rationalize the program implementation, and provide penal provisions for specific offenses. Filed by then House Economics Committee Chairman Salceda.		Continue advocacy.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
--Clark SEZ	A July 2005 Supreme Court decision (appealed by the GRP) cancelled fiscal incentives under which investors located at the Clark SEZ. R.A.9399 and R.A. 9400, both signed in March 2007, extend a tax amnesty and provide fiscal incentives to present locators.	AmCham and JFC undertook a “full-court press” re Clark SEZ remedial bills, speaking with Secs. Claudio, Ermita, Favila and Teves, Sen. Recto and Reps. De Venecia and Lapuz and BCDA and Clark officials. AmCham requested presidential political advisor Claudio to place Clark SEZ issue on the May 16, 2006 LEDAC agenda (and sent letter forwarding ICIP legislative priority list). A JFC statement (AmCham-drafted) re Clark SEZ remedial legislation was released, providing chronology of efforts to urge GRP to fix problem before foreign investors leave. Statement was carried in major newspapers and subject of a supportive editorial. JFC released Statement on Clark Bills before Bicam urging passage of House version re bringing Clark and Subic under PEZA Law and eliminating Senate VAT provision. Statement covered in Philippine Star, BusinessWorld and BusinessMirror	Review IRRs. Private Sector should ensure the implemetnatin of RA 9399 and RA 9400 (Clark Tax Amnesty and Cark Tax Incentives signed March 20, 2007).
--Corporate Recovery Act	This proposal seeks to improve the process of corporate restructuring and bankruptcy by increasing legal options for distressed indebted enterprises. The proposed Corporate Recovery Act offers different means of relief namely Court Rehabilitation, Pre-negotiated Rehabilitation, Fast-Track Rehabilitation, and Dissolution and Liquidation.	ICIP Senior Advisor discussed with CMDC chair Salazar importance of bill and AmCham decided to support bill.	Continue advocacy.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
--Credit Information System	Endorsed by the BSP, HB 3819 and SB 1936 seek to create the first centralized credit bureau in the Philippines to address the lack of reliable credit information for both individual and corporate borrowers, including credit card users. A report has been approved in Bicam, pending ratification by both chambers.	AmCham president Dallas sent letter to House Speaker De Venecia, urging immediate passage of HB 5948 on establishing credit information system in RP. Press reported AmCham letter.	Continue advocacy.
--Customs Brokers amendment	Under RA 9280 or the Customs Brokers Act of 2004, only customs brokers may be allowed to transact with customs in behalf of importers and with regard to import/export declarations entered with customs. HB 6063 and SB 2597, both approved in third and final reading, propose to amend Section 29 of R.A. 9280 by removing the prohibition on corporate practice of customs brokerage. The bills have yet to be submitted to a bicameral committee to resolve the conflicting provisions.	AmCham appeared at Senate Trade Committee meeting on amendments to Customs Brokers Act. SEIPI chairman alerted AmCham to House passage of bill to amend Customs Brokers Act and to Feb 5 hearing by Sen Roxas on parallel Senate bill. AmCham invited JFC to send representatives to hearing and alerted international freight forwarders.	Private sector should advocate for the passage of Customs Brokers Act Amendment
--DICT	Most ASEAN countries have a Ministry of Information Technology. HB 3218 and SB 1795 seek to create the DICT and establish it as the primary agency in charge of promotion and development of integrated and strategic ICT systems and cost-efficient communications facilities and service. As of April 2006, HB 3218 was approved by the House Committee on ICT, while SB 1795 is still in committee.	ICIP Senior Advisor had several conversation with CICT chair regarding creation of DICT.	AmCham, though JFC and allied organization, should urge the House to pass HB 5282.
--EVAT amendments, 70% cap on creditable input VAT	The EVAT law, fully implemented in early 2006, included several provisions of concern to the business sector. At issue were the 70% cap on input VAT credits and the 5-year recovery treatment of VAT for the purchase of capital equipment costing above P1 million. President Arroyo signed in November 2006 RA 9361, repealing the 70% cap which restricts business activities and discourages expansion. The 5-year recovery treatment remains an issue.	JFC and Philippine business groups expended major efforts to eliminate EVAT 70% input cap. Discussed with Secs Ermita, Favila, Teves, BIR Commissioner Buñag, Sen. Recto, Rep Lapus. 3 AmCham committees (Consumer Affairs, Legislative and Taxes and Tariffs) prepared strategy to correct EVAT 70% input cap. AmCham provided a media paper describing the problem and calling for removal of EVAT 70% cap. AmCham organized a meeting for CEOs of Coca Cola, Makro, P&G and PMMPI to discuss the impact of cap on small retailers with House Ways and Means Committee chairman Lapus, the committee vice-chair Teves and BIR Commission Buñag. AmCham and the JCCPI met with Senate Ways and Means Committee chair Sen Recto and House Ways and Means Committee chair Rep Lapus to discuss EVAT input cap, Clark SEZ and fiscal incentives rationalization.	

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
--Rationalization of Fiscal Incentives	Approved by the House in January 2005, HB 3295 seeks to rationalize fiscal and non-fiscal investment incentives, ending incentives that are inefficient and inconsistent with WTO rules. The bill creates a more focused fiscal incentive regime. The Senate version, SB2411, on the other hand, remains pending in the plenary.	AmCham and ECCP discussed the Recto bill with CFOs of SEIPI member firms, SWMC COS Liwag and economists Habito and Medalla. AmCham requested an "official" copy of report so foreign chambers could comment. ECCP VP Schumacher urged careful approach to reform of fiscal incentives, so as not to harm Philippine competitiveness. BM interviewed LEGCOM chair re views on Recto bill. AmCham discussed Recto bill widely, with automotive, business processing and semiconductor associations, PCCI, Finance and Trade secretaries. JFC issued statement urging caution and a survey of JFC members revealed preference for current ITH regime. AmCham co-sponsored with ECCP forum on SB 2411, EVAT 70% cap and Anti-Smuggling bill. ICIP discussed fiscal rationalization with Philippine Industrial Estate Association, SEIPI chairman and House Appropriations chair Salceda (concurrently House Economics chair). ICIP joined representatives of other foreign chambers and business associations in meeting with Sen Recto to discus SB 2411 on Rationalization of Fiscal Incentives. ICIP asked Sen Gordon, Euwan Marshall (IFC), Mitch Locsin (B	AmCham should seek alliance from other business organizations to counteract the passage of SB 2411 and support passage of law with regional best practice.
--IPR amendments	Filed by then Rep. Joey Salceda, HB 3308 seeks to modernize the Philippines' copyright protection and enforcement system and fully implement key international copyright agreements.		Support HB 3308 while encouraging IPR protection amonngst allied organizations.
--Land Administration Reform	Approved in third and final reading, HB 4846 seeks to improve the efficiency, effectiveness, transparency, and accountability of land administration services through mapping, land survey, classification, disposition, registration, and management of private and public lands. It also aims to implement a comprehensive and continuing land administration program that will make the processes and procedures on land registration and titling affordable, reliable and expeditious through the establishment of One-Stop-Shops nationwide.	AmCham decided to support bill.	Seek alliance from allied organizations in supporting HB 4846.
--Lending Company Regulation	The measure seeks to regulate lending companies by requiring these to register with the Securities and Exchange Commission (SEC). It requires small lending firms to convert into corporations with a minimum paid-up capital of P1 million within a year. This measure has been approved in Bicam, awaiting the President's signature.	AmCham decided to support bill.	Seek alliance from allied organizations in urging the governement to enact SB 1949.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
--Personal Equity Retirement Act (PERA)	Approved in Bicam, this measure seeks to create a tax-free individual retirement program similar to the US IRA. PERA accounts can be managed by a BSP-accredited bank or trust company, investment companies, investment houses accredited by the Securities and Exchange Commission, and life insurance and pre-need companies accredited by the Insurance Commission. PERA would strengthen the capital market and provide an investment for remittances of overseas Filipinos.	JFC sent separate letters to Senate President Villar and House Speaker De Venecia urging passage of pending legislation on PERA and Pre-Need Code. Letters were covered in BusinessWorld, BusinessMirror and Philippine Daily Inquirer.	Review IRRs.
--Pre-need Code	HB 4343 and SB 2169 propose to establish a new regulatory framework for the operation of pre-need plan companies and to protect plan holders. These measures seek to address the growing problems of the pre-need industry such as the trust fund deficiencies encountered by prominent pre-need companies. The proposed Pre-Need Code mandates the Insurance Commission, not the SEC, to exercise supervise pre-need firms.		Seek alliance from allied organizations in urging the government to enact SB 2169.
--Renewable energy	The House of Representatives has passed on final reading House Bill 5563, which seeks to promote the development, utilization and commercialization of renewable sources of energy. The bill also sets up a framework for the grant of fiscal and non-fiscal incentives to all renewable energy activities and creates the National Renewable Energy Board (NREB). Additionally, the measure bill proposes to establish a Renewable Energy Trust Fund (RETF) to finance research, development, demonstration, and promotion of various renewable energy systems. On the other hand, the Senate counterpart of Renewable Energy Bill remains pending in plenary.		Advocate for the advocacy for the passage of HB 5563.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
-- SPV Extension	Enacted in April 2006, R.A. 9343 extends the Special Purpose Vehicle Law which expired in April 2005. The BSP estimates the extension will enable the banking industry to dispose of P100 billion more of non-performing assets by granting tax exemptions and reduced registration and transfer fees. SPVs acquire non-performing assets at substantial discounts and seek to sell them later for a profit.	AmCham decided to support the bill.	*Review IRRs.*
--Tourism	Approved in third and final reading, SB 2138 proposes to create Tourism Philippines, a corporation consolidating the functions of the Philippine Convention and Visitors Corporation and the Philippine Tourism Authority, which would also include tourism marketing and promotion sections of the DTI. This bill seeks to encourage investments in new hotels, resorts and other tourism enterprises through tax breaks and efficient governance to create world-class establishments in the most beautifully, historical and culturally significant areas of the country. The House version remains pending in the plenary.	AmCham issued statement urging Congress to pass SB 2138, which creates National Policy for Tourism.	Continue advocacy.
--VOIP	Approved by the House on third and final reading, HB 5284 proposes for the deregulation of voice over Internet Protocol (VoIP) services in the country. This measure complements a National Telecommunications Commission (NTC) guideline which opened up the Philippine VoIP market to value-added service providers without the need to apply for a Congressional franchise. The NTC guideline considers VoIP as a value-added service, which means that the service is not governed by the RA 7925 or the Philippine Telecommunications Act.	AmCham decided to support the bill.	Amcham to urge the Senate to pass the VOIP bill.
Security/Political Stability			
Modernize COMELEC for faster, less controversial election results	Enacted into law in January 2007, RA 9369 allows the COMELEC to use automated machines in the counting and canvassing of votes. Twelve highly-urbanized cities were selected as pilot testing areas while the rest of the country will use the traditional election procedures. The nationwide implementation of poll automation is scheduled in 2010.	ICIP Senior Advisor had several conversation with Senate Committee on Suffrage and Electoral Reforms chair Gordon to ensure passage of poll automation law to make election results credible.	Continue advocacy.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Complete and implement GRP-MILF accord			
Health/Retirement			
Allow foreign doctors to practice at medical/retirement facilities used by foreign nationals	PGMA declared the retirement industry a "flagship" program. New GRP retirement agency chief former PNP head Aglipay and new Philippine Retirement Inc head Ordonez announced extremely ambitious target goal of one million foreign retirees by 2015. "Paradise Philippines," country brand for RP medical tourism program, launched at 1st Philippine Medical Tourism Congress. As an interim measure, PRA is working on long-term lease agreement for retirees.	The practice of foreign professionals and allowing foreign ownershio of land has long been advocated by AmCham. JFC agreed to organize a committee to help support the GRP retirement initiative. AmCham reps participated in JFC retirement committee meetings at ECCPI. JFC Retirement Sector Committee recommended to the GRP land ownership for foreign retirees and amending laws to allow foreign doctors to practice. AmCham ED and ICIP Senior Advisor attended meeting of ECCP-led JFC committee on foreign retirement industry and agreed to move forward to establish a non-profit company to work with PRA and PRI which will monitor credentials of RP retirement sites and advocate ownership of land, practice of professions and access to foreign doctors.	AmCham should still advocate for the lifting of restrictions among foreign investors, particularly on health services and education.
Permit foreign ownership of land for commercial, industrial, residential purposes			
Develop foreign retirement communities in Central Luzon and Cebu			
Improve transportation infrastructure in Metro Manila and Cebu			
Promote medical tourism and retirement			
ICT			
See Cluster on Education and English	(see Reform Cluster on Education)		
See Cluster on Legislation (create DICT)	(see Reform Cluster on Legislation)		
Modernize Labor Code		AmCham held briefing with DOLE Sec Brion, who discussed status of House-approved P125 across-the-board wage hike, reiterating GRP position against it. He also said draft amendments to Labor Code are being prepared, which are due in March 2007 in order to consult in time for July opening of Congress.	
Manufacturing			
Reduce costs of doing business (labor, regulatory, transportation, utilities)	(see Reform Cluster on Reduce Red Tape and Corruption)	(see Reform Cluster on Reduce Red Tape and Corruption)	Secure the impelemtation of Executive Issuances through the ARTTF.
Limit minimum wage increases	The House of Representatives approved HB 345, legislating a P125 across-the-board wage increase for private workers in three annual steps. Regional Tripartite Wages and Productivity Boards passed a resolution urging Congress to reconsider its approval of P125 wage increase for private sector, saying implementing would be disastrous to employment, as many businesses could not afford increase and would close. The House of Representatives reversed approval of HB 345 which seeks P125 across-the-board wage hike for private sector workers.	AmCham released a statement opposing the House-approved bill on legislated minimum wage. Statement reported in Philippine Daily Inquirer, BusinessWorld, and BusinessMirror.	The existing mechanism for considering changes in the minimum wage by Regional Tripartite Wage and Productivity Boards shall be maintained
Modernize Labor Code		(see Reform Sector on ICT)	

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Allow foreign ownership of commercial, industrial and residential land		(see Reform Sector on Health/Retirement)	AmCham should still advocate for the lifting of restrictions among foreign investors, particularly on health services and education.
Reduce smuggling and hijacking	(see Reform Cluster on Reduce Red Tape and Corruption)	(see Reform Cluster on Reduce Red Tape and Corruption)	Private sector should monitor the progress of RATE- and RATS-related cases, especiallt those pending in courts. Monitoring and advocacy should go beyond filing cases; smuggling should still remain as a major concern; and thus the private sector should participate through being a "whistle-blower". A formal group from the private sector that would put this into practice would be very helpful
Train more engineers and scientists			
Develop electronics testing and R & D subsectors			
Mining			
Resume Rapu Rapu mining project with better safeguards and local consultation	The immediate future of the much-promoted mining sector was thrown into question after the suspension of operations following a minor spill at an Australian firm's mine on Rapu Rapu island, Albay. After CBCP issued anti-mining statement, PGMA caused foreign investor concerns by naming an outspoken anti-mining bishop to head a "fact-finding" commission and by telling the press the GRP would amend the 1995 Mining Law which experts regard as meeting world standards. The DENR subsequently allowed Rapu Rapu 30-day test operations and by April 2007 the mine had resumed operations and made its first shipment in a year. Several mining projects moving forward despite the negative attention focused on the Rapu Rapu incident.	JFC requested clarification of GRP mining policy with Sec Ermita after the CBCP issued a statement opposing all new mining licenses. The DENR Secretary and NEDA Director General advised the GRP support had not changed. Sec Neri told us bishops are not against mining provided operations done responsibly, benefits are shared and people affected consulted and the environment is restored. AmCham discussed mining with Cardinal Rosales and three top CBCP bishops, who said bishops with mining projects in their dioceses are opposed. After meeting with bishops from mineral-rich dioceses, PGMA and Speaker JDV announced the GRP will amend Mining Law to include "up-to-date" environmental protection (although the law and GRP regulations meet world standards. The JFC released a statement on mining, expressing support for the GRP policy of responsible mining and calling for effective enforcement of Mining Act. A SWS poll showed 56% of respondents agree "Mining companies should be given a chance to…protect the environment as they offer needed jobs."	Information and education campaigns regarding various mining programs and operations must sufficiently clarify misconceptions on the industry to help elicit the support of local government executives as well as the Church and other organizations.
Support MAP consultation initiative			
Train workers near mining sites in skills for better jobs			Strong linkages with the academe must be forged to aid in manpower training and development.
Provide/discuss information on sound mining practices and benefits		JFC wrote to PGMA recommending faster processing of mining exploration permits and mineral processing sharing agreements.	JFC sees Philippine mining laws as comparable to those of more developed countries such as Australia, Canada, and the USA. The issue really is with the full enforcement of these laws, which, if done properly, is seen to ensure that mining is done responsibly and with the least environmental damage.

ICIP Reform Tasks by Cluster / Sector	Milestones / Gov't actions (as of Feb 2007)	ICIP actions	Recommendations
Tourism			
Improve infrastructure of key tourism areas (e.g. Bicol, Bohol, Cagayan de Oro/Camaguin, Cordilleras, Davao, Palawan, Subic/Clark)	(see Reform Cluster on Infrastructure: Subic-Batangas Transport Corridor)		(see Reform Cluster on Infrastructure: Subic-Batangas Transport Corridor)
Pass Tourism Act of 2006 with amendments to encourage foreign investment in tourism & open skies	Approved in third and final reading, SB 2138 proposes to create Tourism Philippines, a corporation consolidating the functions of the Philippine Convention and Visitors Corporation and the Philippine Tourism Authority, which would also include tourism marketing and promotion sections of the DTI. This bill seeks to encourage investments in new hotels, resorts and other tourism enterprises through tax breaks and efficient governance to create world-class establishments in the most beautifully, historical and culturally significant areas of the country. The House version remains pending in the plenary.	AmCham issued statement urging Congress to pass SB 2138, which creates National Policy for Tourism.	AmCham should urge the House to pass HB 2625
Advocate more open skies and discount airlines to increase flights	PGMA issued in August 2006 EO 500-A "clarifying" EO-500 issued in January 2006, specifying that only airlines from the 60 countries with existing bilateral Air Service Agreements with the RP can operate at Clark and Subic. The protectionist EO-500-A reverses the liberal EO-500 under which Clark has rapidly developed as low-cost airline hub.	(JFC issued in March a statement endorsing NCC-drafted EO500-B, which seeks to reverse EO500-A.)	AmCham should urge the government to rescind E) 500-A and support EO 500-B.
Advocate more international flights to destinations outside Central Luzon			
Seek more balanced travel advisories			
Improve surface traffic flow			

	PROGRESS OF KEY LEGISLATION									
	House						Senate			
		Ist R	2nd R	3rd R				Ist R	2nd R	3rd R
BILL	Filed	Cmt	Floor	Final	Bicameral	**Signed**	Filed	Cmt	Floor	Final
PASSED										
Alcohol Tobacco Excise Tax		X	X	X	XX	**RA 9334**		X	X	X
						12/21/2004				
Lateral Attrition		X	X	X	XX	**RA 9335**		X	X	X
						1/25/2005				
SPV		X	X	X	XX	**RA 9343**		X	X	X
						4/24/2006				
VAT Expanded Coverage/VAT Increase		X	X	X	XX	**RA 9337**		X	X	X
						5/24/2005				
* Biofuels		X	X	X	XX	**RA 9367**		X	X	X
						01/12/07				
* EVAT Amendments		X	X	X	XX	**RA 9361**		X	X	X
						11/21/06				
Automated Election		X	X	X	XX	RA 9369		X	X	X
						1/23/07				
* Human Security Act (Anti-Terrorism)		X	X	X	XX	**RA 9372**		X	X	X
						3/6/2007				
* Clark Tax Amnesty		X	X	X	XX	**RA 9399**		X	X	X
						3/20/07				
* Clark Tax Incentives		X	X	X	XX	**RA 9400**		X	X	X
						3/20/07				
FOR PGMA's SIGNATURE										
* Anti-Red Tape Act	SB 2589	X	X	X	XX		SB 2589	X	X	X
Lending Company Regulation	SB 1949	X	X	X	XX		SB 1949	X	X	X
Personal Equity and Retirement Account (PERA)	SB 2233 (1343)	X	X	X	XX		SB 2233 (1343)	X	X	X
FOR RATIFICATION										
Credit Information System	HB 5948	X	X	X	XX		SB 1936	X	X	X
FOR BICAM										
* Customs Brokers Act Amendment	HB 6063	X	X	X			SB 2597	X	X	X
PENDING										
Anti-Smuggling Act/Anti-Smuggling Commission	HB 4069	X	X	X			SB 1969	pending		
BOT Amendments	HB 5002	pending								
BSP Charter Amendments	HB 123	pending					SB 1943	X	pending	
Constitutional Amendments (Rules)	CR 835	X	pending							
Constitutional Amendments (Calling for ConAss)	CR 1065	X	X	X				pending		
Convergence Policy Act	HB 2251	pending								
Corporate Recovery Act	HB 2073	pending					SB 2183	X	pending	
Cybercrime Prevention Act	HB 3777	pending					SB 1789, 1901	pending		
* DICT	HB 5282	X	pending				SB 1749, 1795	pending		
Drug Prices Regulation Act of 2005	HB 6035	X	X	pending			SB 2263	X	X	X
English as Medium of Instruction	HB 4701	X	X	X						
IP Code on ICT	HB 3308	pending								
EPIRA Amendments	HB 3856	pending					SB 2232	X	pending	
Farm Land as Collateral	HB 2830	pending					SB 1331	pending		
Fiscal Incentives Rationalization	HB 3295	X	X	X			SB 2411	X	pending	
* Fiscal Responsibility Act	HB 3890	pending					SB 1968	pending		
Immigration Code Reform	HB 1850	pending					SB 804	pending		
Labor Code Reform	HB 1505	pending					SB 2188	pending		
Land Administration Reform Act	HB 4846	X	X	X						
LGU Code Amendments	HB 1236	pending					SB 1121	pending		
Medical Tourism	HB 5696	pending								
National Information and Communications Commission	HB 4942	pending								
National Tourism Policy	HB 2625	X	X	pending			SB 2138	X	X	X
Omnibus Reengineering	HB 1532	pending					SB 1145	pending		
* Pre-Need Plan Code	HB 4343	X	pending				SB 2169	X	pending	
* Renewable Energy	HB 5563	X	X	X			SB 2562	X	pending	

PROGRESS OF KEY LEGISLATION										
	House						Senate			
		Ist R	2nd R	3rd R				Ist R	2nd R	3rd R
BILL	Filed	Cmt	Floor	Final	Bicameral	**Signed**	Filed	Cmt	Floor	Final
Reproductive Health	HB 3773	X	pending							
Revised Investment Company	HB 117	pending					SB 211	pending		
Securities Regulation Code	HB 286	pending					SB 1195	pending		
SNITS/Individual Income Tax	HB 5296	X	X	X			SB 2261	X	pending	
TRANSCO Franchise	HB 2223	pending								
VOIP	HB 5284	X	X	X			SB 2387/SB 2166	pending		

	IMPLEMENTING RULES AND REGULATIONS		
	Consultations	**Draft published**	**Finalized**
Alcohol Tobacco Excise Tax	X	X	Jan-06
Automated Election			
Lateral Attrition	X	X	31-May
Biofuels	X	pending	
BOT	X	X	Mar-06
Cargo Open Skies (EO 253)	X	X	May-05
Clark Tax Amnesty			
Clark Tax Incentives			
Custom Brokers Act	X	X	Mar-05
English as Medium of Instruction (EO 210)	X	X	August-06
EVAT	X	X	Jun-05
EVAT IRR Amendments	X	X	Oct-05
Human Security Act	pending		
EVAT 70% Cap Scrap	X	X	Jan-07
Optical Media Act	X	X	Feb-05
Used Vehicle 500k Excise Tax	X	X	May-05

As of 4/11/07

Appendix 2

Priority Infrastructure Projects

National Competitiveness Council	Philippine Development Forum
1. NAIA 3 Terminal	1. NAIA 3 Terminal
2. LRTA North Transit Extension (MRT3-LRT1 Loop)	2. LRTA North Transit Extension (MRT3-LRT1 Loop)
3. C5 (NLEX-SLEX Connection)	3. C5 (NLEX-SLEX Connection)
4. SLEX 1, 2, and 3	4. SLEX 1, 2, and 3
5. Subic-Clark-Tarlac Expressway (SCTEX)	5. Subic-Clark-Tarlac Expressway (SCTEX)
6. Southern Tagalog Arterial Road (STAR) 2 (Lipa to Batangas Port)	6. Southern Tagalog Arterial Road (STAR) 2 (Lipa to Batangas Port)
7. DMIA (Clark Airport)	7. DMIA (Clark Airport)
8. RORO Ports (Central Nautical Hi-way)	8. RORO Ports (Central Nautical Hi-way)
9. North Rail / South Rail	9. Cavite-Laguna Toll Road
10. LRT Extension to Bacoor	10. LRT Extension to Bacoor
11. MRT 7	11. MRT 7

Appendix 3

May 25, 2006

DEPARTMENT OF FINANCE
Manila

Attention: **Secretary Gary B. Teves**
Department of Finance

Commissioner Jose Mario C. Buñag
Bureau of Internal Revenue

RE: Application of the 70% input cap under RA 9337

Dear Sirs:

We would like to appeal for the immediate adoption of one or all of the following remedial measures to mitigate the effect of the 70% cap on the application of the input tax on the output tax under RA 9337 (the "Expanded Value-Added Tax Law" or EVAT Law), as follows:

1. Excess input VAT for purposes of imposition of 70% input cap to be defined as the "difference between output tax for the quarter and input tax relating to services paid and goods sold for the quarter"; or

2. The accumulated input taxes as of October 31, 2005, should not affect or be affected by the 70% input cap, and should not be considered in determining the application of the cap;

3. Annualized reconciliation of VAT; or

4. Buyback of unsold goods previously returned.

BACKGROUND: THE 70% CAP IMPEDES THE EFFICIENT USE OF CAPITAL.

While the E-VAT law has been effective for only seven months, we in the business sector already feel the destructive impact of the 70% cap. For big businesses, the application of the 70% VAT produced a tremendous drag on productivity. For a few, this meant scuttling expansion plans, but for most, the cap resulted in a contraction of business activity and to losses. The effect of the 70% cap on small and medium scale businesses is even worse, since

these enterprises do not have the wherewithal to adapt to its deleterious effects and it threatens to ultimately put them out of business.[1]

There is already a sharp decline in sales reported by many retailers in the country and their suppliers/manufacturers are forced to give much higher support – support which are, at best, are temporary in scope and effect. We are already observing a trend of decline in sales every last month of the quarter. We believe wholesalers, distributors and retailers are holding back their purchases even if market or consumer demand is high due to fear of being hit by the 70% cap.

Furthermore, the 70% cap dampens entrepreneurial spirit and creates inefficiencies in the economy as it encourages businesses to attend to unnecessary activities like managing inventory and postponing improvements, repairs and capital investment. This translates to additional costs which the enterprises will eventually pass on to consumers. Understandably, those with thin margins are the ones most affected by the imposition of the cap. Since these entities are usually engaged in manufacture of basic necessities, then the increases in costs are immediately felt by the people.

The cap is also disruptive to the supply chain of manufacturers as the efforts to minimize the impact of the cap results, first, in sudden dips in demand at quarter end and then in surges in demand the following month as businesses/ retailers manage their inventory.

The 70% input cap is actually slowing down demand via higher prices, curtailing growth and expansion of the business and the economy. Thus, in the long run, the intended benefits of the 70% cap will not be attained.

We think that the increase in VAT collection reported in the first quarter of 2006 is momentary and we expect a decline in the VAT collection in the second and subsequent quarters. Our analysis shows that the increase in the VAT collection is not brought about by the 70% cap. Removing the cap or adopting the remedial measures as suggested below will have no negative effect on VAT collections. In fact, VAT collection will increase due to market forces and the renewed faith in the economy.

In this regard, we request for your immediate consideration of the following. You will note that these proposals allow us to free up capital that would otherwise have been tied up in input tax credits that accumulate every quarter. By adopting any of these proposals, government will be responsible for injecting more capital in the market and stimulating more economic activity.

[1] This is borne out by experience but for some theoretical analysis why the VAT is especially burdensome to small and medium sized businesses even without the 70% cap, see generally, William J. Turnier, Accommodating to the Small Business Problem Under the VAT, 47 Tax Law. 963 (1994.)

EXCESS INPUT VAT FOR PURPOSES OF IMPOSITION OF 70% INPUT CAP TO BE DEFINED AS THE "DIFFERENCE BETWEEN OUTPUT TAX FOR THE QUARTER AND INPUT TAX RELATING TO SERVICES PAID AND GOODS SOLD FOR THE QUARTER".

I. Summary of Argument

We believe that the words of RA 9337 should be followed strictly to the letter. Thus, under our reading of Section 8 of RA 9337, excess input VAT for purposes of imposition of 70% input cap should be defined as the "difference between output tax for the quarter and input tax relating to services paid and goods sold for the quarter".

II. Proposal

The BIR and the DOF have acknowledged through RR No. 16-2005 that the 70% input cap applies only when the input tax exceeds the output tax. Thus, Revenue Regulations 16-2005 provides:

> "SECTION 4.110-7. *VAT Payable (Excess Output) or Excess Input Tax.* –
>
> *(a) If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered persons.*
>
> * * *
>
> *(b) If the input tax inclusive of input tax carried over from the previous quarter exceeds the output tax, the input tax inclusive of input tax carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output tax…"*

The imposition of the cap only when the input tax exceeds the output tax under the above Section 4.110-7(b) is based on a close and faithful reading of the text of Section 110 of the Tax Code as amended by Section 8 of Republic Act No. 9337:

> "Sec. 8. Section 110 of the same Code, as amended is hereby further amended to read as follows:
>
> * * *
>
> (B) *Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: *Provided,* That the input tax inclusive of input VAT carried over from the previous quarter that may be credited in every quarter shall not exceed seventy percent (70%) of the output VAT: *Provided, however,* That any input tax

> attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112." (Emphasis ours)

However, in determining when the 70% cap becomes operative (i.e. determining if the input tax exceeds output tax), Revenue Regulations 16-2005 compares the "input tax inclusive of input tax carried over from the previous quarter" with the output tax. We believe that words of Section 8 of RA 9337 necessitate a different basis for comparison. We submit that in determining when the 70% cap becomes operative, only the input tax directly attributable to the services paid and goods sold for the quarter must be compared with the output tax of that same quarter.

This is based on a well–established rule that "where the law is clear and unambiguous, it must be taken to mean exactly what is says and the court has no choice but to see to that its mandate is obeyed." [2] If it where otherwise, then the Legislature would have expressly included the phrase "<u>inclusive of input VAT carried over from the previous quarter</u>" in the following provision: "If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters…"

Based on the foregoing we suggest that Section 4.110-7 of 16-2005 interprets the current Section 110 of the Tax Code in the following or similar tenor:

> SECTION 4.110-7. *VAT Payable (Excess Output) or Excess Input Tax. –*
>
> *(a) If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered persons.*
>
> * * *
>
> *(b) If the input tax for the quarter exceeds the output tax for the quarter, the input tax inclusive of input tax carried over from the previous quarter that may be credited in the current quarter shall not exceed seventy percent (70%) of the output tax…"*

Below is a sample computation which may be adopted:

<u>Sample computation</u>:

A. Output exceeds Input

Output	100	
Input for the quarter	(50)	
Carried over from previous quarter		<u>(55)</u>
Total excess input	(105)	

[2] Luzon Surety Co., Inc. v. De Garcia, 30 SCRA 111 (1969); Quijano v. Development Bank of the Phil., G.R. No. 26419, Oct. 19, 1970, 35 SCRA 270 (1970); Chartered Bank Employees Ass'n. v. Ople, 138 SCRA 273 (1985).

*Output exceeds input for the quarter, thus:

VAT payable due to 70% cap	***0***
To be carried forward to next quarter	*(5)*

B. Input exceeds Output (70% input cap applies)

Output	100	
Input	(150)	
Carried over from previous quarter		(25)
Total excess input	(175)	

* Input for the quarter exceeds Output, thus:

VAT payable due to 70% cap	***30***
To be carried forward to next quarter	*(105)*

Therefore, it is recommended that the provisions of the regulations on 70% cap on input tax credit should be clarified accordingly.

TREATMENT OF THE OCTOBER 31, 2005 INPUT VAT

I. Summary of Arguments

Under Article 4 of the Civil Code, Section 246 of the Tax Code and prevailing jurisprudence, there is no doubt that the Philippine legal system does not favor the retroactivity of laws and regulations. We note that Revenue Memorandum Circular No. ("RMC") 6-2006 acknowledged this and recognized, in principle, that the seventy percent (70%) cap in input tax crediting under Republic Act ("RA") No. 9337 should not be interpreted as having retroactive application. However the manner that the Bureau of Internal Revenue ("BIR") prescribes such principle to be implemented results in unwarranted and unintended consequences such that input taxes relating to the period not covered by the law (i.e. pre-November 2005) were used to cause a chain of events that prejudiced the taxpayers' use of the input taxes incurred during the periods covered by the law. Such effect violates the rationale of the prevailing legal policy against the retroactivity of laws. We therefore appeal to the Department of Finance ("DOF") and the BIR to allow the full crediting of input taxes accumulated as of October 31, 2005 against the thirty percent (30%) of the output taxes restricted from input tax crediting under the current rules.

II. Non-retroactivity of Tax Laws, Rules and Regulations

Article 4 of the Civil Code commands in no uncertain terms that "(l)aws shall have no retroactive effect, unless the contrary is provided." (emphasis supplied) The purpose of this provision, a legislative codification of an established rule in statutory construction, has been explained by the Supreme Court in a number of cases.[3] In Lopez and Lopez v. Crow, 40 Phil. 997 (1919), for example, the Court stated:

> "Article 3 of the old Civil Code (now Article 4 of the New Civil Code) provides that: "Laws shall not have a retroactive effect unless therein otherwise provided." According to this provision of law, in order that a law may have retroactive effect it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood which is not embodied in the law. Furthermore, it must be borne in mind that a law is a rule established to guide our actions with no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions." (emphasis supplied)

Note that the retroactive effects of a law are not just confined to changing the legal nature of implications of previous actions. When a new law reaches into the period before its enactment and utilizes previous conduct or activity, which was differently regulated, so as to affect present conduct or activity, the new law can be said to have retroactive effects. As Tolentino explains, a retroactive law "changes or injuriously affects a present right by going behind it and giving efficacy to anterior circumstances to defeat it, which effect they did not have when the right accrued. It creates a new obligation and imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past."[4]

The above provision applies with no less force on tax statutes. In Commissioner v. Marubeni[5] the Supreme Court stated that "where a statute amending a tax law is silent as to whether it operates retroactively, the amendment will not be given a retroactive effect so as to subject to tax past transactions not subject to tax under the original act. In an amendatory act, every case of doubt must be resolved against its retroactive effect." Indeed, the rationale enunciated in Lopez and Lopez v. Crow and the explanation given by Tolentino are especially applicable in the construction of tax laws.

Certainly, applying a law, which on its face only has prospective effect; in such a way that past conduct creates present or future economic costs gives the law retroactive effect.[6]

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[3] In Ansajas v. Jakosalem, G.R. No. L-7832 January 29, 1913, the Supreme Court stressed that where a statute is susceptible of construction as both prospective and retrospective, the former construction will be adopted, but especially if the retrospective operation will work injustice to anyone (citing Berdan v. Van Riper (16 N.J.L., 7)).

[4] ARTURO TOLENTINO, THE PHILIPPINE CIVIL CODE I, 22 (1990) citing 50 Am. Jur. 492-493.

[5] G.R. No. 137377. December 18, 2001.

[6] For example of retroactive statutes that impose present burdens based on previous conduct, *see* Pension Benefit Guaranty Corporation v. R.A. Gray & Co., 467 U.S. 717, 730, 104 S.Ct. 2709, 2718, 81 L.Ed.2d 601 (1984) (in which the US Supreme Court held that a law protecting employee pension funds may have limited retroactive application in consonance with legislative intention to protect the employees); General Motors v. Romein 503 U.S.

Businesses need to be reasonably able to predict the impact of their actions on their tax liabilities. Taxes constitute a large part of the friction costs of engaging in commercial transactions, thus taxpayers must be able to rely on the stability of tax laws and regulations in planning and undertaking their activities. The Supreme Court has therefore refused to apply tax laws retroactively in the absence of clear and convincing statutory language commanding such.[7]

It must also be noted that the legislature has recognized the importance of stability in the construction of tax laws in Section 246 of the Tax Code which generally prohibits the retroactive application of the revocation, modification and reversal of any rulings or circulars promulgated by the Commissioner of the BIR if such will be prejudicial to the taxpayers.

III. RMC 6-2006

RA 9337 contains no language mandating retroactive application. Revenue Regulations ("RR") No. 16-2005 meanwhile expressly states that its provisions will take effect November 1, 2005.[8] In support of the foregoing, the BIR through Revenue Memorandum Circular No. (RMC) 6-2006 sought to clarify the effect of the seventy percent (70%) cap under Section 4.110-7 of the aforementioned revenue regulations on the input taxes accumulated as of October 31, 2005.

In the A-1 of the RMC, the BIR enunciated the following general principle:

> "Input tax accumulated as of October 31, 2005 <u>shall not be subject to the seventy percent (70%) cap and shall be deductible in full from output tax until it is fully utilized</u>. In determining whether the input tax for a quarter exceeds the output tax subject to the 70% cap, the accumulated input tax as of October 31, 2005 <u>shall be excluded from the computation and shall be deductible in full from the output VAT</u>." (emphasis ours)

This statement is followed by a number of hypothetical circumstances that illustrate the application of the above general principle.

One sample computation ("Computation A-2"), which we strongly believe should be reexamined, provides:

"ABC corporation has the following sales/ purchases for the quarter ending December 2005:

181, 112 S.Ct. 1105, 60 USLW 4203, 117 L.Ed.2d 328 (1992) (where the US Supreme Court held that it was proper for the legislature to mandate the coordination of workers benefits prior to the enactment of the law).

[7] PICOP v. Court of Appeals, G.R. Nos. 106949-50, December 1, 1995; Abello v. Court of Appeals, G.R. No. 120721, February 23, 2005; Umali v. Estanislao, G.R. No. 104037, May 29, 1992.

[8] RA 9337 states that it shall be effective July 1, 2005, but the implementation was delayed by the issuance by the Supreme Court of a Temporary Restraining Order.

October		November and December 2005	
Sales	5,000	Sales	10,000
Purchases	4,000	Purchases	8,000

And carried over input tax from previous quarter of P 600.

How will the Value Added Tax for the quarter ending December 2005 be computed?

A-2 the Value Added Tax for the quarter ending December 2005 will be computed as follows:

October 2005

Output tax		P 500	
Less: Carry over Input tax	P600		
Input tax	400		1,000
VAT Payable/ (Carry over)			P (500)

November and December 2005

Output tax	P 1,000	
Less: Carry over Input tax (from Oct. 05)		500
Net Output tax for Nov. & Dec 2005	500	
Less: Input tax for Nov. & Dec.	P800	
Apply 70% cap	350	350
Net VAT payable		150

Excess input tax to be carried over to the next quarter = P450.

IV. Anomalous Retroactive Effect of RA 9337 under RMC 6-2006 And the Effects Test

As presented in Part I., Article 4 of the Civil Code prohibits giving any "retroactive effect" to laws. Section 246 of the Tax Code meanwhile restricts the power of the Commissioner of Internal Revenue from implementing changes in administrative rules retroactively if these changes prejudice taxpayers. What is necessary then in determining whether the above-quoted hypothetical conforms to the rules on non-retroactivity of laws and rules is an analysis of whether such application of RA 9337 and RR 16-2005 causes prejudicial economic effects that are in some way rooted in a period not covered by the change in rules. Stated differently, are RA 9337 and RR 16-2005 (the "New Rules)" being applied in such a way that the input taxes subject to the old rules (pre-RA 9337) are isolated from the effects of the New Rules?

In previous Supreme Court cases which tackled the non-retroactivity of tax laws, the Court found it fairly easy and mechanical to isolate and identify transactions subject to a previous tax regime from those subject to new laws or regulations. Thus in PICOP v. Court of Appeals[9] in which the Court examined whether or not the petitioner is liable under the transaction tax on interest earnings imposed by Presidential Decree ("PD") No. 1154, the Supreme Court held that PICOP cannot be held to be liable for the earnings that accrued before the effective date of PD 1154. In Abello v. Court of Appeals,[10] the Supreme Court refused to give a law exempting political contributions from the gift tax retroactive effect in the absence of clear legislative intention. Thus political contributions given before the effectivity of the law were deemed taxable while those granted after were exempt. [11] In Umali v. Estanislao,[12] the Supreme Court did not agree that RA 7167 which increased the amounts of personal exemption under the Tax Code should be applied retroactively. Thus, taxpayers were only allowed to enjoy the higher levels of exemption during the periods after the effectivity of the law.

Applying RA 9337's input VAT cap may be more complicated. In the above cases, the income or transactions during the period before the passage of the new or amendatory law do not have any impact on future tax liabilities of the taxpayers. It was easy to isolate the transactions not subject to the new rules since these transactions could already be deemed closed and terminated during a specific tax period. This is not the case with the VAT. The difficulty in isolating the pre-RA 9337 input VAT from the effects of the New Rules proceeds from the peculiar nature of input taxes – if they exceed the corresponding output taxes in a given tax period, they are carried over to the subsequent tax period. In Computation A-2, we find that the input taxes as of October 31, 2005 which theoretically should be unaffected by the New Rules are credited against the output taxes of November-December 2005. Thus, the only way that the underlying principles of the non-retroactivity of laws can be adhered to is by isolating the pre-RA 9337 input VAT from affecting or being affected by the 70% cap.

The solution given by Computation A-2 of RMC 6-2006 involves 4 distinct steps. First, the RMC determines the amount of input taxes that may be carried over from the month of October ("Step 1"). This amount of carry-over input taxes is then applied to the output tax pertaining to the months of November and December ("Step 2"). What is left over from the November-December output tax is then subjected to the 70% cap ("Step 3"). Finally, the November-December input taxes are credited to the amount available under the cap. ("Step 4").

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[9] G.R. Nos. 106949-50, December 1, 1995.

[10] G.R. No. 120721, February 23, 2005.

[11] The Supreme Court stated:

> "Finally, this Court takes note of the fact that subsequent to the donations involved in this case, Congress approved Republic Act No. 7166 on November 25, 1991, providing in Section 13 thereof that political/electoral contributions, duly reported to the Commission on Elections, are not subject to the payment of any gift tax. These all the more shows that the political contributions herein made are subject to the payment of gift taxes, since the same were made prior to the exempting legislation, and Republic Act No. 7166 provides no retroactive effect on this point."

[12] G.R. No. 104037, May 29, 1992.

On the surface, Steps 1 and Steps 2 seem to have isolated the October 31, 2005 input taxes from the effect of the New Rules. Indeed, by the end of Step 2, the October 31, 2005 input taxes appear to have been fully utilized. However, as illustrated in Computation A-2 Steps 3 and 4, using the October 31, 2005 input VAT to offset the November and December 2005 output VAT triggers the application of the 70% cap. The November and December 2005 input taxes would not have exceeded the corresponding output VAT had the October 31, 2005 input taxes not reduced the output VAT available for set-off against the November-December 2005 input taxes.

True, the unutilized input taxes are booked as pertaining not to the October 31, 2005 period, but to the November-December, 2005 periods. However, the economic effects – the inability of the taxpayers to avail of the full or higher crediting of their input taxes against their output taxes – were caused by the use of the October 31, 2005 input taxes to decrease the November-December, 2005 output taxes. Note that the November-December, 2005 input taxes not credited to the output tax would then be carried over to the following months and quarters and would again potentially trigger the application of the 70% cap in such following taxable periods. The inequity in these circumstances is clear – the taxpayers' input VAT incurred during periods when the 70% cap was not effective is being used to cause a chain of events resulting in the imposition of the 70% cap. RMC 6-2006, A-2 thereby reaches into a past, not covered by the law, to affect the taxpayers' future liability.

This violates the very principle that animates the legal systems' traditional policy against retroactive application of laws – past conduct not covered by the law is used as a basis to determine liabilities under the new law. Applied in the manner illustrated by RMC 6-2006 A-2, the New Rules do not operate in a purely prospective manner. In the absence of an express provision in RA 9337 mandating retroactive effect, we do not believe that Congress intended these consequences.[13]

V. Proposal

To mitigate the inequity resulting from the above application of the New Rules, we propose the adoption of the following computation:

> "**ABC** corporation has the following sales/ purchases for the quarter ending December 2005:

October		November and December 2005	
Sales	5,000	Sales	10,000
Purchases	4,000	Purchases	8,000

And carried over input tax from previous quarter of P 600.

[13] *See* Kress v. United States 141 Ct.Cl. 675, 159 F.Supp. 338, 58-1 USTC P 9334, 1 A.F.T.R.2d 1017 (1958) in which the United States Court of Claims pronounced it inequitable for the government to deprive a taxpayer of deductions granted to him under then prevailing laws. Even while the court in this case recognized the retroactive effect of the statute concerned, it held that Congress did not intend that the retroactive application deprive the taxpayer of benefits accruing to him due to past conduct which met the requirements of the prevailing law.

How will the Value Added Tax for the quarter ending December 2005 be computed?

A-2 the Value Added Tax for the quarter ending December 2005 will be computed as follows:

October 2005

Output tax		P 500	
Less: Carry over Input tax	P600		
Input tax		400	1,000
VAT Payable/ (Carry over)			P (500)

November and December 2005

Output tax	P 1,000	
Less: Input tax for Nov. & Dec.		800
Net	200	
Less: Carry over input tax for Oct.		500
Net VAT payable	**0**	
To be carried forward to the next quarter		(300)

**While output tax exceeds input tax, we should be allowed to apply 200 of the carry over input tax for October to offset the net amount. Thus, there is 300 to be carried over to next quarter and no VAT payable for the quarter.*

Under this proposed computation:

First, the taxpayer determines the amount of input taxes that may be carried over from the month of October ("Step 1"). The taxpayer then applies the November-December, 2005 input taxes to the November-December, 2005 output tax. It is in this Step when the taxpayer determines if the 70% cap will apply to this period's VAT liability. ("Step 2") The amount of carry-over input taxes from October 2005 is then applied to whatever is left of the output tax pertaining to the months of November and December ("Step 3"). In the even that the October 2005 input taxes are not exhausted by the crediting against the remaining November-December 2005 output tax, such will be applied against the output VAT of the succeeding month through the same process outlined here.

Note that in this proposed computation, the effects of the 70% output VAT does not reach into pre-November 2005 period. The input VAT accrued as of October 31, 2005 is isolated from the effects of or from affecting the 70% cap imposed by the new rules. RA 9337 and RR 16-2005 thus operate in a purely prospective manner, and any prejudicial retroactive effects of the law and the revenue regulations are avoided.

ANNUALIZED RECONCILIATION OF VAT

I. Proposal

We use the Tax Credit method in determining the VAT -- the tax is paid in advance at every stage of the production before it ultimately reaches the final consumers.[14] We can consider that the VAT paid on inputs is in the nature of an advance payment to the government, which can be offset against output tax only when the produce is sold or when the payment is received for the service rendered. However, with the imposition of 70% input cap, the law effectively punishes taxpayers who pay taxes in advance. There is undue burden to the taxpayer because of the additional VAT to be paid with the application of the 70% input cap and also because the excess input tax (tax already paid in advance) can only be used as credit against output tax in the next quarter.

Our proposal is to allow taxpayers file VAT quarterly based on provisional reconciliations but with a final reconciliation at year-end, which removes the grossly unfair impact of the 70% cap. Business enterprises can now focus on the operations of the business for the most part of the year and no longer in managing the level of their input taxes on a quarterly basis. This is consistent with the basic principle of "*administrative feasibility*" where the tax system should be capable of being properly and efficiently administered by the government and enforced with the least inconvenience to the taxpayer[15]. This also increases efficiency in tax examinations where the practice is for BIR to audit a taxpayer on a yearly basis and not quarterly.

Return of Unused Goods and Supplies

I. Summary of Arguments

The imposition of the 70% cap requires businesses to closely monitor their inventory levels and their purchase of input in order to keep their input VAT as low as possible. One way to control inventory is to insist that supply contracts include a provision for the return of goods and supplies within a specified period with the option to buyback these returned items if such have not been physically returned to the supplier.

II. 70% Cap Requires Businesses to Keep Inventory of Goods and Supplies Low

The cap's most basic and most devastating effect is that it unduly restricts the use of capital. The Philippine VAT law, like the prevailing worldwide model, uses the tax credit method in imposing the tax.[16] Businesses pay the tax in advance when we purchase our input. The immediate recovery of taxes paid in advance is essential in managing the cost of capital. Indeed, the automatic crediting of the input VAT to the output VAT has been identified as

[14] See Alan Schenk, The Plethora of Consumption Tax Proposals: Putting the Value Added Tax, Flat Tax and Retail Sales Tax and USA Tax into Perspective, 33 San Diego L. Rev. 1281, 1306-1308 (1996).
[15] Vitug, Jose C., Tax Law and Jurisprudence, 1993.
[16] See Schenk, *supra* note 14.

an important element in designing a VAT system.[17] Because we were previously able to quickly reclaim these advanced tax payments as input credits, we were able to immediately recover the cost of the advanced payment of taxes when a customer pays for our goods or services.

Before the implementation of the cap, the automatic and full crediting of our input tax to our output VAT allowed us to free up cash that we rechannel to the business through additional purchases of goods and equipment. The implementation of the cap tied up our cash in the form of input VAT credits which we are unable to use productively. The input VAT credits arising from the 70% cap, while theoretically an asset, is in practice a cost and an impairment of the use of capital. In some cases, businesses project that they will never be able to use these input VAT credits which will continue to accumulate and starve the business of much-needed cash.[18]

Now, more than ever, it has become necessary for businesses to keep inventory of goods and supplies down to prevent the accumulation of input VAT.

III. Proposal

One way to control inventory is to insist that supply contracts include a provision for the return of goods and supplies within a specified period with the option to buy back these returned items if such have not been physically returned to the supplier. Under this scenario, unsold good or unused supplies for the quarter will be returned by the customer to the supplier.[19] In the succeeding quarter, the customer has the option to buy back the previously returned goods and supplies if they are still in their premises.

From this contractual relationship, the buyer is able to keep input VAT levels low by adjusting the input VAT levels appropriately as provided under Section 4.110-5 of RR 16-2005.[20] The seller on the other hand will be able to adjust his output tax due to the sales

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[17] David Williams, Value Added Tax, Part VII (G) in Victor Thuronyi (ed.) I. TAX LAW DESIGN AND DRAFTING, Chapter 6 (1996).

[18] See Peter Wallace, *The Cap Doesn't Fit*, Manila Standard Today, May 5, 2006 and http://www.manilastandardtoday.com/?page=peterWallace_may05_2006>.

[19] Civil Code, Art. 1502. "When goods are delivered to the buyer *"on sale or return"* to give the buyer an option to return the goods instead of paying the price, the ownership passes to the buyer of delivery, but he may revest the ownership in the seller by returning or tendering the goods within the time fixed in the contract, or, if no time has been fixed, within a reasonable time."

[20] Sec. 4.110-5 provides:

> "The amount of input taxes creditable during a month or quarter shall be determined in the manner illustrated above by adding all creditable input taxes arising from the transactions enumerated under the preceding subsections of Sec. 4.110 during the month or quarter plus any amount of input tax carried-over from the preceding month or quarter, reduced by the amount of claim for VAT refund or tax credit certificate (whether filed with the BIR, the Department of Finance, the Board of Investments or the BOC) and other adjustments, such as purchases returns or allowances, input tax attributable to exempt sales and input tax attributable to sales subject to final VAT withholding."

See also VICTOR A. DEOFERIO, VICTORINO C. MAMALATEO, the Value Added Tax in the Philippines, 250-252 (2000).

returns.[21] In the event that the buyer decides to purchase the same goods before the goods or suppliers are physically transferred to the control of the seller, such transaction will be considered as new sales.

We believe that this transaction is valid because the Civil Code recognizes that delivery can either be (1) actual or (2) constructive.[22] When the customer returns the goods and before it is picked up or physically returned to the supplier, the customer's control over the goods is limited (i.e. to hold them until the supplier picks them up). The buyback vests full control and possession over the thing resold to the customer and such is acknowledged by the Civil Code itself as constituting delivery.[23]

We believe that businesses will be amenable to submitting documents that support the resort to this commercial relationship such as return and refund notices and acknowledgments, itemized lists of refunded goods and supplies and other documentation that the BIR will require.

We hope that the DOF and the BIR realize the merits of these proposals. We hope that these proposals can be implemented immediately.

Very truly yours,

Cirilo Noel
Chairman
Taxes and Tariffs Committee

[21] Revenue Regulations 16-2005, Sec. 4.106-9; DEOFERIO & MAMALATEO, supra note 20.
[22] Civil Code, Art. 1477 states "The ownership of the thing sold shall be transferred to the vendee upon the actual or constructive delivery thereof."
[23] Civil Code Art. 1497 states: "The thing sold shall be understood as delivered, when it is placed in the control and possession of the vendee."

THE AMERICAN CHAMBER OF COMMERCE OF THE PHILIPPINES, INC.

(Website: http://www.amchamphilippines.com)

September 6, 2006

Hon. Peter Favila
Secretary
Department of Trade and Industry
4/F BOI Building
385 Sen. Gil J. Puyat Avenue
Makati City

Dear Mr. Secretary:

Per your request, we are pleased to forward to you in your capacity as Chairman of the Anti-Red Tape Task Force established by E.O. 557 the results of a survey on worst red tape conducted among member companies of the American Chamber of Commerce of the Philippines. Forty companies took the time to provide detailed answers to our survey questionnaire, a copy of which is enclosed.

Among the responses, the three most burdensome bureaucratic paperwork procedures are (1) claiming of VAT refunds, (2) issuance of tax credit certificates (TCC) and (3) processing of work permits and visas.

The survey results reveal that respondents are heavily burdened by the great amount of time needed to prepare VAT refund claims and considerable "cost-of-money" especially when claimants often wait years to receive refunds. Compliance costs run to millions of pesos. The processing of requests for tax credit certificates also takes many months and involves unnecessary "cost-of-money" expense.* Both procedures are handled by the Bureau of Internal Revenue.

Respondents also cited as burdensome the process at the Bureau of Immigration for obtaining work permits for foreign national employees which require several days to apply and several months of waiting for release of permits. Several days are needed to process each permit by going from one office building to another, instead of accomplishing all requirements at one venue. The cost of the work permits and visa extensions and the cost of time involved for processing are considered to be high by respondents.

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* The AmCham Roadmap II More Foreign Investment states on page 44: One consequence of the government's poor revenue situation is that it has fallen in arrears in paying about $500 million owed to American, Japanese, and other investors, much of which consists of VAT paid on imported equipment, largely in the power sector, for which there is no output VAT credit. A course of action for recouping this VAT is frustratingly unclear and burdensome, often leaving foreign investors working on a time-consuming and expensive legal and bureaucratic process, with little result but severely impacting on the return of their investments.

Member: Chamber of Commerce of the United States (COCUSA) · Asia-Pacific Council of American Chambers (APCAC)
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At the Bureau of Customs, many different procedures were cited as involving excessive red tape and delays. No single procedure stood out as most burdensome. However, the survey results clearly show that improvement in the efficiency of Customs would be greatly welcomed by our members.

Six respondents cited procedures at the Social Security System as creating burdens. We commend the initiative shown by Mr. Mario R. Sibucao, the SSS VP for Member Assistance Center Program Management, who contacted AmCham to enquire which procedures created problems. AmCham has written separately to SSS President and CEO Corazon de la Paz to forward to SSS the survey results (see attached).

It is also noteworthy to mention the unreasonable amount of time it takes to process a new application for or renewal of a business permit at some local government units. A number of our respondents identified this red tape as burdensome, particularly because they noted that the same procedure takes less than a day in the country's most competitive LGUs.

Aggressive action by the Anti-Red Tape Task Force will indeed reduce red tape and business costs, thereby improving national competitiveness. We will be very interested in the extent to which the government agencies concerned will cooperate to eliminate and make much more efficient and less costly the red tape issues identified in our survey.

Yours is a difficult task, and we assure you of the full cooperation of AmCham. We wish you well; success will surely raise the nation's rankings in international competitiveness surveys.

Sincerely,

Robert M. Sears
Executive Director

Attachment: AmCham Worst Red Tape Survey Results
AmCham Worst Red Tape Survey Questionnaire
AmCham letter to SSS President Corazon dela Paz

CC: Asian Development Bank
Bureau of Customs
Bureau of Immigration
Bureau of Internal Revenue
International Finance Corporation
Joint Foreign Chambers
Philippine Chamber of Commerce and Industry
The World Bank

AMCHAM WORST RED TAPE SURVEY

RESULTS

BUREAU OF INTERNAL REVENUE

Company	Procedure Description	Compliance Time	Compliance Cost
1.	VAT processing	1 fulltime employee	P1 million annually
2.	Audits	5 weeks per year + legal / accounting firm representation	US$75,000 to $100,000 annually
3.	conversion of business (from refinery to terminal)	on-going since 2003; 30 days	premium for bond (P250,000/annually); Allowance for BIR personnel (no more than P10,000 monthly)
4.	Claim for tax refund	months or more	no available data; the cost pertains mainly to employee's time in doing various audit requirements of BIR and follow-up cost of money had amount been invested or kept in bank
5.	Claim for Tax Credit Certificate (TCC) utilized input tax attributed to zero-rated sales	2 months for a quarterly claim to comply with BIR requirements	each instance: P400,000 for independent accountants annual: P1,600,000
6.	Claim for refund of excess creditable withholding tax	3 months to comply with BIR requirements	approx P100,000 for tax consultant
7.	Claim for VAT Refund	several months	At least P3.5M (excluding legal and consultant tax fees)
8.	Claim for VAT Refund	3 months to 1 year	each instance: P15M
9.	Tax Audits/Assessments	3 months to 1 year	each instance: P15M
10.	Request for BIR rulings	3 months to 1 year	each instance: P15M
11.	Unreasonable tax assessments	costs our business large sums of money for consultant fees to go back and research items that have no foundation; we feel like the BIR is fishing and hoping companies will find it easier to	

		pay than go through the research	
12.	Claim for tax refunds	1 year at least for paperwork processing	
13.	Preparing & filing of tax forms (VAT, w/tax, etc.)	24 hours per month	P86,400 per month
14.	Registration of already approved/registered accounting software every time there is an updated version	50-60 hours	P15,000 annually
15.	Processing of Certificates Authorizing (CAR) for transfer of ownership	at least 5 working days	
16.	Claim for tax refund on overpayments of tax liabilities	eight years	P639,744 since 1994/1995@10% yearly
17.	Obtaining rulings when availing of tax treaty	7 working days (excluding time lag between filing and receipt of required documents accompanying the application)	each instance: P10,000
18.	Obtaining clearances on BIR audit	10 working days over 6 months	each instance: P15,000
19.	Obtaining TINs for new employees	1 working day	each instance: P500 annual: P6,000
20.	Annual Tax Audit	160 days per year	P448,000 per year

BUREAU OF CUSTOMS

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Customs release	3 to 5 days	depends on import value
2.	Shipment clearance & donation outside E-zone	1 or 2 days	each instance: depends how much total cost of shipment
3.	Certificate of Origin Issuance (Exports)	The process should only take one day to complete, but it will be delayed by several days or even weeks if unofficial "processing fees" are not paid. There are 3 people required to sign in the process and "processing fees"	Unofficial "processing fees" could run anywhere from P1,000 – 5,000 per transaction to ensure timely release. The consequence of being 'above board' and accepting the potential delay could run to thousands of US$ due to delayed payments or discharge of goods at the destination port
4.	Application for a Customs Bonded Warehouse	90 days	
5.	Tariff Classification		P81,110
6.	Cancellation of cash bond for returnable cylinders		P500,000
7.	Present De Minimis Level		annual: Low value shipments (from 0-US$100) carried by air express companies is around 0.1% of BOC revenue. It can be said that the 0.1% is the estimated cost to comply, assuming that the De Minimis Threshold is raised to US100 as presently proposed in Congress
8.	Warehousing Procedures	days: minimum of 45 days	each instance: Difficult to estimate since we have to take into account loss of export opportunities, delays in delivery and processing

			of raw materials as well as in meeting export deadlines
9.	Valuation Procedures	at least 2 days	annual: Hard to quantify but cost involved is very significant and impacts business profitability since main problem lies on BOC unwarranted procedures in verification of values vis-à-vis WTO mandate
10.	Payment of taxes and duties where the export and import value is being disputed by Customs even if these values are supported by documents from previous exportation/importation	the maximum delay takes about a week	no available data; cost pertains mainly to employee's time in doing follow-ups, demurrage and storage charges, loss of business opportunities and delayed production activities
11.	Spot Checking of Cargo Before Releasing under CMO 15-2006 (Mandatory Submission of Written Clearance from Resident Collector of Customs)	1 - 3 hrs	Each instance: Php250 to 500 / clearance Annually: Min - P1,478,250 / Max- P2,956,500
12.	Payment of BOC Overtime for delivery of shipments to the company before 8 am and after 5pm daily		Each instance: P620 (Weekdays), P820 (Weekends) Annually: Min - P327,360
13.	Renewal of Customs Intelligence and Investigation Service (CIIS) permit		
14.	(1) claim for TCC and (2) application of TCC granted for payment of duties and taxes	3 months for claims for TCC; 2.5 months for application of TCC for payments of duties and taxes	Php2,000 per TCC plus P10,000 for lifting of abandonment
15.	new regulations for Customs	potential risks of segregating logistics servicing from customs brokerage is when your service-provider wants to give you total package	

		and achieve cost-efficiency, now you may have to deal with 2 suppliers	
16.	Importation of hospital and lab equipment	3 days from receipt of import documents	Depends on value of cargo
17.	Request for registration of importer prior to importation	2 weeks	P1,000 for processing fee
18.	Tax Credit Certificate	Minimum of 4 weeks	
19.	Import-export processing	hours: 36 hrs days: 1.5 days	each instance: Php 2,000+ annual: Php 70,000+
20.	New Brokers Act	4-5 per month	annual: P 1,000,000 (projected cost impact of additional man-hours and increased inventory)
21.	Annual Customs Intelligence and Investigation Service (CIIS) permit renewal	15 days	

BUREAU OF IMMIGRATION

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Entering and exiting country	1 hour	P2,000 each instance; P15,000-P20,0000 annually
2.	Work visa	At least 60 days	P8,000
3.	Visas for expat staff		P3,600 each instance; P65,000 annually
4.	Work Permit and Visa Processing	Man days spent in the BID office per work permit/visa: 2-3 days Waiting time for release of permits/visas: 3-4 months	each instance: P17,000 per quarter per visa (excluding visa extension fees which costs about P12,000) annual: P68,000 per annum per visa (excluding extension fees which can come up to P48,000 p.a. per visa)

LOCAL GOVERNMENT UNITS

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Securing of building permits / barangay endorsements	90 to 120 days	P100,000.00 each instance
2.	Renewal of business permits	5 to 7 days	
3.	Application for Business Permit	about 10 days	P500,000 annually
4.	Renewal of business permit	7 days	annually: ranges from P35,000 to P200,000 per company depending on gross sales
5.	Renewal of business permit	1 month or more	P10,000 or more
6.	Securing of transfer certificate of title of land and tax declarations	3 to 6 months	$50,000
7.	Pay a traffic violation	12 hours	P2100
8.	Processing of tax declaration	at least 30 workings days	
9.	Payment of municipal sales tax and real estate tax	3 days per year	
10.	Renewal of business permit	5 months	
11.	Business permit from QC Fire and Safety Department	30 to 60 days	

SOCIAL SECURITY SYSTEM

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Manual posting of SSS contributions	about 1 to 2 months	
2.	Processing employees' benefits like maternity, sickness, etc.	ranges from 14 to 60 hrs	P1,800 to P7,800 each instance
3.	Getting new ID	can be forever since you need to be personally present	
4.	Securing SSS ID	depending on length of queue	lost man-hours for working individuals
5.	Submission of SSS Report	2 hours to 1 day	cost of man-hours and gasoline
6.	SSS ID Processing	16 hours to 2 days	P272.00 each instance

DEPT OF EDUCATION

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Signing of MOA for joint projects	3 months	Minimal fees

DEPT OF ENVIRONMENT AND NATURAL RESOURCES

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Self-Monitoring Report	2 days	P6,000 each instance P24,000 annually
2.	Environmental Performance Report and Management Plan	5 days	P15,000 each instance
3.	Approval of Exploration Permit Applications (EPA) (filed post Aug. 26, 2005) requiring clearance from DENR Secretary prior to the approval by MGB Regional Director pursuant to DENR MO 2005-020	30-180 days	
4.	Processing and Evaluation of Mining Rights Applications by MGB Regional Office and MGB Central Office which more often requires double compliance by the applicant over one document (ie. EWP & EXWP, Area Computation) depending on the standards and knowledge set by evaluators from different offices.	One month	each instance: Php20,000, depending on location of Regional Office
5.	Approval of Environmental Compliance Certificate and Permit to Transport		

DEPT OF FINANCE

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Clearance for customs purposes on tax exempt imported items to be donated to public hospitals	55 days	P229,000/40' container each instance
2.	Request for duty and tax exempt	3 days	P3,000 to P3,500 each instance

DEPT OF HEALTH

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Accreditation as a tertiary care facility is dependent on becoming a teaching hospital. We are classified as a secondary facility		

DTI-BUREAU OF PRODUCT STANDARDS

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Issuance of Import Commodity Clearance (ICC)	6 months	each instance: P1,000 annual: P100,000

BUREAU OF FOOD AND DRUGS

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Application for certificate of product registration	5 days	P10,000 per product each instance
2.	Application for certificate of product registration	90 to 120 working days	P25,000 per product registered
3.	Application for certificate of	4 weeks	Millions: opportunity cost for not

	product registration		being able to launch new products on time

PHILIPPINE NATIONAL POLICE

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Filing of police reports		
2.	Import Permits for Chemicals. Each shipment requires approval for standard front-end semiconductor chemicals	1,300 / year	$30,000 / year not including cost of delays

TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Getting a license to operate small non-degree training school		
2.	Submission of Report – Apprenticeship Program	2 hours to 1 day	Cost of man-hour, gasoline

PHILHEALTH

Company	Procedure Description	Compliance Time	Compliance Cost
1.	accreditation contingent on being in business for 3 years; as a result HMO's and insurance companies would not accredit us		
2.	Reimbursements/benefits redemption	3 months	

LAGUNA LAKE DEVELOPMENT AUTHORITY

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Application of LLDA Clearance		P360/million of capital

PHILIPPINE ECONOMIC ZONE AUTHORITY

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Issuance of certificate of annual inspection, electrical and mechanical		

LAND TRANSPORTATION OFFICE

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Licensing, vehicle registration and renewal	112hrs / 14 days	each instance: P500 and P5,000

OPTICAL MEDIA BOARD

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Licensing, import and export permit	16 hours / 2 days	each instance: P4,000 and P500 annual: P11,000

NATIONAL TELECOMMUNICATIONS COMMISSION

Company	Procedure Description	Compliance Time	Compliance Cost
1.	obtaining a radio license operator for our emergency nurse call system	Too many hours	

NATIONAL DISASTER COORDINATING COUNCIL

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Acceptance of donation of 3500 houses	No action since December 2004	

PASIG RIVER REHABILITATION COMMISSION

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Payments to contract	21 months	

RP CONSULATE IN DUBAI

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Visa application to visit RP	13 days	

BOARD OF INVESTMENTS

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Incorporating a company	At least 14 days	At least P100,000

HOUSING AND LAND USE REGULATORY BOARD

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Processing of license to sell	6 days or more	

ENERGY REGULATORY COMMISSION

Company	Procedure Description	Compliance Time	Compliance Cost
1.	Fair implantation of rates and taxes	3 weeks	US$80K to $100K

Appendix 5

Joint Foreign Chambers Survey on Fiscal Incentives

24 Companies replied
- 11 American
- 11 Japanese
- 2 German

- 17 are considering a future investment in RP.
- Planned investment ranged from $1M to $800M.
- Most preferred current location, which is normally a PEZA zone.
- 6 said they are considering other ASEAN countries as alternate sites for planned investment project; 1 said in China; 1 said in India; 2 said outside Asia; 14 either said "no" or "n/a"
- All, except 3, said fiscal incentives are somewhat important (4), important (2), and very important (15) to company's decision to invest in RP.

Reasons why fiscal incentives are important to company's decision to invest in RP:

- Have to compete with other countries, improves viability and profitability
- Fiscal incentives help negate shortcomings; assurance and comfort, visible GRP support to industries
- Incentives would help return investment a little faster
- To recover initial investment asap
- Create a competitive edge as far as marketability of product is concerned
- To keep prices competitive and acceptable IRR; to attain minimum debt service coverage ratio required by financing institutions
- Incentives compensate for inherent inefficiencies, like high energy cost, restrictive labor law, weak infrastructure & bureaucracy
- Incentives can potentially compensate for weakness in infrastructure, difficulty of doing business and cost of utilities
- To minimize cost, and to help start-up businesses since profit is relatively hard to gain during first years of operation
- More consideration given to availability of skilled labor force
- To make our operation profitable and competitive from same industry
- To arbitrage income taxes
- Fiscal incentives are very important for our company to be globally competitive in our cost levels and in our end-pricing to our customers
- Maintain company competitiveness in global market; minimize cost of doing business

- 19 companies said they have availed of fiscal incentives for past investments; 5 said they have not.
    - Of the 19, 11 said the incentives were competitive to those offered by alternate sites; 3 said not competitive; 5 gave no answer

- Of the 9 companies located in PEZA, 6 said they obtained a holiday from the 5% gross income for the initial years of operation;
    - of the 6, 4 said the holiday was important to their decision to invest in RP;
    - of the 4, 3 said that they would not have located in the ecozone if the 5% of gross income incentive were not available;
    - of the same 4, 3 said they would still have located in the ecozone if they could have obtained the 5% of gross income incentive without locating in the ecozone

- 14 companies said they favor the retention of the BOI; the rest either said "no opinion" or did not give any answer
- 15 companies are familiar with the Investment Priorities Plan
- 7 companies said they would not expand without an ITH incentive (given SB2411 proposes maximum 6-year ITH, and company is invested in domestic RP economy); the rest said "not applicable" or did not give any answer
- 14 companies said the incentives in the proposed Senate bill are worse than the existing BOI, PEZA, SBMA incentives; 4 said the incentives are the same; 2 said better; the rest were either blank or not applicable

Recommendations to make RP incentives as good as current "best practice' in Asia:

- RP government should at least retain current incentives package; evaluate and compare current incentives to best practice in Asia; GRP should be open to recommendation from foreign investors on how to make RP a better investment destination
- ROHQ type of incentives are more effective for attracting service industry players
- To retain Presidential Authority to regulate importation of certain commodities in pursuit of an industry rationalization program; House version on fiscal incentives is acceptable
- Rationalize all incentives into one policy of government and under one strong agency; special court to address economic matters only; align local government functions with incentive management; tax share should be given directly to LGU; incentives should be given for community programs undertaken by industries in economic zones; education of locator, estate administrator, LGU, and community to promote good business climate
- GRP should study investment incentives in other countries, then try to make theirs better than others
- GRP should give several tax incentives without some conditions if company invests and makes products using RP materials
- Retain ITH; add more incentives; cut red tape
- Solution is not to replace BOI but to put a system of control that will ensure integrity of granting incentives to new projects; elimination of ITH discourages expansion for foreign investors considering that other neighboring countries may grant competitive incentives; give additional incentives for employing certain number of Filipino workers
- Improve infrastructure to international standards

- Clear GRP direction and strategy for auto industry; unified and coordinated support from GRP agencies
- At least retain existing incentives; offer best-in-class incentives particularly for investments with significant economic and social impact, which may include cash grants/subsidies on capital expenditures (currently offered by Vietnam and China), at least 15-year holiday on income, property and transaction taxes, land grants, and special electric power rates; make administration of incentives burden-free by resolving all pending VAT claims and fully automating import and export processing to reduce throughput time
- Maintain current fiscal incentives or improve it to bring in more investments; better tax collection, rather than increasing tax rates
- Current investment incentives is good but is loaded with many gray areas subject to different interpretations by different government agencies
- ITH for 5 years; CIT of 15% of taxable income or 15% of gross income; NOLCO for 1st 5 years deductable for 10 years; accelerated depreciation; duty free importation, raw materials, equipment, spare parts and supplies
- Existing PEZA incentive is ok; SBMA tax incentive is very high, should be only 10-15%
- Maintain existing ITH
- Existing PEZA incentives are competitive and PEZA is very effective with regard to corruption and bribe
- Maintain current incentives; avoid frequent changes to incentive structure as these send wrong signals to existing and prospective investors
- Reform labor laws
- Make it more attractive than other Asian countries
- Maintain ITH from 3 to 8 years; duty-free importation of raw materials and capital machineries and equipment; zero VAT on local purchases (raw materials)
- RP needs to benchmark its incentives with the competition from other countries

The Foreign Chambers of the Philippines

American Chamber of Commerce of the Phils., Inc. ◆ Australian-New Zealand Chamber of Commerce (Phils.), Inc.
Canadian Chamber of Commerce of the Phils., Inc. ◆ European Chamber of Commerce of the Phils., Inc.
Japanese Chamber of Commerce & Industry of the Phils., Inc. ◆ Korean Chamber of Commerce of the Phils., Inc.
Philippine Association of Multinational Companies Regional Headquarters, Inc.

JOINT FOREIGN CHAMBERS SURVEY ON FISCAL INCENTIVES

AUGUST 2006

BACKGROUND

Like most countries and US states, the Philippine Government awards fiscal incentives to new investment projects under its industrialization and economic development policies. In practice, over many years, too many incentives have been granted in dozens of laws favoring various domestic industries. The Departments of Finance and Trade and Industry have long disagreed about what Finance viewed as excessive awards of incentives resulting in perceived revenue loss.

One of the government's proposed reforms has been the Rationalization of Fiscal Incentives bill, which passed the House in early 2005 (HB 3295). This bill ends many grants of incentives to particular sectors and consolidates the awarding of incentives under the Board of Investments of the DTI and the annual Investment Priorities Plan (IPP). AmCham has supported this bill, which maintains the current mix of incentives but allows longer-term corporate income tax (CIT) income tax holidays (ITH) for large projects meeting special requirements.

The Senate Ways and Means Committee on July 24 reported out a bill (SB No. 2411) with signatures of 14 members entitled "The Consolidated Investments and Incentives Code of the Philippines." This bill takes a different approach than the House bill, including replacing the BOI with a new Philippine Investment Promotion Agency (PIPA) and ending all ITH. However, other existing fiscal incentives are retained and a new one (15% CIT) is proposed. The PIPA would award incentives to new projects that are export-oriented or are domestic-oriented located in the 30 poorest provinces.

Two Philippine economists as part of the Economic Policy Reform and Advocacy (EPRA) consortium have prepared studies on Philippine fiscal incentives. One study released in June suggested that the BOI has over many years awarded "redundant" incentives to projects which would have been undertaken without incentives and foregone very large sums of tax revenues (estimated at P43B in 2004) which could have been spent on improving education and infrastructure to increase national competitiveness. A copy of the report may be downloaded from http://www.epra.org.ph/reports/Reside_Towards_Rational_Fiscal_Incentives.pdf, or obtained from its principal author Dr. Renato Reside, Jr. at Renato_jr.reside@up.edu.ph or Renato_reside@hotmail.com or 927-9691. A separate paper prepared by Dr. Felipe Medalla may be downloaded from http://www.epra.org.ph/reports/Medalla_Fiscal_Incentives.pdf.

The Joint Foreign Chambers (JFC) has released a statement recommending that the legislative process proceed with caution to allow more study and discussion of the proposed reforms, noting that the JFC had not been consulted. The JFC statement is at www.amchamphilippines.com and concludes that the JFC will poll its members.

The poll is attached. We ask your response to be returned to Bellie or Mara by fax (811-3081 or 811-3184) or by email (bellie@amchamphilippines.com; mara@amchamphilippines.com) before August 15, 2006. After compiling the results, we will send you a copy and forward to DOF, DTI, NEDA, the House and Senate Ways and Means Committees and other Congressional leaders.

JFC SURVEY ON FISCAL INCENTIVES

$ ¥ £ €

RESPONDENT DATA

1. NAME OF COMPANY_____
2. TYPE OF BUSINESS _____
3. LOCATION
   - A. SBMA OR OTHER SEZ _____
   - B. PEZA ESTATE_____
   - C. PEZA IT ZONE _____
   - D. OTHER (please describe)_____
4. PERCENT EXPORT/DOMESTIC _____
5. OWNER NATIONALITY_____
6. NAME OF RESPONDENT_____
7. TITLE OF RESPONDENT _____
8. PHONE NUMBER _____
9. EMAIL _____
10. OTHER RELEVANT INFORMATION

_____

_____

_____

_____

SURVEY QUESTIONS

1. Are you considering a future investment in the Philippines? If no, why not?
_____

2. If yes, can you advise us the planned amount?
_____

3. What is your preferred location?
   A. SBMA or other SEZ_____
   B. PEZA estate _____
   C. PEZA IT Zone _____
   D. Other (please describe)_____

4. Please describe the planned investment.
_____
_____
_____

5. Is your headquarters considering alternate country sites for this project?
   A. If yes, in ASEAN?_____
   B. Elsewhere in Asia?_____
   C. Outside Asia?_____

6. How important are fiscal incentives to your company's decision to invest in the Philippines?
   A. Very Important _____
   B. Important _____
   C. Somewhat Important _____
   D. Not Important _____

   Would you like to tell us why?
   _____
   _____
   _____
   _____

7. Has your company availed of fiscal incentives for past investments?
_____
_____
_____

8. If yes, were these investments competitive with incentives offered by alternate country sites?
   A. Competitive _____
   B. Not Competitive_____
   C. Comment _____

9. If you located in a PEZA-zone:
   A. Did you obtain a holiday from the 5% of gross income for the initial years of operation?
   _____
   B. If yes, how important was the holiday to your decision to invest in the Philippines?
   _____
   C. Would you still have located in the ecozone if the 5% of gross income incentive were not available? _____
   D. If you could have obtained the 5% of gross income incentive without locating in an ecozone, would you still have located in the ecozone? _____

10. Do you favor retention of the Board of Investments?
    A. Yes _____
    B. No (Why?) _____
    C. No opinion _____

11. Are you familiar with the Investment Priorities Plan?
    A. Yes _____
    B. No _____

12. The proposed Senate bill eliminates the current maximum 6-year income tax holiday (ITH). If you are invested in the domestic Philippine economy (i.e., do not export goods or services), will you expand without an ITH incentive?
    A. Yes _____
    B. No _____
    C. Comment_____
    D. N/A (We are an export-firm.)_____

13. The following is a description of the major incentives in the proposed Senate bill:

    For qualified export enterprises (defined as exporting at least 70% of products or services):
    1. Preferential CIT of 15% of taxable income or 5% of gross income;
    2. NOLCO for 1st 5 years, deductible for 10 years;
    3. Accelerated depreciation;
    4. Duty-free importation of capital equipment/raw materials; and
    5. Refundable VAT on imported capital equipment/raw materials from Trust Liability Account where all VAT payments on capital equipment/raw materials of registered export enterprises will be deposited (for purpose of funding refund claims) within 2 years of payment; refunds will be acted upon within 30 days.

    For qualified domestic enterprises (defined as exporting less than 70% of products or services, located in the 30 poorest provinces having minimum investment of P500 million or providing at least 200 jobs):
    1. Preferential CIT of 15% of taxable income;
    2. NOLCO for 1st 5 years deductible for 5 years; and
    3. Accelerated depreciation.

    Compared to existing incentives awarded by BOI, PEZA, SBMA and others, how do the proposed Senate bill incentives compare?
    A. Better _____
    B. Same_____
    C. Worse_____
    D. Other _____

14. What recommendations do you have for the Philippines to make its investment incentives as good as the current "best practice" in Asian countries competing with it for foreign investment?

_____
_____
_____
_____
_____
_____

15. Any other comments you wish to make?

_____
_____
_____
_____
_____
_____
_____

16. May we use your company name?

_____

17. May we contact you to discuss your responses further?

_____

Thank you.

INVESTMENT CLIMATE IMPROVEMENT PROJECT (ICIP)

ADVOCACY PLAN

APRIL 1, 2006

METHODOLOGY

REFORM CLUSTERS

SUMMARY

The ICIP Advocacy Plan seeks to achieve investment climate reforms in the following REFORM CLUSTERS and SECTORS. These reforms closely follow the analysis and recommendations of the AmCham *Roadmap II More Foreign Investments* released in June 2004.* Each is described in more detail beginning on page 16.

METHODOLOGY

The ICIP Advocacy Plan implementation methodology will include a variety of techniques to advance the ICIP reform advocacies. Within AmCham, firm members and committees and the American Desk at the Board of Investments will use their resources. Outside AmCham, reform alliances will be joined with other foreign chambers of commerce, Philippine business associations, foreign governments and multilateral aid groups, influential individuals and firms and the domestic and international media. Information regarding ICIP reform advocacies will be disseminated in multiple forms and through multiple channels. Meetings with senior GRP officials will be held to explain the importance of advocated reforms to foreign investment. The Philippine media will be an important channel through which to communicate to decision makers by various means. As many as four workshops will be held with published recommendations. Regular reports and a final report will be made, and all reports will be publicly available. Metrics/measurables will chart ICIP results.

ICIP REFORM CLUSTERS AND REFORM TASKS

1. Bureaucracy/Corruption

1a Reduce, simplify and make regulations transparent
1b Urge GRP to establish Anti-Red Tape Program with "wardens" in agencies where corruption/red tape most hurt business
1c Enforce fixed deadlines to approve paperwork after which approval is automatic
1d Implement eGovernance
1e Intensify lifestyle checks and RATE program and operations of Ombudsman
1f Report incidents of corruption to Ombudsman and DOF and place on website

2. Education

2a Triple per capita spending on education by 2010; improve education quality
2b Achieve better quality spoken English among high school/college graduates
2c Improve engineering, math and science skills among graduates
2d CHED to approve a call center curriculum for colleges and universities

* The population issue, while still critical to the nation's future prosperity, is not included in the ICIP Advocacy Plan, because significant progress is unlikely in the short-term. Although AmCham and many other business associations advocate major reforms, opposition of the Roman Catholic Church and lack of political will by the highest political authority make the probability low of soon reducing the rate of growth below its present 2.36%.

3A. Infrastructure: Power

3Aa Implement EPIRA; accelerate sale of NPC GENCOs and privatize TRANSCO
3Ab Lower industrial power rates through open access for consumers of 1+MW
3Ac Start operations of WESM
3Ad Allow IPPs to import coal directly
3Ae Fully dispatch Malampaya gas to maximize GRP royalty revenue

3B. Infrastructure: Transportation – Subic-Batangas Corridor

3Ba Open NAIA IPT 3 and adequately compensate owners
3Bb Rapidly develop Clark airport for cargo and passenger traffic
3Bc Connect Subic to Batangas in smooth road system
3Bd Award contracts for long-delayed NCR rail projects
3Be Recruit the most-experienced private sector manager to serve as Special Assistant to the Chairman of NEDA for Major Infrastructure Projects
3Bf Identify and resolve bottlenecks of key projects
3Bg Decide which projects to fund with JBIC or PRC loans and which to offer as PPPs; fund pre-feasibility studies and assure transparent bidding
3Bh Amend BOT law IRRs and seek BOT law amendments

4. Judicial/Regulatory/Enforcement

4a Introduce continuous trial
4b Intensify anti-smuggling enforcement and BOC lifestyle checks; jail smuggling big fish and GRP protectors
4c Increase IPR enforcement, especially for optical media

5. Legislation

5a Revitalize LEDAC
5b Seek removal from Constitution of all restrictions on foreign investment and professions; work for early passage of any required implementing legislation
5c Reduce minimum foreign equity thresholds in Retail Trade Act and Foreign Investment Act; otherwise, reduce restrictions on FDI in Negative List
5d In future laws concerning FDI, seek waiver provisions to provide flexibility to approve projects especially beneficial in technology, capital or employment;
5e Correct discriminatory or unenforced foreign investment regime rules, e. g.
--incentives only for firms with at least 60% Filipino equity
--projects receiving incentives asked to divest 10% equity as IPO
--foreign firm w/export incentives divest to be 60% Filipino after 30 years
--RA 8762 requires 30% divestment after 8 years of operations

5f Pass priority legislation
--Biofuels/renewable energy
--BOT amendments
--Clark SEZ
--Corporate Recovery Act
--Credit Bureau
--DICT
--EVAT Amendments: 70% Cap; 5-Year Amortization
--Rationalization of Fiscal Incentives
--IPR amendments
--Personal Equity Retirement Account (PERA)
--Pre-need Code
--SPV Extension
--Anti-Smuggling
--Anti-Terrorism
--Tourism

6. Security/Political Stability

6a Modernize COMELEC for faster, less controversial election results
6b Complete and implement GRP-MILF accord

7. Others

ICIP REFORM SECTORS AND REFORM TASKS

8A. Health/Retirement

8Aa Allow foreign doctors to practice at medical/retirement facilities used by foreign nationals;
8Ab Permit foreign ownership of land for commercial, industrial, residential purposes
8Ac Develop foreign retirement communities in Central Luzon and Cebu
8Ad Improve transportation infrastructure in Metro Manila and Cebu
8Ae Promote medical tourism and retirement

8B. Information and Communications Technology

8Ba See Cluster 1 (Education and English)
8Bb See Cluster 2 (create DICT)
8Bc Modernize Labor Code

8C. Manufacturing

8Ca Reduce costs of doing business (labor, regulatory, transportation, utilities)
8Cb Limit minimum wage increases
8Cc Modernize Labor Code
8Cd Allow foreign ownership of commercial, industrial and residential land
8Ce Reduce smuggling and hijacking
8Cf Train more engineers and scientists
8Cg Develop electronics testing and R & D subsectors

8D. Mining

8Da Resume Rapu Rapu mining project with better safeguards and local consultation
8Db Support MAP consultation initiative
8Dc Train workers near mining sites in skills for better jobs
8Dd Provide/discuss information on sound mining practices and benefits

8E. Tourism

8Ea Improve infrastructure of key tourism areas (e.g. Bicol, Bohol, Cagayan de Oro/Camaguin, Cordilleras, Davao, Palawan, Subic/Clark)
8Eb Pass Tourism Act of 2006 with amendments to encourage foreign investment in tourism and open skies;
8Ec Advocate more open skies and discount airlines to increase flights
8Ed Advocate more international flights to destinations outside Central Luzon
8Ee Seek more balanced travel advisories
8Ef Improve surface traffic flow.

END SUMMARY

METHODOLOGY

Implementation of the Advocacy Plan will be guided by AmCham's ICIP staff, using its resources in combination with other supporters of reforms in the public and private sectors. EMERGE resources may also be called upon. A variety of methods will be employed.

1. ***AmCham Committees and Members***. Where appropriate, individual AmCham member companies may be best placed to advocate a reform using their contacts in the GRP, the media or other means. The following AmCham committees may also harness their members in different sectors to pursue relevant reforms:

   Agribusiness
   Consumer Goods
   Energy
   Environmental Quality Management
   Financial Services
   Industrial Relations
   Information and Communications Technology
   Intellectual Property Rights
   Legislative
   Pharmaceutical
   Philippine Business Environment
   Strategic Issues
   Taxes and Tariffs
   Tourism
   Trade and Investment
   Transportation and Infrastructure

2. ***The American Desk at the Board of Investments*** is in a key position to identify investment trends and problems having a negative impact on actual investment. The Amdesk is in direct contact with investors, both existing and prospective, on a frequent basis and has access through counterparts from other nations to the views of their investors.

3. ***Alliances with organizations*** including the Joint Foreign Chambers, Philippine business associations, multilateral banks, foreign embassies, academic centers, media and others will be organized as needed. The following are among the groups and organizations who may partner with AmCham to support reforms.

   Asian Institute of Management Washington Sycip Policy Center
   Asian Development Bank
   Asia Society Philippine Foundation, Inc.
   Ateneo University, School of Economics
   Asia Foundation
   Australian Embassy
   Australian-New Zealand Chamber of Commerce of the Philippines, Inc.
   Bankers Association of the Philippines

Bishops-Businessmen's Conference
British Chamber of Commerce of the Philippines
British Embassy
Business Processing Association of the Philippines
Canadian Chamber of Commerce of the Philippines
Canadian Embassy
Capital Markets Development Council
Catholic Bishops' Conference of the Philippines
Cebu Chamber of Business and Industry
Center for Research and Communication, UA&P
Chamber of Automotive Manufacturers of the Philippines, Inc.
Chamber of Mines of the Philippines
China (Taiwan) Office
Chinese Embassy
Chinese Filipino Business Club, Inc.
Clark Investors and Locators Association
De La Salle University, Angelo King Institute
El Shaddai
Employers Confederation of the Philippines
Export Development Council
European Chamber of Commerce and Industry of the Philippines
European Union Embassy
Federation of Filipino Chinese Chambers of Commerce
Filipino-Indian Chamber of Commerce of the Phils., Inc.
Financial Executives Institute of the Philippines
Foundation for Economic Freedom
Foreign Correspondents Association of the Philippines
Friedrich Ebert Stiftung
Friedrich Naumann Stiftung
French Chamber of Commerce of the Philippines
French Embassy
German Embassy
Hotel and Restaurant Association of the Philippines
Iglesia ni Kristo
Indian Embassy
Information Technology Association of the Philippines
International Finance Corporation
International Monetary Fund
Independent Power Producers Association
Institute of Corporate Directors
Israeli Embassy
Japanese Chamber of Commerce and Industry of the Philippines
Japanese Embassy
Japan External Trade Organization
Konrad Adenauer Stiftung
Korean Chamber of Commerce and Industry of the Philippines

Korean Embassy
Management Association of the Philippines
Makati Business Club (MBC)
Mindanao Business Council
National Movement for Free Elections
Personnel Management Association of the Philippines
Philippine-American Chamber of Commerce of New York
Philippine Association of Multinational Companies Regional Headquarters, Inc.
Philippine Accrediting Association of Private Schools, Colleges, & Universities
Philippine Chamber of Commerce and Industry
Philippine Economics Society
Philippine Exporters Confederation
Philippine Franchise Association
Philippine Ecozones Association
Philippine Institute for Development Studies
Philippine-Israel Business Association
Philippine Retailers Association
Philippine Software Association
Pulse Asia
Rotary Club of Makati
Rotary Club of Manila
Semiconductor and Electronics Industries in the Philippines, Inc.
Singapore Embassy
Singapore-Philippines Association
Social Weather Stations
Spanish Camara Official Espanola de Commercio
Taiwan ROC Chamber of Commerce and Industry of the Philippines
Trade Union Congress of the Philippines
UN Development Program
UP School of Economics
US-ASEAN Business Council (Washington, DC)
US Chamber of Commerce (Washington, DC)
US Embassy
World Bank

4. ***Alliances with prominent individuals and firms*** may also be sought to explain the ICIP reform advocacy and request support. Possible individuals and firms include:

Roberto Aboitiz, chairman, Aboitiz Group
Emily Abrera, chairman, McCann-Erickson
Jose Almonte, former National Security Advisor
Rafael Alunan, former DILG and DOT secretary
Cesar Bautista, former DTI secretary
Stephen Bosworth, former US ambassador, dean, Fletcher School,
PGMA International Advisory Board
Cesar Buenaventura, former chairman, Shell Philippines

Lito Camacho, former DOE and DOF secretary
Dante Canlas, former NEDA director general
Aloysius Colayco, chairman, Jardine Mathieson
Eduardo Cojuangco, chairman, San Miguel
Rufo Colayco, former BCDA chairman
Jose Concepcion, former DTI secretary
Jose Concepcion, Jr., president, Concepcion Industries
Raul Concepcion, president, Consumer and Oil Price Watch
Gerald Corrigan, Goldman Sachs, PGMA International Advisory Board
Tessie Sy Coson, president, SM Prime Holdings
Hilario Davide, Jr., former SC Chief Justice
Corazon de la Paz, chair, SSS
Roberto de Ocampo, former DOF secretary
Helen Dee, president, House of Investment
Gregorio Domingo, former DTI/BOI undersecretary
Paul Dominguez, former Presidential Assistant for Mindanao
Jesus Estanislao, former DOF secretary
Fitch Ratings
Jorge Garcia, founder, Asian Hospital
Lance Gokongwei, president, JG Summit Holdings, Inc.
Thomas Hubbard, former US Ambassador, Akin, Gump, Strauss
Daniel Lacson, Jr., former governor Negros Occidental
Narzalina Lim, former DOT secretary
Federico Lopez, vice chairman, First Gas
Oscar Lopez, chairman, Benpres
Guillermo Luchangco, president, ICCP
Felipe Medalla, former NEDA director general
Solita Monsod, former NEDA director general
Moody's
Rizalino Navarro, former DTI secretary
Bienvenido Nebres, president, Ateneo de Manila
Cayetano Paderanga, former NEDA director general
William Padolina, former DOST secretary
Manuel Pangalinan, president, PLDT
Jose Pardo, former DTI and DOF secretary
Felicito Payumo, former SBMA chairman
Vincente Perez, former DOE secretary
Ernesto Pernia, UP School of Economics, former ADB chief economist
Nicholas Platt, former US Ambassador and president, Asia Society
Cesar Purisima, former DTI and DOF secretary
Raul Rabe, former Phil Ambassador to US
Fidel Ramos, former president
Melito Salazar, former DTI/BOI secretary
Gerardo Sicat, former NEDA director general
Standard and Poor's
Hans Sy, President, SM Prime Holdings, Inc

Washington Sycip, founder, SGV Group
Cesar Virata, former prime minister
Frank Wisner, Vice Chairman AIG, PGMA International Advisory Board
Laura d. Andrea Tyson, dean, London Business School, PGMA International Advisory Board
Jaime Zobel de Ayala, chairman, Ayala Corp.
Peter Wallace, president, Wallace Business Forum
Stephen Zuellig, chairman Zuellig, PGMA International Advisory Board

5. ***Alliances with media*** will also be pursued to seek publicity for the advocacy of ICIP reforms in news reports, columns and editorials. Among the media to be informed are:

ABS-CBN
Agence France Press
AP Dow Jones
Asian Wall Street Journal
Bloomberg
Business World
Business Mirror
Christian Science Monitor
Financial Times
GMA television
International Herald Tribune
Kyodo News Service
Malaya
Manila Bulletin
Manila Standard
Manila Times
National Public Radio
Newsbreak
Newsweek
New York Times
Philippine Center for Investigative Journalism
Philippine Daily Inquirer
Philippine Star
Reuters
Time Magazine
Voice of America
Washington Post

6. ***Information on ICIP reform*** advocacies will be provided to appropriate audiences in various ways, through letters, reports, statements, emails and website postings. To the greatest extent possible, ICIP advocacy documents will be transparent and available to anyone interested.

7. ***Meetings with GRP Officials*** will be held to discuss key reforms. Among those with whom ICIP intends to meet are:

Executive Branch

President Gloria Macapagal-Arroyo (PGMA)
Executive Secretary Eduardo Ermita
Presidential Chief of Staff Michael Defensor
Presidential Advisor for Job Creation Arthur Yap
Presidential Advisor on Competitiveness Roberto Romulo
PMS Chief Renato Velasco
PLLO Senior Deputy Executive Secretary Joaquin Lagonera
Mindanao Economic Development Advisor Jesus Dureza
MMDA Chairman Bayani Fernando
Budget and Management Secretary Rolando Andaya

CICT Secretary (vacant)

Education Secretary Fe Hidalgo
TESDA Director General Augusto Syjuco
CHED Chairman Carlito Puno

Energy Secretary Raphael Lotilla
NAPOCOR President Cyril Del Callar
TRANSCO President Allan Ortiz
PSALM President Nieves Osorio

Environment Secretary Angelo Reyes

Finance Secretary Margarito Teves
Assistant Secretary Roberto Tan
BOC Commissioner Napoleon Morales
BIR Commissioner Jose Mario Bunag
Central Bank Governor Armando Tetangco
Development Bank of the Philippines Chairman Simon Paterno

Foreign Affairs Secretary Alberto Romulo
Ambassador to the US Albert del Rosario

Interior and Local Government Secretary Ronaldo Puno
PNP Chief Arturo Lomibao

Labor Secretary Patricia Sto. Tomas

National Defense Secretary Avelino Cruz
AFP Chief of Staff Generoso Senga

NEDA Director General Romulo Neri

Public Works and Highways Secretary Florante Soriquez

Science and Technology Secretary Alabastro Estrella

Tourism Secretary Joseph Ace Durano

Trade and Industry Secretary Peter Favila
DTI Undersecretary Tomas Aquino
DTI/BOI Undersecretary Elmer Hernandez
DTI/NDC General Manager Art Aguilar
DTI/NDC/PIC Noel Kintanar
PEZA Director General Lilia de Lima

Transportation Secretary Leandro Mendoza
Undersecretary for Land Transportation Ricardo Alfonso
Assistant Secretary Roberto Castanares
Civil Aeronautics Board Tomas Manalac
LRTA Administrator Mel Robles
LTO Chairperson Aneli Lontoc
LTFRB Chairperson Ma. Elena Bautista
NAIA General Manager Alfonso Cusi

CICT Ver Pena (retiring)
CDC Chairman Rizalino Navarro
CDC President Antonio Ng
Clark Airport President Bienvenido Manga
SBMA Chairman Feliciano Salonga

Judicial/Regulatory/Enforcement

Supreme Court Chief Justice Artemio Panganiban
COMELEC Chairman Benjamin Abalos
ERC Chairman Rodolfo Albano
Ombudsman Merceditas Guttierez

Legislative Branch: House of Representatives

Speaker	Jose de Venecia
Majority Leader	Prospero Nograles
Minority Leader	Francis Escudero
Appropriations	Joey Salceda
Basic Education and Culture	Edmund Reyes, Jr.
Constitutional Amendments	Constantino Jaraula
Economic Affairs	Joey Sarte Salceda
Energy	Alipio Badelles
Higher and Technical Education	Cynthia Villar
Information Communications Technology	Simeon Kintanar
Labor and Employment	Roseller Barinaga
National Defense and Security	Roilo Golez
Railways and Ro-Ro Systems	Augusto Baculio
Rules	Prospero Nograles
Science and Technology	Antonio Diaz
Tourism	Edgar Chatto
Trade and Industry	Junie Cua
Transportation	Monico Puentevella
Ways and Means	Jesli Lapus

Legislative Branch: Senate of the Philippines

President	Franklin Drilon
Majority Leader	Francis Pangilinan
Minority Leader	Aquilino Pimentel, Jr.
Banks, Financial Institutions & Currencies	Edgardo Angara
Constitutional Amendments, Revision of Codes & Laws	Richard Gordon
Economic Affairs	Mar Roxas
Education, Arts and Culture	Juan Flavier
Energy	Miriam Defensor Santiago
Finance	Manny Villar
National Defense and Security	Rodolfo Biazon
Science and Technology	Ramon Magsaysay
Tourism	Richard Gordon
Trade and Commerce	Mar Roxas
Ways and Means	Ralph Recto

8. ***Media will be an important channel*** for ICIP to use by means of press interviews, press releases, press conferences, ICIP-authored columns, emails to key columnists and the like.

Philippine leaders pay attention to and are influenced by news and commentary in the printed as well as the electronic media. The Philippine media is diverse and challenging to work with but can convey important reform messages to audiences of decision makers in both the public and private sectors.

Possible topics for a bi-monthly column which might be titled "Foreign Investor Point of View" include:

1. The Boom in Electronic Exports; Is It Over?
2. Foreign Investment: Why Not $3B a Year?
3. Constraints on the Philippines Becoming Back Office to the World
4. Tourism: Can Growth Continue?
5. Infrastructure: Falling Apart
6. Mining: Underground Wealth Can Enrich the Philippines
7. FDI: A Tale of Three Countries: Philippines, Thailand and Vietnam
8. Smuggling and Corruption Deter FDI
9. The Challenge of Reforming the Power Sector

9. ***Workshops on key reforms*** will be organized by ICIP and/or participated in. An events management firm will be contracted to publicize and manage the workshops. Attendance fees will be charged to spread expenses. Initial plans are for the following:

(a) Foreign Investment Workshop

The Foreign Investment Workshop would be day-long session to gather recommendations from interested groups on how the Philippines could attain an FDI level of $3B a year. Invitations would be sent to ICIP alliance partners listed in paragraph 3 above, local and foreign media, GRP officials and other interested parties.

A draft program might include:

--ICIP Speaker: Opening Remarks: A Holy Grail $3B FDI a year
--ADB Economist: Regional FDI Overview, Philippines in Perspective
--BOI Undersecretary: Philippine Priority Investment Sectors
--NEDA Director General: Raising Infrastructure Spending to 5% of GDP
--Foreign Investor Recommendations: (a series of speakers presenting papers, perhaps to include ICIP, JETRO, IFC, Peter Wallace, AIM, UP and Ateneo economists)
--Breakout sessions for several key issues and sectors
--Luncheon Keynote Speaker: Former President Ramos
--Conclusion

A report of the workshop will be prepared and submitted to participants, GRP leaders and the media. Task forces for key issues and sectors will be formed as needed to continue meeting, advocating reforms and monitoring their progress.

(b) Energy Sector Reforms Review

A request is pending with Energy Secretary Lotilla for a session between the JFC and DOE officials to discuss power sector developments and reforms. Multinational banks and others would be invited to attend.

(c) Red Tape and Corruption Workshop

This workshop would seek to lay the groundwork for a program to reduce red tape and the corruption accompanying it, which is often cited as a drag on business efficiency and business costs in the Philippines.

The workshop could be the platform to launch a GRP Anti-Red Tape Program
led by a special assistant to the president with Anti-Red Tape Monitors in key departments and agencies.

Participants will include officials of agencies most notorious for their red tape, representatives of business associations, media. An advance poll of businesses will be conducted to identify the worst red tape offenders.

(d) Subic-Batangas Transportation Corridor Workshop

This workshop will bring together public and private sector officials to embrace the goal of an integrated, efficient ground transportation system for goods and people between Subic and Batangas. Participants will include GRP transportation and economic officials, representatives of business associations, managers of industrial estates, operators of existing transportation links within the Subic to Batangas Corridor, infrastructure project development and management firms, local government officials and domestic and foreign media.

10. ***Reports***. In addition to weekly reports, ICIP will prepare Investment Climate Monitoring Reports (monthly and quarterly), Investment Climate Briefs (occasional and on topics related to workshops) and a final report in March 2007 on ICIP project accomplishments. Most reports will be posted on the AmCham website and available to the public.

11. ***Metrics/Measurables***. Project results may be measured by specific reforms as they are achieved (e.g. passage of legislation, amendment of IRRs, issuance of an E.O.), specific significant investment projects as well as increased investment levels in terms of Central Bank data, both in absolute numbers and as a percentage of GDP.

REFORM CLUSTER 1

BUREAUCRACY/CORRUPTION

PROBLEM DESCRIPTION

Excessive bureaucracy creates serious inefficiencies, raising the cost of doing business, reducing national competitiveness and providing opportunities for corruption. The 2003-04 Global Competitiveness Ranking of the World Economic Forum (WEF) placed the Philippines 98th of 102 countries in red tape. A 2005 Asian Development Bank poll of 1,000 private sector firms operating in the Philippines revealed firm managers spend an average of 9% of their time dealing with bureaucrats. Red Tape and corruption are among the main reasons for the low ranking of the Philippines in the World Bank/IFC global ranking *Doing Business in 2006: Creating Jobs*. Transparency International (TI) ranks the Philippines in the bottom third of countries for overall corruption, while WEF's 2003-04 Global Competitiveness Ranking rated the Philippines second from worse for corruption of 102 countries. TI commented "Corruption is already perceived to be systemic and widespread across all levels of the bureaucracy."

RECOMMENDED REFORM TASKS

--simpler and more transparent regulations should be implemented, especially with regard to business registration, customs, immigration and BIR procedures;

--ask the GRP to appoint an Anti-Red Tape Assistant to the President and Anti-Red Tape wardens in key departments and agencies where extensive red tape is most likely to lead to corruption and create inefficiencies for business operations;

--set and enforce fixed deadlines for agencies to approve. Require automatic approval if the agency does not act before the deadline;

--implement eGovernance to allow more essential regulatory requirements to be met using the internet;

--continue lifestyle checks and RATE programs, while expanding the budget and operations of the Ombudsman;

--report suspected corruption and lifestyle abuses to the Ombudsman and DOF.

STRATEGY/REFORM LEADERS AND ALLIES

--organize a broad alliance of business groups and donors to discuss advocated reform;

--enlist ADB and World Bank support;

--one domestic and one foreign chamber of commerce should each take the lead in gathering a list of red tape to recommend to be eliminated or reduced;

--the lead domestic and lead foreign chamber begin polling coalition chamber members to prepare list of desired red tape procedures to be eliminated or reduced;

--make initial approach to government to obtain GRP support;

--hold Red Tape and Corruption Workshop;

--roll out Anti-Red Tape Mentors in key agencies;

--ask Ombudsman and lifestyle and RATE program officials to speak at ICIP events;

--establish a Corruption Website to list allegedly corrupt government procurement projects; list Ombudsman and lifestyle and RATE program activities; link with other anti-corruption efforts; link with GRP websites;

--publicize anti-red tape campaign.

REFORM RESULTS

--less red tape;
--reduced corruption;
--improved government service to business;
--reduced cost of doing business;
--increased economic competitiveness;
--increased investment and jobs;
--more direct and indirect tax revenue.

REFORM CLUSTER 2

EDUCATION

PROBLEM DESCRIPTION

A plentiful, skilled, educated and reasonably-priced workforce has long been considered the principal attraction of the Philippines for foreign investors, especially those engaged in export manufacturing and services. Thus, the accessibility of quality human resources is the most important factor in the competitiveness of the Philippine economy.

Unfortunately, the Philippines spends less per capita on public education than other countries in ASEAN and per capita spending on education has declined for several years. The quality of public schools (attended by 91% of students) is in steady decline, in terms of physical crowding, maintenance, new constructions, teacher quality and the like.

Philippine students perform poorly in international tests of English, math and science. The quality of spoken English - the country's first national language – has fallen among students leaving school since the late 80s when the medium of instruction shifted from English to Filipino. The proficiency of public school teachers of English has also declined; a shockingly low percentage is able to pass minimum scores on DEPED English proficiency tests. Many of the most fluent teachers have taken higher-paying jobs abroad. Private schools are also affected by limited family budgets for education and the emigration of teaching staff. Science, math and engineering education is weak.

Challenges in the education sector are well-recognized, and remedial efforts are underway, with especially strong efforts by the country's strong NGO sector and the World Bank. While PGMA restored English as a medium of instruction in public schools in 2003, it will take time and resources to reverse the two-decade shift away from English. At the PDF, NEDA stated plans to increase investment by P1.4B in education in 2006-2010, considerably less than it plans to increase investment in health and housing. TESDA has announced a P500m scholarship program for 100,000 beneficiaries for the ICT sector, where the GRP very ambitiously projects employment growing from 233,000 to 2,000,000 by 2010. Better English skills are also needed for the growing tourism sector, as well as manufacturing, and to avail of foreign employment opportunities.

RECOMMENDED REFORM TASKS

--triple per capita spending on education by 2010 (to at least half that of Thailand); improve education quality;

--achieve better quality spoken English among high school and college graduates as measured by benchmarked testing;

--improved engineering, math and science skills among graduates as measured by international scores;

--CHED to approve a call center curriculum for colleges and universities.

STRATEGY/REFORM LEADERS AND ALLIES

--ICIP will advocate - in cooperation with other business groups - for raising per capita spending on public education to ASEAN average and improved math, science and English courses;

--ICIP will support the Promoting English Proficiency and English is Cool projects of AmCham, ECCP and other partners;

--ICIP will consult with Jobs Generation Secretary Yap on meeting skills requirements for the ICT, manufacturing and tourism sectors.

REFORM RESULTS

--better scores on basic English, math and sciences tests;
--better HR skills of entering workforce;
--supply of qualified skilled workers better able to meet demand;
--more investment and jobs created;
--more direct and indirect tax revenue.

REFORM CLUSTER 3A

INFRASTRUCTURE: POWER

PROBLEM DESCRIPTION

Investors – concentrated on Luzon - have long recommended a less expensive and more reliable electric power supply in the Philippines as a critical component of improved economic competitiveness. In the early 1990s, the economy suffered from severe power shortages, solved by one of the most successful private power programs among developing countries. However, after the 1997 financial crisis reduced electricity demand growth, oversupply in the Luzon grid (which has 80% of the country's total capacity and demand) and sharply higher costs of imported fuel and debt service for foreign-financed power plants pushed electricity prices up sharply leading to controversy over private power contracts.

The EPIRA, signed in 2001, a significant major reform law to privatize the state-owned NPC, was an encouraging sign of political will at the start of the Macapagal-Arroyo Administration. However, contract "renegotiations" forced by the GRP the following year created negative attitudes towards further investments in the Philippine generation sector. Since then, the failure to privatize the GENCOs and TRANSCO, as called for under EPIRA, has created uncertainty about future power supplies.

Predictions made two years ago of blackouts in the Luzon grid by 2007-08 are being proven incorrect because of flat electricity consumption growth resulting from high demand elasticity. Yet progress in implementing EPIRA is increasingly urgent given the long lead time needed to build new power plants. New base load plant projects continue to face a "bankability" challenge due to the failure of the GRP to implement EPIRA.

The AmCham Roadmap in mid-2004 urged that:

> "Implementation of the landmark power reform law must be accelerated to privatize NPC and TRANSCO. The subsidy of NPC rates must gradually be brought in line with the cost of power generation to avoid a fiscal crisis and restore investor confidence. The phase-out of industrial cross-subsidies to consumers is essential to prevent factory closures. Distribution utilities should be restored to creditworthiness. Rates will initially increase but, in the medium-term, reforms will result in lower power rates and higher government revenue – and no blackouts."

Over the last two years, the GRP has made progress in removing cross subsidies -under which industry overpaid for power - and ending NPC losses (which had exceeded P100B) incurred by charging less than generation cost and absorbed by taxpayers. In addition, several transmission line upgrades now enable fuller dispatch from lower-cost IPP plants in Batangas, Pangasinan and Quezon.

After years of petitions by domestic and foreign manufacturers that the cost of power in the Philippines is one of the highest in Asia, a significant potential reform was announced in April 2006 in a letter from MERALCO to PGMA stating its agreement to allow open access within its franchise for power consumers using 1KW and more a month.

Although details remain to be worked out by the ERC, this reform should make introduction of the WESM more feasible by its mid-2006 target. An operationalized WESM may provide sufficient restored confidence for the market to finance a merchant plant soon enough to provide new power to the Luzon grid before demand exceeds supply in 3-4 years with consequent blackouts. By early 2007, however, the GRP should determine whether to declare a state of emergency under Section 71 of the EPIRA so that NPC can contract for power from a new power plant with partial government/ADB guarantees to compensate for high market risk.

Privatization of the concession to operate the transmission system has also been stalled pending issuance of revised terms of reference.

NPC requires its coal-fired IPP plants to burn coal which NPC alone can import. In 2004 coal stocks at several large plants reached critically low levels before NPC was able to contract for additional supplies. To avoid inefficiency and the possibility of corruption, IPPs should be allowed to contract fuel supplies directly.

The Supreme Court has played an influential part in the Philippine power sector, not always to the long term benefit of either the power sector or the consumer. One consequence was that the RORB of Meralco RORB fell to 5%, much below the 8% required by creditors and the 12% allowed by law. A strengthened and more efficient ERC should reduce Supreme Court interventions in the future. The ERC must have competent and experienced staff so that regulators can act independently from outside influences. Rates must strike a balance between industry viability and consumer interest which can best be accomplished if ill-advised intervention from various branches of the government and public interest groups is avoided.

If multinational firms project high power rates and a high probability of blackouts in their business cost planning, we expect more of these firms will postpone expansion plans at their factories in the Philippines on even close in favor of regional locations which provide less expensive, more reliable power. While recognizing that some reforms are being made, the prevailing view among country managers of such firms is that the GRP has moved too slowly to improve the electric power conditions their firms face.

RECOMMENDED REFORM TASKS

--more fully implement EPIRA by accelerating the sale of NPC GENCOs and by full privatization of TRANSCO;

--continue to seek to lower industrial power rates through open access for power consumers of 1MW and more a month;

--start operations of WESM on schedule;

--allow IPPs the option of importing coal directly;

--fully dispatch Malampaya gas, accelerating GRP royalty revenue.

STRATEGY/REFORM LEADERS AND ALLIES

--continue to present JFC views to the GRP urging EPIRA implementation;

--participate in periodic reform status workshops with GRP energy leaders, donors and other interested parties, including Congressional leader;

--issue statements urging early accomplishment of reform tasks;

--establish a POWER REFORM TASKS website where the progress of reform is reported, with timelines for implementation.

REFORM RESULTS

--avoid the severe economic losses of a repeat power crisis;
--reliable supply of electricity on Luzon after 2010;
--less expensive electricity for exporters and large consumers;
--improved competitiveness for Philippine economy;
--increased investment and jobs;
--more direct and indirect tax revenue.

REFORM CLUSTER 3B

INFRASTRUCTURE: TRANSPORTATION SUBIC-BATANGAS CORRIDOR

PROBLEM DESCRIPTION

Roughly one third of the Philippine population lives in the highly congested Central Luzon, NCR and CALABARZON regions, an area where industry, commerce, services, education and government are concentrated. Most foreign investors, large domestic firms, foreign governments and multilateral organizations have their headquarters in the national capital. Per capita income in these regions is also much higher than the national average. Manila's location on a narrow strip of land between two bodies of water present a challenge to transportation, creating congested north-south movement. Ground and air transportation inefficiencies add to the cost of business, create long commutes for workers and pollute the air.

Plans have long existed for a continuous high speed road corridor from Subic to Clark to Manila to Batangas, complimented by a network of light rail lines to efficiently move millions of commuters. International finance is available to fund suitable projects within the corridor, ultimately to connect the Subic SEZ and port to the Clark SEZ to Metro Manila to the industrial estates of CALABARZON and the port of Batangas.

The Skyway, MRT 3 and NLEX upgrade have been financed by private funds. LRT 2 and the Subic-Clark highway have been financed with low-interest JBIC loans. The SLEX upgrade has recently started with private foreign funding, and the Northrail project to Malolos is underway with a low-interest PRC loan.

Yet important large transportation infrastructure projects in the region have remained mired for years in bureaucratic delay and indecision. An unsolicited joint venture proposal for the LRT 1 extension to the fastest-growing province of Cavite was rejected after many years by a decision of the presidential legal advisor. An unsolicited proposal for LRT 7 has been under consideration for five years. MRT 3 phase 2 has been stuck within the bureaucracy for almost as long, despite presidential instructions to advance the project. While the government has lacked the funds to finance these projects, private funds have been available for properly-structured BOT projects but GRP project leadership has long been absent.

The NAIA IPT 3 project has been underway since late 1992. After 12 years, it remains an embarrassing white elephant, with a reputation for corruption and non-transparency, a case study in how NOT to do a private-public partnership and a deterrent to foreign investment. IPT 3 highlights the political risk to PPPs in emerging economies from the executive, legislative and judicial branches of government, whose decisions and policies are inconsistent and unpredictable.

RECOMMENDED REFORM TASKS

--open NAIA IPT 3 and adequately compensate owners;

--rapidly develop Clark airport for cargo and passenger traffic;

--connect Subic and Batangas with a smoothly-flowing road system supplemented with light rail lines;

--recruit a prominent high-level manager from the private sector to serve as Special Assistant to the Chairman of NEDA for Major Infrastructure Projects;.

--identify key projects that are slow in implementation, analyze problems, and advocate acceleration or implementation;

--decide which projects should be funded by JBIC and PRC low-interest loans and which should be offered as public-private partnerships. Fund pre-feasibility studies for PPP projects and assure transparent bidding;

--amend BOT law IRRs and seek BOT law amendments.

STRATEGY/REFORM LEADERS AND ALLIES

--form a Subic-Batangas Advocacy Group with membership from JFC, MAP, PCCI and others, including governors;

--meet Executive Secretary Ermita and NEDA Director General Neri to propose the appointment of a Special Assistant and the holding of a workshop.

--hold a workshop involving responsible GRP agencies and business groups to discuss the status of each element of the Subic to Batangas corridor and the rail lines and to identify remedial actions and a suggested timeline for implementation.

--establish a TRANSPORTATION CORRIDOR website where the progress of each project is reported, with timelines for implementation.

REFORM RESULTS

--greater transportation efficiencies in the region;
--lower business costs;
--increased national competitiveness;
--cleaner air;
--reduced commuting time and increased workforce efficiency;
--more investment and jobs;
--more direct and indirect tax revenue.

REFORM CLUSTER 4

JUDICIAL/REGULATORY/ENFORCEMENT

PROBLEM DESCRIPTION

Justice delayed is justice denied, allowing violators to "get away with it" if not forever then for many years. Without continuous trials and with lawyers allowed to delay cases for minor reasons, Philippine courts face a large backlog of cases. Inefficiencies in the disposal of assets, free movement of litigants and the like are common. Delays in IPR cases effectively encourage continued piracy. A reform to encourage mediation was introduced in 2003.

Smuggling through major ports is common and exists because of corruption in the BOC reportedly allied with influential persons with well-placed political connections. Smuggling reduces government revenue and allows inferior and dangerous goods to enter local markets. Smuggling permits large quantities of pirated copies of patented goods to be sold at cheap prices, in violation of IPR protection commitments and undermining local manufacturing and employment.

The Philippines has been on and off of the USTR Watch List for IPR violation for many years. In February 2006 the Philippines was recategorized from the Priority Watch List category to the less worrisome Watch List category. This change reflects greater GRP efforts in recent years to increase enforcement, especially of pirated optical media. These efforts have included passage of the Optical Media Act in 2004, which *inter alia* better protects the IPR of Philippine nationals. Nevertheless, extensive piracy continues and greater efforts to protect IPR are required. Stronger IPR enforcement will improve the investment climate for foreign manufacturers and ICT service providers.

RECOMMENDED REFORM TASKS

--create special courts where continuous trial can be introduced, either at the request of litigants or the direction of court administrators;

--intensify anti-smuggling enforcement efforts, increase lifestyle checks of BOC employees and expose, arrest and prosecute prominent smugglers in the private sector and their protectors in government;

--increase IPR enforcement, especially for optical media.

STRATEGY/REFORM LEADERS AND ALLIES

--meet with Chief Justice to urge continuous trial;

--hold periodic workshops with enforcement authorities with media present;

--report positive and negative events on a dedicated Corruption Watch website, linked to GRP websites.

REFORM RESULTS

--better international reputation as a country that respects IPR;
--increased investment, jobs and technology transfer;
--increased direct and indirect revenue.

REFORM CLUSTER 5

LEGISLATION

PROBLEM DESCRIPTION

Although the Philippines has enjoyed a reputation for having some model laws (although compliance and enforcement are frequently weak), many laws are outdated and out-of- step with best international practice. Some date back to the American Commonwealth.

Since the bicameral Congress was restored under the 1987 Constitution, the rate at which each successive Congress has passed significant legislation has slowed. At the midpoint of its three-year life, the 13th Congress is setting a post-Marcos record for its low level of final passage of legislation. The Senate, where the administration no longer enjoys majority support, is legislating at a slow pace, while the House has expended much of its energy on political issues - the unsuccessful mid-2005 impeachment debate and presently constitutional change – and delayed passage of the national budget. Meanwhile, the progress of many important bills has stagnated. The LEDAC, a successful coordination mechanism in the Ramos and early PGMA administrations, seems no longer to function.

No liberalization of the foreign investment regime has taken place since passage of the Retail Trade Act in 2000. With the exception of grandfathered firms, prior to 1989 the foreign investment regime in the Philippines was closed to majority foreign investment outside the export sector, leaving foreign investors either in a minority ownership position or having to resort to subterfuge. The Foreign Investment Act of 1989 introduced a major reform, opening most sectors to majority foreign equity investment and establishing a Negative List of investment restrictions. Under the Ramos Administration, new foreign banks and foreign insurance firms were allowed to operate. The 1986 Constitution places restrictions on foreign investment in advertising, education, land, media, natural resources and public utilities and the practice of regulated professions by foreign nationals.

RECOMMENDED REFORM TASKS

--revitalize LEDAC as the administration's legislative reform coordination mechanism;

--seek removal from the Constitution of all restrictions on foreign investment and the practice of professions by non-Filipinos; work for early passage of any required implementing legislation;

--encourage reduction of minimum foreign equity threshold in the Retail Trade Act and Foreign Investment Act and otherwise seek to reduce restrictions on foreign investment contained in the Negative List;

--in future laws concerning foreign investment, seek waiver provisions to provide the Chief Executive with flexibility to approve foreign investments which may be especially beneficial to the national economy in terms of technology, capital or employment;

--correct non-level playing field foreign investment regime rules, such as:

--the BOI practice of only granting incentives to firms with at least 60% Filipino equity;

--divestment requirements for foreign firms, e.g. firm that receive export incentives must divest equity after 30 years to become 60% Filipino;

--RA 8762 requires 30% divestment after 8 years of operations;

--projects receiving incentives asked to divest 10% equity as IPO;

--**Biofuels/renewable energy.** These bills promote alternative energy options to petroleum imports, seek to enhance energy security and reduce the impact of climate change. The bills contain provisions for fiscal incentives to developers of renewable energy sources.

--**BOT amendments.** Filed by House Economics Committee Chairman Salceda, HB 5002 seeks to enunciate a clear-cut policy on government support, adhere to best practices on risk allocation, set the reasonable rate of return for solicited or unsolicited or negotiated projects, institutionalize a fair, honest and competitive procurement process, establish a BOT Authority to rationalize the program implementation, and provide penal provisions for violations of specific offenses.

--**Clark SEZ**. A July 2005 Supreme Court decision (appealed by the GRP) cancelled fiscal incentives under which investors located at the Clark SEZ. Corrective bills (HB 4900 and 4901) providing fiscal incentives and extending a tax amnesty to present locators are pending second reading.

--Corporate Recovery Act. This proposal seeks to improve the process of corporate restructuring and bankruptcy by increasing legal options for distressed indebted enterprises. The proposed Corporate Recovery Act offers different means of relief namely Court Rehabilitation, Pre-negotiated Rehabilitation, Fast-Track Rehabilitation, and Dissolution and Liquidation.

--Credit Bureau. Endorsed by the BSP, HB 3819 and SB 1936 seek to create the first centralized credit bureau in the Philippines to address the lack of reliable credit information for both individual and corporate borrowers, including credit card users.

--DICT. Most ASEAN countries have a Ministry of Information Technology. HB 3218 and SB 1795 seek to create the DICT and establish it as the primary agency in charge of promotion and development of integrated and strategic ICT systems and cost-efficient communications facilities and service. As of April 2006, HB 3218 was approved by the House Committee on ICT, while SB 1795 is still in committee.

--**EVAT Amendments: 70% Cap on Creditable Income Tax, 5-Year Amortization.** The EVAT law, fully implemented in early 2006, includes several provisions of concern to the business sector. At issue are the 70% cap on input VAT credits and the 5-year recovery treatment of VAT for the purchase of capital equipment costing above P1 million. Pending with the Ways and Means Committees of both chambers are amendments to the above objectionable provisions. While cautious, the Department of Finance will not oppose amendments if they are revenue neutral.

--**Rationalization of Fiscal Incentives.** Approved by the House in January 2005, HB 3295 seeks to rationalize fiscal and non-fiscal investment incentives, ending incentives that are inefficient and inconsistent with WTO rules. The bill creates a more focused fiscal incentive regime. It remains in the Senate Ways and Means Committee, whose chairman considers the bill too conservative.

--**IPR amendments.** Filed by Rep. Joey Salceda, HB 3308 seeks to modernize the Philippines' copyright protection and enforcement system and fully implement key international copyright agreements.

--**Personal Equity Retirement Account (PERA).** HB 118 and SB 1343, pending in committee in both chambers, seek to create a tax-free individual retirement program similar to the US IRA. PERA accounts can be managed by a BSP-accredited bank or trust company, investment companies, investment houses accredited by the Securities and Exchange Commission, and life insurance and pre-need companies accredited by the Insurance Commission. PERA would strengthen the capital market and provide an investment for remittances of overseas Filipinos.

--**Pre-need Code.** HB 4343 and SB 2169 propose to establish a new regulatory framework for the operation of pre-need companies and to protect plan holders. These measures seek to address the growing problems of the pre-need industry such as the trust fund deficiencies encountered by prominent pre-need companies. The proposed Pre-Need Code mandates the Insurance Commission, not the SEC, to exercise supervise pre-need firms.

--**SPV Extension.** This AmCham priority legislation was approved on third reading by both House in March and are awaiting presidential signature. It extends the Special Purpose Vehicle Law which expired in April 2005. The BSP estimates the extension will enable the banking industry to dispose of P100 billion more of non-performing assets by granting tax exemptions and reduced registration and transfer fees. SPVs acquire non-performing assets at substantial discounts and seek to sell them later for a profit.

--**Anti-Smuggling.** Approved by the House in June 2005, HB 4069 seeks to provide stiffer penalties, both fines and imprisonment, for outright and technical smuggling and other violations of the Tariff and Customs Code. It also calls for the establishment of a special body to curb smuggling. The measure requires advance transmission of inward foreign manifests to allow the Bureau of Customs to verify the value of imported goods.

--**Anti-Terrorism.** HB 4839 (passed April 2006) and SB 2137 enact The Anti-Terrorism Act of 2005 to enhance Philippine capability to meet threats from regional and global terrorism. Both bills define terrorism, establish various mechanisms to prevent terrorism from being committed and set penalties. SB 2137 has been pending on 2nd reading since October 2005 due to concerns over its restrictions on civil liberties. There is long-standing resistance in the Philippines to internal security laws.

--**Tourism.** Filed by Sen. Gordon, SB 2138 proposes to create Tourism Philippines, a corporation consolidating the functions of the Philippine Convention and Visitors Corporation, and the Philippine Tourism Authority, which would also include tourism marketing and promotion sections of the DTI. This bill seeks to encourage investments in new hotels, resorts and other tourism enterprises through tax breaks and efficient governance to create world-class establishments in the most beautifully, historical and culturally significant areas of the country.

STRATEGY/REFORM LEADERS AND ALLIES

--AmCham members and committees, in coordination with selected ICIP allies, will meet and otherwise communicate with the Executive Secretary, appropriate cabinet officers, senior Congressional leaders and committee chairs to urge passage of ICIP priority legislation;

--create media coverage in support of passage of ICIP priority legislation.

REFORM RESULTS

--further liberalize the foreign investment regime to bring needed capital, skills and technology into the country;
--improve the country's image with foreign investors;
--improve the quality of existing laws;
--reform sectors/activities to which new laws apply;
--more investment, jobs and tax revenue.

REFORM CLUSTER 6

SECURITY/POLITICAL STABILITY

PROBLEM DESCRIPTION

Internal security, crime and political instability have deterred both domestic and foreign investment and tourism in the Philippines. Extra-constitutional political maneuvers by the political opposition, military officers and communist and irredentist insurgencies have impeded internal security for three decades, with cross-border terrorism presenting a more recent additional security threat. After several serious incidents of kidnappings and bombings, several Western governments have issued strict travel advisories warning their citizens against visiting the Philippines. Cargo hijackings and other forms of theft and fraud often are a concern for foreign investors and residents. By highlighting security issues, international media coverage of the country makes some potential foreign investors and visitors avoid the Philippines as too risky, although foreign investment and residents have not left the country and the inflow of tourists from within Asian is growing.

The conduct of national elections in 1986 and 2004 involved widespread allegations of fraud and subsequent controversy, the first leading to the ouster of President Marcos and the second to a failed impeachment attempt against President Macapagal-Arroyo and continuing efforts to shorten her term which ends in 2010. In both elections, the counting of votes was very slow and widely seen as corrupt. A project to modernize the COMELEC prior to the 2004 election was marred with charges of fraud and its contract invalidated as improper by the Supreme Court. While voting is generally secret, serious abuses in counting occur from the precinct level and above.

RECOMMENDED REFORM TASKS

--modernize the COMELEC for faster and less controversial election results;

--early completion of a workable GRP-MILF accord.

STRATEGY/REFORM LEADERS AND ALLIES

--meet with former Supreme Court Justice Davide and support appropriate recommendations in his report to PGMA regarding reforms of COMELEC and the political process;

--express support for a cleaner, faster election process, explaining the high cost in the past of political instability resulting from COMELEC's failure to correctly count votes;

--with ICIP partners, express support for a GRP-MILF agreement;

--propose and organize an investment survey visit by the JFC and others to conflict-affected areas following a GRP-MILF agreement.

REFORM RESULTS

--cleaner, faster and less controversial elections;
--increased political stability;
--relaxation of foreign travel advisories;
--greater tourism and foreign investment
--more jobs and tax revenue.

REFORM CLUSTER 7

OTHER

(This is a category for reforms which may arise during the period of ICIP but have not been identified at the time this plan was drafted.)

REFORM CLUSTER 8

SECTOR FOCUS

ICIP also seeks sector-specific reforms to encourage investment in five leading sectors where the Philippines enjoys comparative advantage, global competitiveness and/or unrealized potential. Each sector, recommended reform tasks, reform leaders and allies, and sector reform results are described below.

8A. HEALTH/RETIREMENT

OPPORTUNITY DESCRIPTION

A number of tropical developing countries (e.g. Costa Rica, Mexico, and Thailand) have been successful in hosting retirees from developed countries and a few (India and Thailand) are attracting increasing numbers of visitors seeking inexpensive dental and medical services. Tourism may also be combined with wellness and medical treatment. With demographic aging in developed countries, the growth potential for retirement and medical tourism in tropical countries is considerable.

The Philippine retiree program has enjoyed limited success, while medical tourism is just beginning. With more than 1,200 hospitals and many medical and nursing schools, the country has a considerable health infrastructure, including several modern facilities in Metro Manila. Still, few non-resident foreigners receive treatment in the country. Higher incomes in developed countries have long attracted a significant portion of Filipino health workers to migrate.

Restrictions on foreign ownership of land and colleges and on foreigners practicing medicine are a disincentive to foreign investment in this promising sector.

RECOMMENDED REFORM TASKS

--pass a law to allow foreign doctors to practice at medical and retirement facilities visited by foreigners;

--permit foreign ownership of land used for commercials, industrial and residential purposes;

--develop foreign retirement communities in Central Luzon and Cebu;

--improve transportation infrastructure in Metro Manila and Cebu;

--promote medical tourism and retirement.

8B. INFORMATION AND COMMUNICATIONS TECHNOLOGY

OPPORTUNITY DESCRIPTION

PGMA in March 2006 committed the country to prepare 2 million Philippine workers by 2010 for jobs in the rapidly-growing call center and business process outsourcing sector, up from the 200,000 currently working. While such a ten-fold increase is unrealistically optimistic, the GRP has made a good start by establishing a remedial training scholarship fund for 100,000 ICT near-hires who failed to obtain jobs because of deficient language or IT skills. DTI/PEZA has licensed smaller and smaller areas as IT SEZs to provide new investor incentives at multiple locations. DOLE has consistently granted waivers fro female employees to work at night.

The Philippines is considered a far second to India in the growth of this internet-enabled industry; many new locations in low-cost countries are starting to enter the market, adding to global competitiveness. Nevertheless, the demand for such work to be performed in the Philippines exceeds the supply and will only be met by improvement in the HR skills of the workforce, both short-term and longer term through reversing the decline of education in the country. See Reform Cluster 2 – Education.

RECOMMENDED REFORM TASKS

--see Reform Cluster 1 (Education and English);

--create DICT;

--modernize Labor Code.

8C. MANUFACTURING

OPPORTUNITY DESCRIPTION

The import quotas and high tariffs which long protected Philippine manufacturers have been removed over the last two decades, requiring greater efficiency in order to compete with other ASEAN economies, China and elsewhere and the serious challenge of smuggling. Manufacturing for export has grown sporadically since the 1970s, with electronics and textiles now comprising over 75% of total exports. The Philippines produces 2% of global electronic production but has been unable to grow its share. An industry association roadmap to increase employment to 1 million and exports to $100 billion prepared at GRP request has gone largely unimplemented. Garment exports appear to be barely surviving the end of quota market access. Philippine wages, while never as low as Bangladesh, Cambodia or Vietnam, are competitive with Thailand and increasingly with coastal Chinese provinces. However, labor productivity has stagnated for decades.

RECOMMENDED REFORM TASKS

--reduce costs of doing business (labor, regulatory, transportation, utilities);

--limit minimum wage increases;

--modernize Labor Code;

--allow foreign ownership of commercial, industrial and residential land.

--reduce smuggling and hijacking;

--train more scientists and engineers;

--develop electronics testing and R & D subsectors.

8D. MINING

OPPORTUNITY DESCRIPTION

For more than a century, American firms have been involved in developing Philippine natural resources in mining, petroleum and natural gas, the later involving the largest investment project in Philippine history. A 2004 Supreme Court decision that affirms foreign participation in mining has kindled considerable international interest in several dozen potential projects. Mining has potential to create considerable numbers of jobs and provide the GRP with large royalty income. While the GRP is supportive, there is strong distrust of the mining industry among local communities include Roman Catholic bishops in dioceses where the mining projects are located. Based on widespread abusive environmental practices of extractive and logging mining activities in the past, the bishops remain to be convinced that future projects will benefit local communities and protect the environment. A waste dam overflow at a foreign mining project in Bicol in early 2006 created considerable negative publicity. Other foreign projects in Nueva Ecija and Zamboanga have elicited local protest. MAP has proposed that some of its experienced members work with local communities to improve consultations.

RECOMMENDED REFORM TASKS

--resume the Rapu Rapu mining project with better safeguards and local consultation;

--support the MAP consultation initiative;

--local workers should be trained in mining skills in order to get better jobs;

--provide and discuss information on sound mining practices and the benefits to the Philippines.

8E. TOURISM

OPPORTUNITY DESCRIPTION

The potential for tourism in the Philippines has remained largely unrealized, while neighboring Malaysia, Thailand and Vietnam have experienced dynamic growth. The Philippines holds only one percent of the global tourist market. However, with tourism rising within Asia, the Philippines is experiencing growth in overall tourist arrivals of more than 20%. The job multiplier from tourism is high, with an estimate that one job is created from the spending of every visitor to the country.

While the country offers great natural beauty, good weather, eco-tourism and varied recreational activities, there are major challenges to tourism growth. Poor infrastructure reduces mobility. Hotels, food and service are often below international standards. There are too few international flights and points of entry. English in the hospitality sector is deteriorating and many workers with better skills take overseas jobs. Internal security concerns and negative travel advisories discourage many potential first-time visitors. Foreigners cannot own land for resorts.

RECOMMENDED REFORM TASKS

--improve infrastructure at key tourism areas (e.g. Bicol, Bohol, Cagayan de Oro/Camaguin, Cordilleras, Davao, Palawan, Subic/Clark)

--seek passage of the Tourism Act of 2006 with amendments that encourage foreign investment in tourism and open skies;

--advocate more open skies and discount airlines to increase flights;

--advocate more international flights to destinations outside Central Luzon;

--seek more balanced travel advisories;

--improve ground traffic flow.

)STRATEGY/REFORM LEADERS AND ALLIES (for all five sectors)

--AmCham will partner with other domestic and foreign chambers and business associations to urge implementation of reforms for each of the five sectors;

--a Task Force for each sector led by the industry association will be supported;

--hold breakout sessions to review each sector at the Foreign Investment Workshop;

--Task Forces will be asked to issues semi-annual status assessments.

)SECTOR REFORM RESULTS (for all five sectors)

--growing retiree community;

--increasing number of medical visitors;

--many new ICT jobs;

--expansion of manufacturing investment and new locators;

--large increase in investment in mining;

--large increase in GRP mining royalty revenue;

--growth on tourist arrivals above 3 million;

--significant increase in investment and creation of jobs;

--transfer of technology;

--more direct and indirect tax revenue.

Power Sector Reforms Update

Roundtable Dialogue with Joint Foreign Chambers of Commerce in the Philippines

Department of Energy

31 May 2006

Outline of Presentation

- Privatization
- Wholesale Electricity Spot Market (WESM)
- Open Access
- Power Supply and Demand
- Investment Incentives

Sale of Generation Assets

- Masinloc Plant
  - ✓ Upfront payment for Masinloc deadline is on June 30, 2006
  - ✓ YNN complied with US$14M performance bond

- Calaca Plant
  - ✓ PSALM Board approved the options for the next round of Calaca bid after the failed bidding in April 2006

TransCo Privatization

- Launching of TransCo Privatization through a 25-year Concession Contract on May 30, 2006 while awaiting for the release of ERC approval of the TransCo 2nd Regulatory Rate Application which is expected on June 16, 2006

- Expression of Interest due on July 18, 2006

- Receipt of Bids due on September 27, 2006

Private Sector Participation (PSP) in Off-Grid Areas

- **New Power Provider (NPP)**
  - Improvement in reliability of supply and expansion of service availability
  - Reduction in cost of service and savings in government expenses (less subsidy)
  - 14 First Wave Areas (Based on NP Board Resolution No. 2004-66 dated 24 June 2004)
    - Oriental Mindoro+
    - Occidental Mindoro **
    - Marinduque*
    - Mainland Palawan+
    - Catanduanes +
    - Masbate **
    - Tablas Island*
    - Romblon*
    - Bantayan Island+
    - Camotes Island **
    - Siquijor **
    - Tawi-Tawi **
    - Basilan **
    - Sulu **

+ - ECs which have already responded to DOE Circular enjoining all DUs to supply adequate, affordable, quality and reliable electricity

*** - Pilot ECs under the PSP Design ; ** - Transaction Advisor's due diligence ongoing.**

-The DOE, on 26 January 2004 issued Department Circular-2004-01-001 which prescribes the rules and procedures for Private Sector Participation (PSP) in existing SPUG areas.

-In response to said DOE Circular, NPC through its NP Board Resolution No. 2004-66 declared 14 island grids to form part of the First Wave Areas that will be offered to the private sector. These are: (1) Bantayan Island, (2) Oriental Mindoro, (3) Mainland Palawan, (4) Catanduanes, (5) Marinduque, (6) Tablas, (7) Romblon, (8) Occidental Mindoro, (9) Camotes Island, (10) Masbate, (11) Siquijor, (12) Basilan, (13) Sulu and (14) Tawi-tawi.

Private Sector Participation in Off-Grid Areas

- **Qualified Third Party (QTP)**
  - Issued DOE Circular No. DC 2004-06-006 Prescribing Pre-qualification Requirements for Potential QTPs
  - Issued DOE Circular No. DC 2005-012-011 Participation Guidelines for QTPs
  - DOE Public Notice No. PN 2005-03-001
    - Declaration of Remote and Unviable Areas for QTPs
    - Initial list of 428 barangays declared open for QTPs
  - Request for Expression of Interest for Pilot Communities in the Provinces of Palawan, Eastern Samar, Agusan del Sur and Iloilo-Antique
    - Posted on 20 March 2005
    - 81 barangays in the market packages
    - Five (5) private firms, an NGO and LGU manifested interest

- ***QTP*** refers to the alternative electric service provider authorized to serve remote and unviable areas "waived" by the Distribution Utilities (DUs) pursuant to Section 59 of the EPIRA and the Rule 14 of the EPIRA-Implementing Rules and Regulations (IRR).

- ***Remote and unviable areas*** refer to a geographical area within the franchise area of Distribution Utility (DU) where immediate extension of distribution line is not feasible.

- ***Waived areas*** refer to areas within the franchise area of a DU declared as unviable and cannot be served for any reason by the DUs.

Establishment of the Wholesale Electricity Spot Market (WESM)

- WESM is INSTITUTIONALLY READY …
  - PEM Board was formed and functioning
  - Governance Manual have been developed and approved

- WESM is OPERATIONALLY READY …
  - Market Operator is ready
  - Successfully completed the MMS project on-time and on-budget
  - We now have a functional Locational Marginal Pricing Market Management System
  - System passed international independent auditor review

- INDUSTRY READINESS is ENHANCED
  - Ongoing trainings
  - Advertising Campaign launched

Establishment of the Wholesale Electricity Spot Market (WESM)

- **Regulatory Requirements**
  - Price Determination Methodology (ERC conducted public hearings; PEMC presentation of evidence completed on May 10)
    - **Creation of Joint DOE-ERC-PEMC Committee to establish the Market Mitigating Measures**
  - Market Fees (ERC public hearings completed)
  - Administered Price (ERC public hearings completed)

- **LAUNCHING OF WESM COMMERCIAL OPERATION IN LUZON BY 23 JUNE 2006**

•PRICE DETERMINATION METHODOLOGY (PDM)

The original PDM filing was withdrawn last 11 February by PEMC-MO and re-filed on 22 February 2006. This decision to withdraw and re-file was taken after a thorough review of the recent Supreme Court ruling overturning the ERC approval on the MERALCO's rate increase due to noncompliance of publication requirement as provided in the EPIRA. It just so happened that the PDM was not required by the ERC to cause the publication of the said filing. Although it is arguable whether or not the SC ruling is relevant to the PDM filing, PEMC-MO decided to take all the necessary processes to avoid uncertainties and risk that may arise brought about by procedural noncompliance. It is expected that the ERC will issue its approval of the PDM in June 2006.

STRUCTURE AND LEVEL OF MARKET FEES

The application for the approval of the structure and level of the market fees was filed with the ERC in 11 November 2005. The proceedings are currently ongoing. It is expected that the ERC will issue its approval of the proposed market fees in June 2006.

•ADMINISTERED PRICE DETERMINATIONATION METHODOLOGY

The application for the approval of the administered price determination methodology was filed with the ERC in 05 December 2005. Hearings on the application are currently being conducted by the ERC. It is expected that the ERC will issue its approval of the proposed administered PDM in June 2006.

Open Access and Retail Competition (OARC)

- **Preconditions to the Implementation of OARC**

  - ✓ Establishment of the Wholesale Electricity Spot Market (WESM)
  - ✓ Approval of unbundled transmission and distribution wheeling charges
  - ✓ Initial implementation of cross-subsidy removal
  - ✓ Privatization of at least 70% of the total generating assets of NPC in Luzon and Visayas
  - ✓ Transfer of management and control of at least 70% of energy outputs of IPP contracts to IPP Administrators

Status of the Pre-Conditions:

1) Unbundling of transmission and distribution wheeling charges - Done

2) Initial implementation of cross-subsidy removal - Done

3) WESM : Target commercial operation is 23 June 2006

4) Privatization of at least 70% of the total generating assets of NPC in Luzon and Visayas - Ongoing

5) Transfer of management and control of at least 70% of energy outputs of IPP contracts to IPP Administrators - Ongoing

Power Supply and Demand

As of December 2005

	Installed Capacity (MW)	Dependable Capacity (MW)	Actual Peak Demand (MW)
Luzon	12,128	10,596	6,443
Visayas	1,793	1,506	1,037
Mindanao	1,697	1,492	1,149
Philippines	15,618	13,594	8,629

* *ERC approved reserve margin is 23.4 % for Luzon and Visayas and 21% for Mindanao*

Projected System Peak Demand Growth
(PDP 2006-2014)

Grid	Ave. Annual Growth Rate	Critical Period
Luzon	4.3%	2010 - 2011
Visayas	6.2%	2008 - 2009
Mindanao	6.4%	2006 - 2007
Philippines	4.8%	

PDP 2006 Update

- Projections based on the estimated power supply requirements of the distribution utilities and directly-connected customers of NPC

- Critical period may happen later than indicated if the consumers will respond to the government's efforts of promoting demand-side management such as time-of use rates, not only in the generation level but in the distribution level

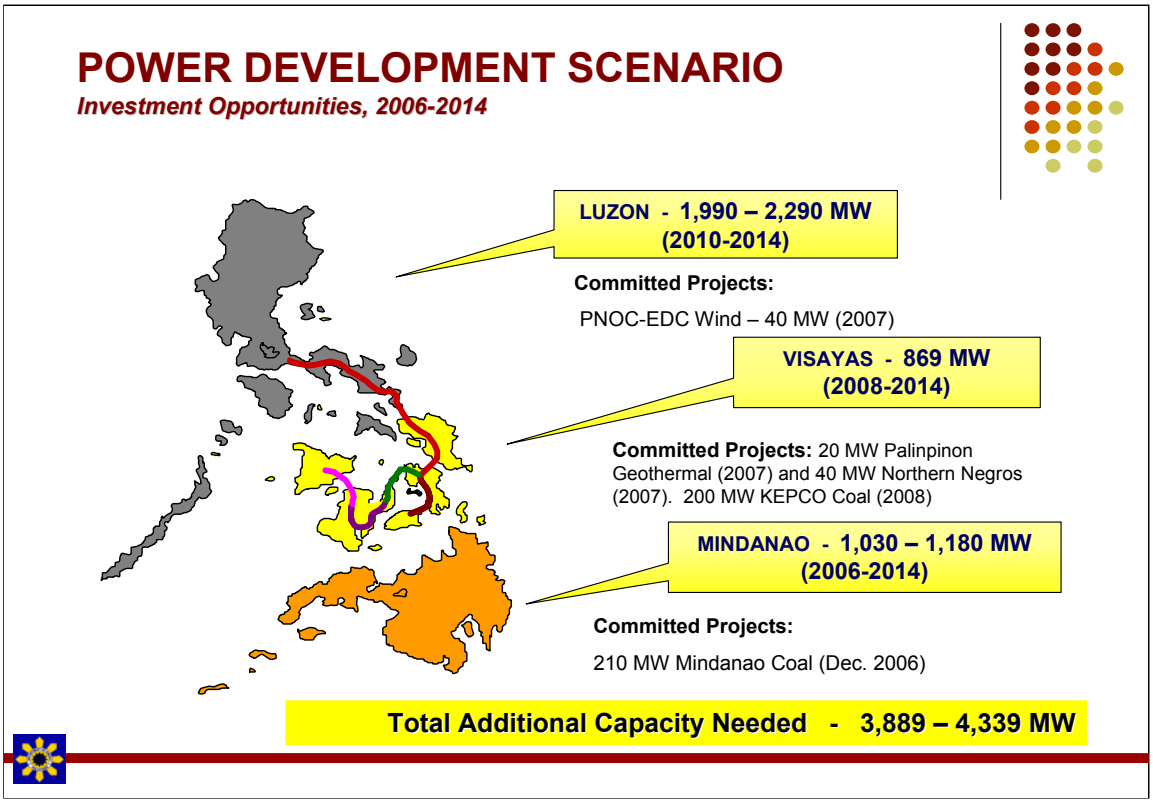
The DOE would need to continuously work towards ensuring availability of capacity to meet the growing demand for power.

The demand forecasts are based on the demand projections of the distribution utilities and the directly connected customers of NPC. These excludes current demand of those not connected to the main grid such as the SPUG areas, self-generating facilities, generating facilities in special economic zones not connected to TRANSCO.

The demand growth in Luzon is largely influenced by MERALCO's requirement. The grid is expected to grow at an annual average of 4.3 %. The critical period for the Luzon grid is 2010 but this can be deferred further if the consumers will respond to the government's effort of promoting demand side management, particularly on the implementation of time of use rates, not only at the generation level but also at the distribution level. This is also with the assumption that the transmission line projects to address the constraints or congestions in South Luzon (Batangas Transmission Reinforcement Projects, Luzon Transmission Line Upgrading Projects,-1, Binan-Sucat 230 kV T/L Project) will be completed as scheduled under the approved US$850 Million CAPEX of TransCo. Otherwise, critical period may be earlier than 2010.

Demand in Visayas and Mindanao are expected to grow relatively faster at 6.2% and 6.5% respectively. Thus, the critical years will start in 2008 and 2006, respectively.

(Details of the additional capacity for Luzon, Visayas and Mindanao are in the succeeding slides)



In the PDP 2006 Update, capacity additions are presented in a range which are simulated based on the DOE demand forecast as the reference case and the TRANSCO or NPC demand forecasts providing the high scenarios.

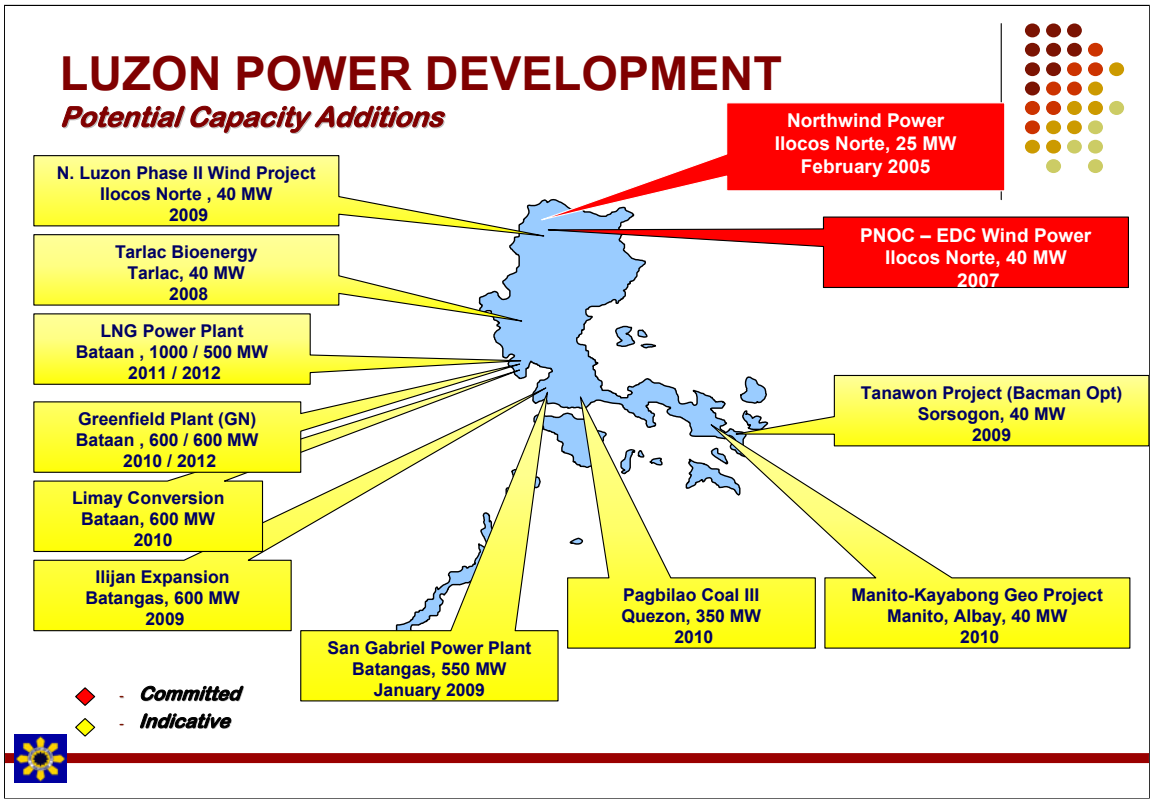
For Luzon, the grid requires a cumulative capacity of 1,990 MW to 2,290 MW from 2010 to 2014. This includes the 65 MW wind power projects and the following indicative plants:

Year	Plant	Capacity
2010 -	Peaking Plant	150 MW
2011 -	Peaking Plant	150 MW
	Midrange Plant	300 MW
2012 -	Peaking Plant	150 MW
	Midrange Plant	300 MW
2013 -	Midrange Plant	600 MW
2014 -	Midrange Plant	300 MW

The Visayas grid requires 869 MW which include the 60 MW geothermal projects in Negros in 2007, the 200 MW KEPCO-Salcon Combustible Fluidized Bed Coal Fired Power Plant in Naga, Cebu (2008) and the following indicative plants:

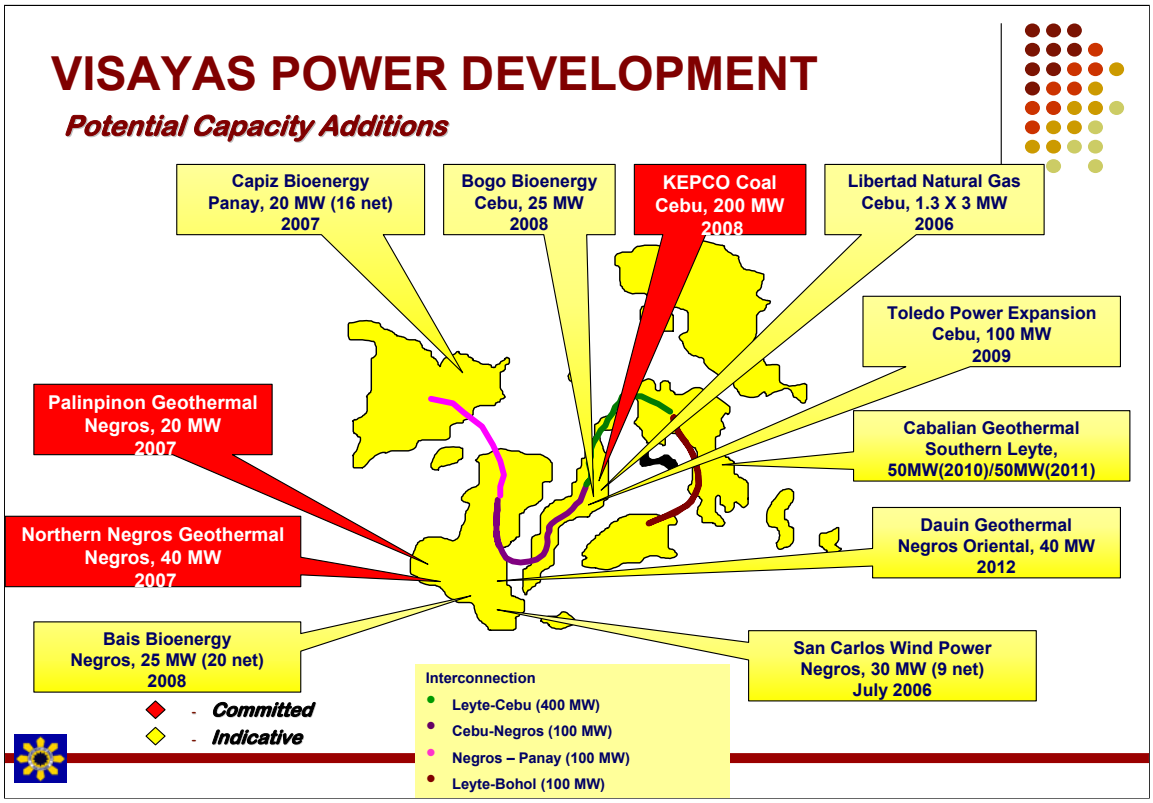
2011 -	Peaking Plant	200 MW
2012 -	Peaking Plant	100 MW
2013 -	Peaking Plant	150 MW
2014 -	Peaking Plant	50 MW
	Baseload Plant	100 MW

(The total capacity requirement for Visayas grid is originally 980 MW, but after taking into account the actual



To fill the power supply and demand gaps in the next ten years in Luzon, power producers have indicated their intention to put up additional capacity. These projects include expansion of existing coal (Pagbilao), natural gas (Ilijan, San Gabriel of First Gas) and geothermal (Bacman, Manito-Kayabong) plants and putting up of greenfield plants (LNG, coal) and supply from renewable energy (wind, bioenergy).

The continued high energy prices and the aggressive promotion of energy conservation program will have a downward impact on the country's electricity demand. The investors have to take these into consideration in their business development strategy. On the other hand, the government will continue to pursue reforms to have a more efficient electric power industry through the promotion of TOU rates.



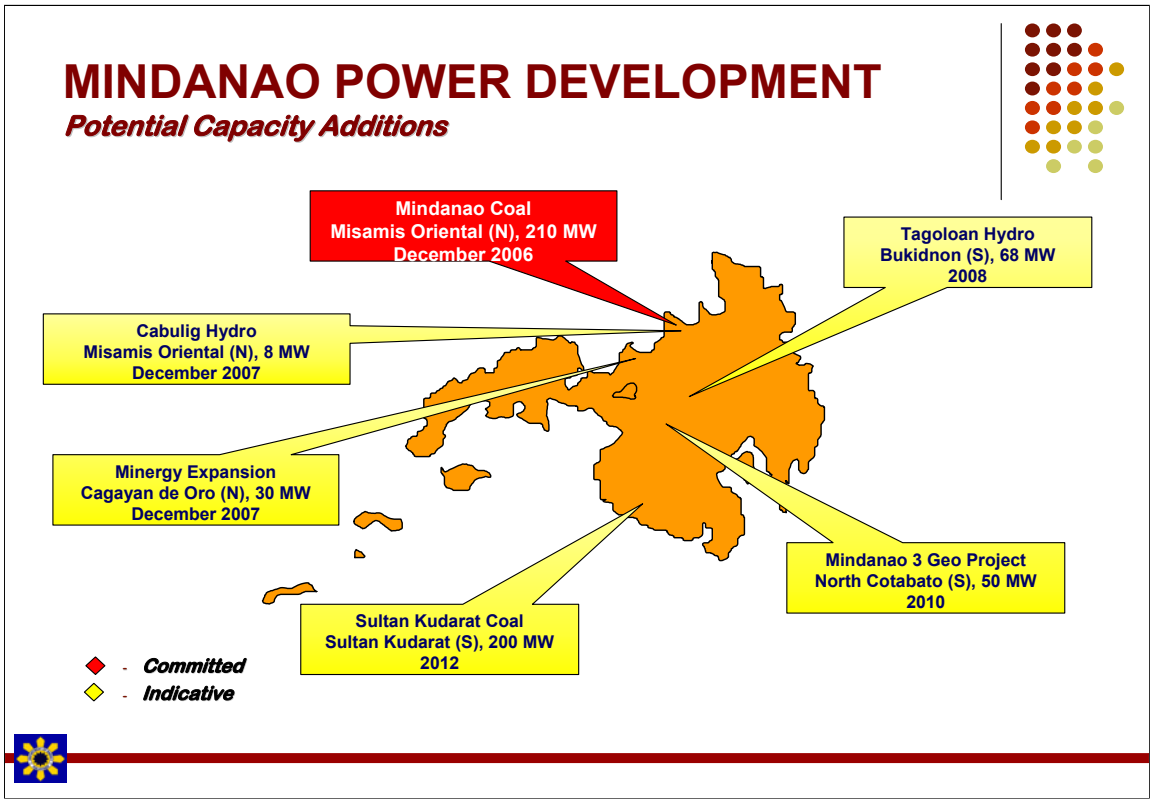
To address the required capacity additions in Visayas:

-projects have been put in place in 2005 such as the transfer of Pinamucan Diesel Power Plant from Luzon to Dingle, Iloilo, 3.4 MW Diesel Plant in Guimaras, Uprating of Leyte-Cebu interconnection from 200 MW to 400 MW

-projects are also committed to be commissioned by 2007: 20 MW Palinpinon Geothermal and 40 MW Northern Negros.

-200 MW KEPCO-Salcon coal-fired power plant in Naga, Ceby expected to be onstream by 2008

-Other possible projects are mostly renewable energy projects (Cabalian Geothermal (total of 90 MW), 40 MW Dauin Geothermal, Bioenergy in Capiz, Bais and Bogo), San Carlos Wind Power); another project is Libertad Natural Gas (3.9 MW)



In Mindanao, initial indication is the development of indigenous resources like hydro (8 MW Cabulig Hydro, 68 MW Tagoloan Hydro), coal (Sultan Kudarat Coal) and geothermal (Mt. Apo Expansion).

Investments are encouraged and promoted in the areas of resource development and putting up of generating facilities.

The government has also prepared some other measures and alternative courses of action, to address the capacity imbalance. These measures include :

-construction of additional power plants by private investors

-introduce time-of-use rates for Distribution Utilities to optimize capacity utilization

-completion of transmission projects needed to relieve network congestions and allow entry of new generation capacities.

Existing Incentives

- **EO 226 Omnibus Investment Code**
  - **Fiscal Incentives**
    A. Income Tax Holiday (ITH)
    B. Exemption from taxes and duties on imported spare parts
    C. Exemption from wharfage dues and export tax, duty, impost and fees
    D. Modified duty rate for capital equipment by virtue of EO 313
    E. Tax exemption on breeding stocks and genetic materials
    F. Tax credits
    G. Additional Deductions from Taxable Income

  - **Non-Fiscal Incentives**
    A. Employment of Foreign Nationals
    B. Simplification of customs procedures
    C. Importation of consigned equipment
    D. The privilege to operate a bonded manufacturing/trading warehouse subject to customs rules & regulations

THANK YOU

www.doe.gov.ph

Appendix 8

Power Roundtable
31 May 2006, 10:00 a.m.

Attendees

Total: 33

DoE (10)
1. Sec. Raphael P.M. Lotilla – Department of Energy (DOE)
2. Usec. Melinda L. Ocampo – Department of Energy (DOE)
3. Pres. Cyril C. Del Callar - National Power Corporation (NPC)
4. Pres. Lasse A. Holopainen - Philippine Electricity Market Corporation (PEMC)
5. Pres. Alan T. Ortiz - National Transmission Corporation (Transco)
6. _____- Power Sector Assets and Liabilities Management Corporation (PSALM)
7. _____- Energy Regulatory Commission (ERC)
8. Ms. Ester R. Guerzon – Philippine National Oil Company - Energy Development Corporation (PNOC - EDC)
9. Mr. Francis M. Dolor - Philippine National Oil Company - Energy Development Corporation (PNOC - EDC)
10. Mr. Erudito S. Recio - National Oil Company - Energy Development Corporation (PNOC - EDC)

AmCham: (5)
1. John Forbes, AmCham Director/Treasurer
2. Hank Tomlinson, Asset Manager, Chevron Malampaya LLC
3. Thomas Sliman, EVP for Operations, Mirant
4. Dan Chalmers, President, GNPower
5. Robert Sears

ANZCham: (3)
1. Michael Templeton
2. Phil Naughton
3. Peter Wallace

Canadian Chamber: (2)
1. Gerry Garcia, Managing Director SNC Lavelin
2. Sean Georget, Executive Director

ECCP: (5)
1. Tertius Vermeulen, Siemens
2. Hubert d'Aboville, PAMATEC
3. Henry Schumacher, ECCP
4. Andreas Rubin, STEAG
5. Marcelo Figueroa, British Gas

JAPCham: (3)

1. Mr. Shinsuke Ike, President
2. Mr. Hiroshi Yoshitsugu, Director
3. Mr. Nobuo Fujii, Counsellor

KorCham: (4)

1. Woo Hyun Hong – President
2. David Lee – Director
3. Sang Rok Kim - KEPCO Philippines
4. Atty. Guillermo Dabbay, Jr.– KEPCO Philippines

ADB: (1)

1. Yongping Zhai

JFC Meeting with the Honorable Chief Justice Reynato S. Puno of the Supreme Court of the Republic of the Philippines 19 February 2007

PARTICIPANTS:

Chief Justice Reynato S. Puno

Roger Dallas, President
Robert M. Sears, Executive Director
The American Chamber of Commerce of the Philippines, Inc. (AMCHAM)

Claudine T. David, Executive Director
Atty. Romela Bengzon, Director
Australian-New Zealand Chamber of Commerce Philippines, Inc. (ANZCHAM)

Stewart Hall, President
Canadian Chamber of Commerce of the Philippines, Inc. (CANCHAM)

Henry J. Schumacher, EVP
European Chamber of Commerce of the Philippines, Inc. (ECCP)

Nobuo Fujii, Counsellor
Hiroshi Ouchi, Secretary General
The Japanese Chamber of Commerce and Industry of the Philippines, Inc.

Youn J. Baek, Director
Korean Chamber of Commerce of the Philippines, Inc. (KOCHAM)

Shameem Qurashi, President
Atty. Mendy Mendiola, Executive Director
Philippine Association of Multinational Companies' Regional Headquarters, Inc. (PAMURI)

Atty. Luis M.C. Pañgulayan, Managing Partner
Policarpio Pañgulayan & Azura Law Office

The meeting was called to order at 3:35 p.m. at the Conference Room of the First Division, 3rd Floor of the Supreme Court.

R. Dallas, on behalf of the Joint Foreign Chambers, expressed their appreciation to Chief Justice Puno for inviting the Joint Foreign Chambers to have a dialogue to discuss concerns of the foreign business community and which affect the business decisions by existing and potential investors.

Labor Cases and Related Concerns

R. Dallas raised the concern of the chambers on labor cases, the slow processing of these cases and the often one-sided outcome of these cases that many of the members have encountered thus complicating doing business in the Philippines.

Chief Justice Puno acknowledged the problems about labor cases but as far as the Supreme Court is concerned they have no control over the immediate disposition of labor cases since they are under the jurisdiction of the National Labor Relations Commission. The chambers raised the issue of cases being elevated to the Court of Appeals and then to the Supreme Court which clog the system and delay judgment 'by design'. The Chief Justice mentioned that all decisions have to be appealed to the Court of Appeals since a filtering process should occur at the Court of Appeals level. He mentioned that the Supreme Court is very strict when it comes to entertaining the review of decisions of labor cases.

Outsourcing / Job Contracting

Another concern that the JFC brought forward through R. Sears is the issue on outsourcing. Many of the member companies have had some encounters with the law in regard to outsourcing. This in turn has affected possible foreign investments coming into the Philippines. The JFC would like to request for the courts' assistance in clarifying the rules on outsourcing.

Chief Justice Puno observed that outsourcing is an emerging industry. There is a need to develop laws and implementing rules and regulations that will regulate this emerging industry. Particularly, there is a need for the Labor Code to be revised in order to deal with the emergence of this new enterprise. A similar concern is also found in labor only contracting

cases. There is a need to come up with new rules to adapt with the changing conditions. It is clear that new developments as in the case of emerging industries dictate changes in our laws on labor. This is a matter which requires legislation. It is the Legislative Branch of Government which should immediately deal with this changing condition.

Sanctity of Contracts

Using the controversial NAIA Terminal 3 as an example, the chambers mentioned that foreign investors are more and more reluctant to invest in the Philippines, not knowing whether agreements and contracts signed with government are valid or not, as contracts appear to be final only once the Supreme Court has ruled on them.

Chief Justice Puno reminded the body that the judiciary can only act on matters which are brought to its attention. The Judiciary has limited powers in that sense. All legal issues involving validity of contracts can only be resolved with finality once a case involving a contract is decided by the Supreme Court. What can be done is to shorten the period of time to appeal a decision involving such. Again, the period of prescription is one which is a matter of law. There is a need to revise existing laws on prescription of action. This is a matter which requires the action of the Legislative Department and not the Judiciary.

Slow Dispensation of Justice/ Mediation / Arbitration

Being faced with a litigious culture in the Philippines and the slow dispensation of cases, the business community is of the opinion that more emphasis has to be put on mediation and arbitration. In this context, however, it is essential that 'judgments' by mediators or arbitrators must be executed without having to go to court.

Chief Justice Puno agreed with the observation of the body. He pointed out that we have an existing law on arbitration. However, arbitral awards in the Philippines, can still be challenged in the courts. Again, there is a need for the legislature to revise the existing laws. The new law must keep the Government out of the arbitration process. The Chief Justice also mentioned that they are revising the provisions of the Rules of Court involving foreign judgments. There are only about two (2) provisions in the Rules of Court dealing with the enforcement of foreign decisions. He requested the chambers to share any information that they may have on

rules on the execution of foreign judgments in their countries. It was also agreed that the JFC will prepare a position paper of the proposed rules regarding execution of foreign judgments.

On mediation, H. Schumacher suggested that the chambers should play a direct role in mediation by setting up mediation units. This will help the member companies avoid the high cost of going to court. Chief Justice Puno encouraged this and agreed that this will be a good option.

R. Dallas mentioned that there have been many cases that have been resolved through mediation and agreed that the chambers should look into possible mediation.

Intellectual Property Rights

Intellectual Property Rights has been a gray area in doing business in the Philippines. The JFC again emphasized the concern of many of the foreign investors on the protection of Intellectual Property Rights. It was confirmed by Chief Justice Puno that there are already special IPR courts provided with personnel understanding IPR issues.

"Friends of the Court"

As many cases handled by the Supreme Court are business / economic in nature, the JFC suggested that the "Friends of Court" be used by the Supreme Court for cases that they felt may need specific expertise.

Chief Justice Puno, agreed that they will continue to use "Friends of the Court" where there is lack of expertise internally and this will also be dependent on the nature of specific cases.

Sheriffs

Given the many encounters of members with Sheriffs that seem to be bending the rules or acting with undue haste, the JFC would like to call the attention of the Chief Justice on such misconduct of the Sheriffs. The Courts have required that the Sheriffs take a refresher course on the rules and guidelines of the law. Chief Justice Puno has also instructed that a close watch be kept on the Sheriffs.

Local Government Units

In the same context, the members raised the problem of LGUs interpreting the rules and regulation or issuing local rules that substantially differ from the national rules and regulations. Chief Justice Puno was aware of this and suggested to meet the lawmakers to create a law that will streamline the rules nationwide.

Oversight Committees

Chief Justice Puno advised the JFC that he has created several oversight committees that will handle special and priority cases. Different committees have been created to handle business cases and economic cases with high impact as well as a committee on progress of cases involving heinous crimes. There will also be a committee to deal with the Integrated Bar of the Philippines, to establish stronger relations with them since they are an essential part of the court system.

It was also mentioned that the judges are now required to regularly take refresher courses in the Philippine Judicial Academy and this includes courses in law and economics.

Political Killings

Political killings is one of the main concerns of the JFC and was raised at the meeting to possibly get some feedback on where the court stands on this matter. Chief Justice Puno agreed on the importance of this issue and advised that he is in the midst of preparing an order to set up special courts to address this specific matter. They are now in the process of clarifying and defining what type of cases should fall under these special courts.

Both the JFC and the Supreme Court are waiting for the Melo Commission Report.

Temporary Restraining Orders (TRO)

The JFC congratulated Chief Justice Puno on the court's ruling that TROs are not allowed on infrastructure projects. Chief Justice Puno informed the

JFC that he has requested for an inventory of all issued TROs and search warrants of lower courts. He has also instructed close monitoring of the issuance of TROs.

Special Courts on Infrastructure Projects

Atty. Luis M.C. Pañgulayan noted that most of the problems raised by the JFC members require Legislative action. He requested the Supreme Court to look on the feasibility of setting up Special Courts to handle cases with high economic impact to the country. These are cases involving legal challenges on the validity of bid awards in infrastructure projects which are being funded by international funding institutions like the IMF, the World Bank, the ADB or the KFW. These are the cases involving projects for infrastructure developments arising from treaties and international or executive agreements. These are also cases involving any major labor foreign investments in any sector of our economy. Atty. Luis M.C. Pañgulayan observed that Special Courts have already been set-up for intellectual property cases and family law cases. In the light of the lacking awareness on the need for Judges to study the effects on law on economic, Special Courts on cases directly affecting the developments and progress of our country must be established.

Chief Justice Puno agreed to look into the possibility of establishing such Special Courts and has requested that a position paper be submitted by the JFC on this request. S. Hall and H. Schumacher agreed to discuss this also at the PDF forum in Cebu in early March and draft a position paper. They will coordinate and review this with Atty. Pañgulayan.

Chief Justice Puno thanked the JFC for their input and would like to continue the dialogue on a quarterly basis to provide updates and follow up on issues and concerns raised.

The meeting ended at 4:45 p.m.

_____

Appendix 12

PROMOTING ENGLISH PROFICIENCY

throughout the country

★ - Location of Computerized English Language Centers

PEP PROJECT PARTNERS

PROMOTING ENGLISH PROFICIENCY

FOUNDING MEMBERS

American Chamber of Commerce of the Philippines
Hopkins International Partners (TOEIC)
Interactive Language Solutions (DynEd)
Knowledge Institute
Makati Business Club
(Philippines-US Business Council)
Sun Microsystems Philippines
US-ASEAN Business Council

ASSOCIATIONS / FOUNDATIONS/ GOVERNMENT INSTITUTIONS

Australian-New Zealand Chamber of Commerce
British Council
Business Processing Association of the Philippines
Canadian Chamber of Commerce of the Philippines
Coca-Cola Foundation
Commission on Information and Communications Technology
Cebu Educational Development Foundation For Information Technology
Commission on Higher Education
Department of Education
Department of Trade and Industry
European Chamber of Commerce of the Philippines
Information Technology Association of the Philippines
Information Technology Foundation of the Philippines
Japanese Chamber of Commerce & Industry of the Philippines
Korean Chamber of Commerce of the Philippines
Management Association of the Philippines
Personnel Management Association of the Philippines
Philippine Association of Multinational Companies and Regional Headquarters, Inc.
Ramon Magsaysay Jr. Scholarship Foundation
Technical Education and Skills Development Authority
USAID GEM Project

DONOR PARTNERS

Accenture
Call Center Academy
Coca Cola Far East Limited
DynEd International, Inc.
EON, Inc.: The Stakeholder Relations Firm
Philip Morris Philippines Manufacturing Inc. (PMPMI)
Pilipinas Shell Foundation
SPI Technologies
TOEIC - Test of English for International Communication

CORPORATE PARTNERS

Abbott Laboratories
Baker Consulting
Bank of the Philippine Islands (BPI)
CalEnergy International
Caltex Asia Limited
CB Richard Ellis Philippines
Connect 2
Dipolog Computer Systems, Inc.
ePLDT Ventus
E-World Resources, Inc.
Federal Express Corporation
Ford Motors Philippines
Itochu Corporation - Manila Branch
www.itPros.ph
John Clements Consultants, Inc.
JobsDB
People Support
Philamlife
PHINMA
Q-interaction
Quezon Power Philippines
Solid Cement Philippines (CEMEX)
Supply Oil Field Services, Inc.
Sycip Gorres & Velayo Company (SGV)
The Peninsula Manila
Touch Asia

EDUCATIONAL PARTNERS

Department of English, Ateneo de Manila University
Adventist College of the Philippines
Assumption College
Central Colleges of the Philippines
Christian Colleges of Tanauan
Colegio de Dagupan
DMMC Institute of Health Sciences
Emilio Aguinaldo College – Manila
Far Eastern University
Global City Innovative College
International Academy of Management & Economics (I-AME)
Imus Computer College
Lipa City Colleges
Lyceum of Batangas
Mindanao Polytechnic State College
Notre Dame University – Cotabato
Philippine Normal University (PNU)
Philippine Women's University (PWU) - Taft
Philippine Women's University (PWU) - Indiana
Philippine Women's University (PWU) - Quezon City
Philippine Women's University (PWU) – Davao
Sagay National High School
St. Paul University Manila
STI College Sta. Rosa
STI Delos Santos School of Health Professions
TESDA – Batangas
University of Southern Philippines
Universidad de Zamboanga
University of Mindanao
Western Mindanao State University
Zamora Elementary School Manila

NEWS RELEASE

APPENDIX 13

UPS Foundation Grants $50,000 to Promote English Proficiency in Public Schools

MANILA (24 January 2007) – UPS Philippines will help improve English skills among students and teachers in Metro Manila and Pampanga through a $50,000 grant to the Promoting English Proficiency (PEP) project, an initiative founded by the American Chamber of Commerce of the Philippines, Inc. (AmCham) with the Makati Business Club and its expanding group of partners.

The grant project, formalized today through a check turnover at the AmCham General Membership Meeting, will establish Computerized English Language Centers (CELCs) in five public colleges and high schools in Metro Manila and Pampanga.

UPS Supply Chain Solutions Country Manager Mark Khambatta and Country HR Manager Rolando Nierva presented the check to Roger Dallas, AmCham President, Robert Sears, AmCham Executive Director and AmCham Foundation Treasurer and Trustee, John D. Forbes, PEP co-chair for AmCham, and JoAnne Loquellano, PEP Project Director. Also present was Tim Brennan, Deputy Commercial Manager from the US Embassy.

Representing UPS were John Queng, Business Development Manager; SB Lim, Senior Finance Manager; Maya Guilatco, Assistant HR Manager; Vanessa Pascual, HR Manager Supply Chain Solutions; Evelyn Abreu, Ocean Freight Manager Supply Chain Solutions and Jonel Guittap, Marketing Supervisor.

"UPS firmly believes in giving back to the community where we work and live in. As we enter our centennial year, we will continue the legacy of helping the less fortunate in the Philippines. UPS is excited and looks forward to working with AmCham in fighting poverty and improving the competitiveness of the Filipino workforce," says Mr. Khambatta.

A survey commissioned by PEP and conducted by the Social Weather Stations in March 2006 revealed an alarming deterioration of English skills in the Philippines since 1993. The largest deterioration was in the self-assessment of ability to speak English, which fell from 54% in September 2000 to 32% in March 2006, a deterioration of 41% in six years.

"The lack of English skills has repeatedly been identified as a barrier to getting good jobs," related Roger Dallas, president of the American Chamber of Commerce. "This significant contribution by UPS to PEP will help meet the burgeoning demand for qualified Filipino workers in various industries," added John D. Forbes, PEP co-chair for AmCham.

Under the UPS-PEP Project, DynEd courseware, a software developed by DynEd International of California, the world's leading developer of English Language Learning solutions, will be installed in dedicated laboratories of 20 computers.

The CELCs will enable focused training for 2,000 graduating students in 2008 and teachers over one year in fields where English skills are considered important, such as Accounting and Financial Services, Health Services, Cyberservices and Tourism. About 8,000 undergraduate college and high school students will also benefit from presentation-style DynEd lessons.

The UPS-PEP Project also provides for 250 teachers and UPS volunteers to take the Test of English for International Communication (TOEIC), an internationally-recognized certification standard used by employers in several countries to assess the English proficiency skills of their employees.

UPS' involvement is made possible through the auspices of the UPS Foundation, the charitable arm of UPS. Since its inception, the Foundation has consistently supported its three main areas of focus: promoting volunteerism, combating hunger and reducing illiteracy.

The PEP project is dedicated to a world-class Filipino workforce with English proficiency meeting high international standards through a three-point program of advocacy, refresher training and certification. To date, PEP partners have established 25 CELCs throughout the country.

For more information on PEP, e-mail the Secretariat at pep@sun.com.ph or call (02)885-7867 ext. 485.

MEDIA CONTACT:
Jet Damazo
(02) 885-7867 ext. 485
0917-5770214
jet.damazo@gmail.com

PROMOTING ENGLISH PROFICIENCY PROJECT
32/F Philamlife Tower, Sun Microsystems Office,
8767 Paseo de Roxas, Makati City
www.promote-english.org
pep@sun.com.ph

NEWS RELEASE

APPENDIX 14

Citigroup Donates to Promote English Proficiency Program for Metro Manila Schools

MANILA (7 February 2007) – Citigroup will help improve English skills among students and teachers in Metro Manila through a grant to the Promoting English Proficiency (PEP) project, an initiative founded by the American Chamber of Commerce of the Philippines, Inc. (AmCham) with the Makati Business Club and its expanding group of partners.

Citigroup and AmCham today signed a Memorandum of Agreement for the grant project, which will establish Computerized English Language Centers (CELCs) in two Metro Manila high schools to which Citigroup has previously donated computers.

Under the Citigroup-PEP project, the CELCs will be equipped with DynEd Interactive Language software licenses to train about 1,200 public high school students and teachers. DynEd International is the world's leading developer of English Language Learning solutions. The grant will also fund the production of posters to boost PEP's advocacy campaign.

Citigroup Country Officer Sanjiv Vohra, AmCham President Roger Dallas, and AmCham Foundation Treasurer Robert Sears signed the agreement.

Witnessing the signing were Lillibeth Fajardo, Citigroup Director for Country Corporate Affairs; Mai Gacilo-Sangalang, Citigroup Corporate Affairs Manager; John D. Forbes, PEP co-chair; Bambina Buenaventura, Interactive Language Solutions President (a PEP training partner); and Jo-Anne Loquellano, PEP Project Director.

"The PEP program perfectly complements Citigroup's goal of enhancing the Filipino youth's education and making them more competitive in the global workforce by increasing their English proficiency. We are happy and proud to be a partner of AMCHAM in this advocacy campaign," said Mr. Vohra.

A survey commissioned by PEP and conducted by the Social Weather Stations in March 2006 revealed an alarming deterioration of English skills in the Philippines since 1993. The largest deterioration was in the self-assessment of ability to speak English, which fell from 54% in September 2000 to 32% in March 2006, a deterioration of 41% in six years.

"This partnership enables PEP to extend its reach to earlier years and complements ongoing efforts to retrain teachers and college students," added Mr. Dallas.

The PEP project is dedicated to a world-class Filipino workforce with English proficiency meeting high international standards through a three-part program of advocacy, refresher training and certification. To date, PEP partners have established 25 CELCs throughout the country operating approximately 500 computers with DynEd software.

For more information on PEP, e-mail the Secretariat at pep@sun.com.ph or call (02)885-7867 ext. 485.

MEDIA CONTACT:
Jet Damazo
885-7867 ext. 485
pep@sun.com.ph

PROMOTING ENGLISH PROFICIENCY PROJECT
32/F Philamlife Tower, Sun Microsystems Office,
8767 Paseo de Roxas, Makati City
www.promote-english.org

18 April 2006

March 2006 Social Weather Survey: National Proficiency In English Declines

Social Weather Stations

Filipinos' self-assessed proficiency in the English language has declined over the past twelve years, according to the March 2006 Social Weather Survey, compared to earlier SWS surveys in December 1993 and September 2000.

March 2006 results show a decline in all aspects of English proficiency, most notably on the ability to speak English, compared to December 1993 and September 2000 results.

About two-thirds of Filipino adults (65%) say they understand spoken English; another 65% say they read English; about half (48%) say they write English; about a third (32%) say they speak English; a fourth (27%) say they think in English; while 14% say they are not competent in any way when it comes to the English language. [*Chart 1*]

In September 2000, three-fourths of Filipino adults (77%) said they understand spoken English; three-fourths (76%) also said they read English; three out of five (61%) said they write English; more than half (54%) said they speak English; two-fifths (44%) said they think in English; while 7% said they are not competent in any way when it comes to the English language.

Back in December 1993, about three-fourths of Filipino adults (74%) said they understand spoken English; about the same proportion (73%) also said they read English; about three out of five (59%) said they write English; more than half (56%) said they speak English; two-fifths (42%) said they think in English; while 7% said they are not competent in any way when it comes to the English language.

In the recent survey, self-assessed English proficiency is higher in the National Capital Region than other areas, in urban than rural areas, among upper than lower classes, among the younger than older age groups, and among those with higher education. [*Tables 1a to 1c*]

Personal usage of English slightly declined

Personal usage of the English language slightly declined in March 2006 from September 2000. [*Chart 2*]

In March 2006, 5% of Filipino adults say they make full use of the English language; a third (35%) say they make fair use of the English language; a fourth (27%) say they make partial use of the English language; about a fifth (19%) say they make almost no use of the English language; while 14% said they are not competent in any way when it comes to the English language.

In September 2000, 7% of Filipino adults said they make full use of the English language; two-fifths (40%) said they make fair use of the English language; slightly over a third (36%) said they make partial use of the English language; a tenth (10%) said they make almost no use of the English language; while 7% said they are not competent in any way when it comes to the English language.

Personal usage of the English language is greater in the National Capital Region and in the Visayas than other areas, in urban than rural areas, among upper than lower classes, among the younger than older age groups, and among those with higher education. [*Tables 2a to 2c*]

Majority agree with the statement: "Developing good English communication skills open better job opportunities for me."

The March 2006 survey found 68% who agree (42% strongly agree + 26% somewhat agree) that developing good English communication skills open better job opportunities for them, versus only 6% who disagree (5% somewhat disagree + 1% strongly disagree), for a high net agreement of +61 at the national level. Twelve percent are undecided about the matter, while 14% said they are not competent in any way when it comes to the English language. [*Table 3a*]

Net agreement is higher in the NCR and Balance Luzon than other areas, in urban than rural areas, among upper than lower classes, and among those with higher education. [*Tables 3a to 3c*]

Survey Background

The Social Weather Survey for the First Quarter of 2006 was conducted during March 8-14, 2006 and used face-to-face interviews of 1,200 adults divided into random samples of 300 each in Metro Manila, the Balance of Luzon, Visayas, and Mindanao (sampling error margins of ±3% for national percentages and ±6% for area percentages).

The items described in this release were commissioned by the Promoting English Proficiency (PEP) Project (www.promote-english.org), an initiative led by the American Chamber of Commerce of the Philippines and the Makati Business Club, with funding from Philip Morris Philippines Manufacturing, Inc. (PMPMI). The additional question is courtesy of the European Chamber of Commerce of the Philippines and EON The Stakeholder Relations Firm's English is Cool campaign (www.english-is-cool.org) co-sponsored by members of the Joint Foreign Chambers of Commerce, namely, AmCham, Australian-New Zealand Chamber of Commerce (ANZCHAM), Canadian Chamber of Commerce (CanCham), ECCP, Japanese Chamber of Commerce and Industry (JCCIPI), and the Philippine Association of Multinational Companies and Regional Headquarters, Inc. (PAMURI).

Initiatives like the PEP and English is Cool generate awareness and support for English language use. PEP's main project components target the workforce and teachers through an information and advocacy program, computer-based English language training, and testing and certification according to international standards. English is Cool focuses on popularization of English among the youth. The quarterly Social Weather Surveys are supported by subscribers, who have no proprietary rights over the data.

For inquiries on the PEP project, please contact the PEP Secretariat through tel. no. 885-7867 ext. 485 or e-mail pep@sun.com.ph. Inquiries on the English is Cool campaign can be coursed through the ECCP office at 759-6680 or through e-mail at info@english-is-cool.org.

#

Chart 1

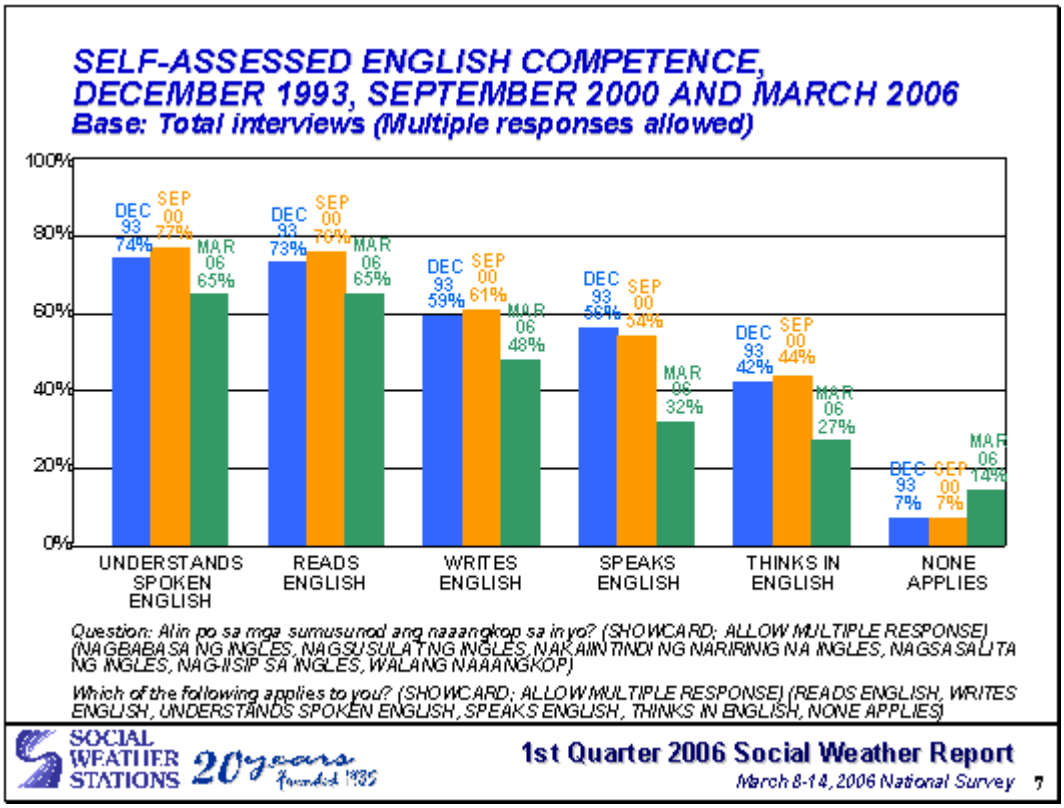


Table 1a

SELF-ASSESSED ENGLISH COMPETENCE, BY AREA, LOCALE AND CLASS, MARCH 2006
Base: Total interviews (Multiple responses allowed)

	Understands Spoken English	Reads English	Writes English	Speaks English	Thinks in English	None Applies
RP	65 %	65 %	48 %	32 %	27 %	14 %
NCR	87	71	60	49	37	4
Balance Luzon	64	53	36	28	23	17
Visayas	68	79	62	35	40	7
Mindanao	51	71	51	27	17	21
Urban	73	67	52	37	31	10
Rural	50	61	41	24	20	22
ABC	88	77	64	47	46	4
D	68	68	50	34	29	12
E	52	54	40	24	18	23

Q115. Alin po sa mga sumusunod ang naaangkop sa inyo? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (NAGBABASA NG INGLES, NAGSUSULAT NG INGLES, NAKAINTINDI NG NARIRINIG NA INGLES, NAGSASALITA NG INGLES, NAG-IISIP SA INGLES, WALANG NAAANGKOP)

Which of the following applies to you? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (READS ENGLISH, WRITES ENGLISH, UNDERSTANDS SPOKEN ENGLISH, SPEAKS ENGLISH, THINKS IN ENGLISH, NONE APPLIES)

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Table 1b

SELF-ASSESSED ENGLISH COMPETENCE, BY SEX AND AGE GROUP, MARCH 2006

Base: Total interviews (Multiple responses allowed)

	Understands Spoken English	Reads English	Writes English	Speaks English	Thinks in English	None Applies
RP	65%	65%	48%	32%	27%	14%
Male	65	65	48	34	27	15
Female	65	65	49	31	27	13
18-24	72	71	59	38	28	9
25-34	67	72	55	37	28	9
35-44	64	64	44	31	27	14
45-54	66	61	44	27	24	16
55 & Above	58	55	39	29	29	22

Q115. Alin po sa mga sumusunod ang naaangkop sa inyo? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (NAGBABASA NG INGLES, NAGSUSULAT NG INGLES, NAKAINTINDING NARIRINIG NA INGLES, NAGSASALITA NG INGLES, NAG-IISIP SA INGLES, WALANG NAAANGKOP)

Which of the following applies to you? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (READS ENGLISH, WRITES ENGLISH, UNDERSTANDS SPOKEN ENGLISH, SPEAKS ENGLISH, THINKS IN ENGLISH, NONE APPLIES)

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Table 1c

SELF-ASSESSED ENGLISH COMPETENCE, BY EDUCATION, MARCH 2006

Base: Total interviews (Multiple responses allowed)

	Understands Spoken English	Reads English	Writes English	Speaks English	Thinks in English	None Applies
RP	65%	65%	48%	32%	27%	14%
None/Some elem.	37	36	26	12	14	43
Elem grad./Some HS	56	55	38	21	21	19
HS grad./Voc./ Some coll.	74	73	54	39	30	5
Coll. grad./Post	88	92	78	63	50	0

Q115. Alin po sa mga sumusunod ang naaangkop sa inyo? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (NAGBABASA NG INGLES, NAGSUSULAT NG INGLES, NAKAINTINDING NARIRINIG NA INGLES, NAGSASALITA NG INGLES, NAG-IISIP SA INGLES, WALANG NAAANGKOP)

Which of the following applies to you? (SHOWCARD; ALLOW MULTIPLE RESPONSE) (READS ENGLISH, WRITES ENGLISH, UNDERSTANDS SPOKEN ENGLISH, SPEAKS ENGLISH, THINKS IN ENGLISH, NONE APPLIES)

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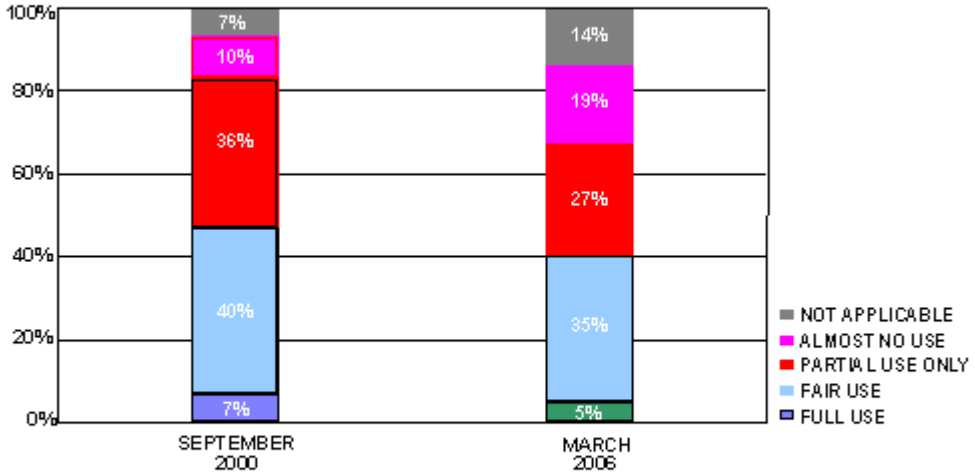
Chart 2

PERSONAL USAGE OF THE ENGLISH LANGUAGE, SEPTEMBER 2000 AND MARCH 2006

Base: Total interviews



Question: Sa palagay ninyo ... (SHOWCARD) ... ba ang inyong paggamit sa wikang Ingles? (LUBOS, KATAMTAMAN, BAHAGYA LAMANG, HALOS HINDI GINAGAMIT)

In your opinion, ... (SHOWCARD) ... your usage of the English language? (FULL, FAIR, PARTIAL ONLY, ALMOST NO USE)

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Table 2a

PERSONAL USAGE OF THE ENGLISH LANGUAGE, BY AREA, LOCALE AND CLASS, MARCH 2006

Base: Total interviews

	Full use	Fair use	Full + Fair use	Partial use only	Almost no use	Not applicable
RP	5%	35%	40%	27%	19%	14%
NCR	5	44	49	30	17	4
Balance Luzon	4	35	39	29	14	17
Visayas	7	37	44	25	24	7
Mindanao	6	25	32	21	26	21
Urban	5	38	44	29	17	10
Rural	5	27	32	21	24	22
ABC	15	51	65	24	6	4
D	6	34	40	29	19	12
E	3	31	34	21	22	23

Q116. Sa palagay ninyo... (SHOWCARD) ... ba ang inyong paggamit sa wikang Ingles? (LUBOS, KATAMTAMAN, BAHAGYA LAMANG, HALOS HINDI GINAGAMIT)

In your opinion, ... (SHOWCARD) ... your usage of the English language? (FULL, FAIR, PARTIAL ONLY, ALMOST NO USE)

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Table 2b

PERSONAL USAGE OF THE ENGLISH LANGUAGE, BY SEX AND AGE GROUP, MARCH 2006

Base: Total interviews

	Full use	Fair use	Full + Fair use	Partial use only	Almost no use	Not applicable
RP	5%	35%	40%	27%	19%	14%
Male	5	34	39	28	18	15
Female	6	35	41	25	21	13
18-24	6	43	49	28	13	9
25-34	4	39	43	31	16	9
35-44	7	33	40	24	22	14
45-54	4	28	32	28	24	16
55 & Above	5	30	35	22	21	22

Q116. Sa palagay ninyo... (SHOWCARD)... ba ang inyong paggamit sa wikang Ingles?
(LUBOS, KATAMTAMAN, BAHAGYA LAMANG, HALOS HINDI GINAGAMIT)

In your opinion, ...(SHOWCARD)... your usage of the English language?
(FULL, FAIR, PARTIAL ONLY, ALMOST NO USE)

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Table 2c

PERSONAL USAGE OF THE ENGLISH LANGUAGE, BY EDUCATION, MARCH 2006

Base: Total interviews

	Full use	Fair use	Full + Fair use	Partial use only	Almost no use	Not applicable
RP	5%	35%	40%	27%	19%	14%
None/Some elem.	3	15	17	14	26	43
Elem grad./Some HS	2	24	26	27	27	19
HS grad./Voc./ Some coll.	5	41	46	33	16	5
Coll. grad./Post	19	60	80	16	4	0

Q116. Sa palagay ninyo... (SHOWCARD)... ba ang inyong paggamit sa wikang Ingles?
(LUBOS, KATAMTAMAN, BAHAGYA LAMANG, HALOS HINDI GINAGAMIT)

In your opinion, ...(SHOWCARD)... your usage of the English language?
(FULL, FAIR, PARTIAL ONLY, ALMOST NO USE)

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Table 3a

OPINION ON THE STATEMENT: "Developing good English communication skills open better job opportunities for me.", BY AREA, LOCALE AND CLASS, MARCH 2006

	RP	NCR	BAL LUZ	VIS	MIN	Urban	Rural	ABC	D	E
Agree	68%	81%	70%	67%	54%	71%	60%	83%	70%	56%
Strongly agree	*42*	*54*	*41*	*44*	*33*	*44*	*38*	*56*	*42*	*38*
Somewhat agree	*26*	*27*	*29*	*23*	*21*	*28*	*22*	*27*	*29*	*18*
Undecided	12	10	8	15	16	12	10	9	11	15
Disagree	6	4	4	10	8	6	7	4	6	6
Somewhat disagree	*5*	*4*	*3*	*9*	*5*	*5*	*5*	*3*	*5*	*5*
Strongly disagree	*1*	*0*	*1*	*1*	*3*	*1*	*2*	*1*	*1*	*1*
Not applicable	14	4	17	7	21	10	22	4	12	23
*Net agreement**	*+61*	*+77*	*+67*	*+57*	*+46*	*+66*	*+52*	*+79*	*+64*	*+50*

*Net agreement (% Agree minus % Disagree) correctly rounded.

Q117. Gaano po kayo sumasang-ayon o hindi sumasang-ayon sa statement o pangungusap na ito: Ang pagpapaunlad ng kakayahan sa mahusay na komunikasyon sa wikang Ingles ay nagbibigay ng mas magandang oportunidad sa trabaho sa akin. (LUBOS NA SUMASANG-AYON, MEDYO SUMASANG-AYON, HINDI TIYAK KUNG SUMASANG-AYON O HINDI SUMASANG-AYON, MEDYO HINDI SUMASANG-AYON, LUBOS NA HINDI SUMASANG-AYON)

To what extent do you agree or disagree with this statement: Developing good English communication skills open better job opportunities for me. (STRONGLY AGREE, SOMEWHAT AGREE, UNDECIDED IF AGREE OR DISAGREE, SOMEWHAT DISAGREE, STRONGLY DISAGREE)

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Table 3b

OPINION ON THE STATEMENT: "Developing good English communication skills open better job opportunities for me.", BY SEX AND AGE GROUP, MARCH 2006

	RP	Male	Female	18-24	25-34	35-44	45-54	55 & up
Agree	68%	67%	68%	69%	70%	68%	65%	65%
Strongly agree	*42*	*42*	*41*	*49*	*41*	*41*	*41*	*39*
Somewhat agree	*26*	*25*	*27*	*20*	*29*	*27*	*24*	*26*
Undecided	12	11	12	17	11	11	14	8
Disagree	6	6	6	6	8	6	5	5
Somewhat disagree	*5*	*5*	*5*	*6*	*6*	*5*	*4*	*3*
Strongly disagree	*1*	*1*	*1*	*1*	*1*	*1*	*1*	*2*
Not applicable	14	15	13	9	9	14	16	22
*Net agreement**	*+61*	*+61*	*+62*	*+62*	*+63*	*+62*	*+59*	*+60*

*Net agreement (% Agree minus % Disagree) correctly rounded.

Q117. Gaano po kayo sumasang-ayon o hindi sumasang-ayon sa statement o pangungusap na ito: Ang pagpapaunlad ng kakayahan sa mahusay na komunikasyon sa wikang Ingles ay nagbibigay ng mas magandang oportunidad sa trabaho sa akin. (LUBOS NA SUMASANG-AYON, MEDYO SUMASANG-AYON, HINDI TIYAK KUNG SUMASANG-AYON O HINDI SUMASANG-AYON, MEDYO HINDI SUMASANG-AYON, LUBOS NA HINDI SUMASANG-AYON)

To what extent do you agree or disagree with this statement: Developing good English communication skills open better job opportunities for me. (STRONGLY AGREE, SOMEWHAT AGREE, UNDECIDED IF AGREE OR DISAGREE, SOMEWHAT DISAGREE, STRONGLY DISAGREE)

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Table 3c

OPINION ON THE STATEMENT: "Developing good English communication skills open better job opportunities for me.", BY EDUCATION, MARCH 2006

	RP	None/some elem.	Elem. grad./ Some HS	HS grad./Voc./ Some coll.	Coll. grad./ Post
Agree	68%	42%	56%	77%	89%
Strongly agree	*42*	*20*	*34*	*46*	*70*
Somewhat agree	*26*	*22*	*22*	*31*	*20*
Undecided	12	9	15	12	6
Disagree	6	4	9	5	4
Somewhat disagree	*5*	*2*	*8*	*4*	*4*
Strongly disagree	*1*	*2*	*1*	*1*	*0*
Not applicable	14	43	19	5	0
*Net agreement**	*+61*	*+38*	*+47*	*+71*	*+86*

*Net agreement (% Agree minus % Disagree) correctly rounded.

Q117. Gaano po kayo sumasang-ayon o hindi sumasang-ayon sa statement o pangungusap na ito: Ang pagpapaunlad ng kakayahan sa mahusay na komunikasyon sa wikang Ingles ay nagbibigay ng mas magandang oportunidad sa trabaho sa akin. (LUBOS NA SUMASANG-AYON, MEDYO SUMASANG-AYON, HINDI TIYAK KUNG SUMASANG-AYON O HINDI SUMASANG-AYON, MEDYO HINDI SUMASANG-AYON, LUBOS NA HINDI SUMASANG-AYON)

To what extent do you agree or disagree with this statement: Developing good English communication skills open better job opportunities for me. (STRONGLY AGREE, SOMEWHAT AGREE, UNDECIDED IF AGREE OR DISAGREE, SOMEWHAT DISAGREE, STRONGLY DISAGREE)

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