

DOMESTICALLY PROHIBITED GOODS THE PHILIPPINE EXPERIENCE

Introduction

In the 70's, the Philippines felt the deep impact of the population's industrial activities on all components of the country's natural environment.

To contain the problems that arose therefrom, and to obviate further aggravations to the environment, as well as, to ensure the survival of the future generations of Filipinos, the government launched an intensive, integrated but evolving national plan covering the broad spectrum of the country's environmental and public health and safety concerns, as the country's industrial base continued to expand.

Internally, the government passed various national and local laws, rules and regulations, executive issuances and department orders. Public awareness was heightened through advocacy and information campaigns. The people were empowered to take the initiative to supplement government's efforts where and when needed.

Externally, the country resolved to take a more active part in regional and international cooperations, conventions and agreements, joining other nations in the pursuit of a cleaner and safer global environment, while protecting their market positions in this borderless trade regime.

Import Transaction Rules/ Policies on Domestically Prohibited Goods (DPGs)

Government's objectives on environment and public health are clearly reflected in the country's rules/ policies on import transactions pertaining to Domestically Prohibited Goods (DPGs).

While as a general rule, all kinds of imports are allowed, the importation of certain commodities are *regulated and/or prohibited for reasons of public health and safety, national security, international commitments, development of local industries and sustainable development.*

Among many national laws and issuances, which shall be discussed at length in this paper, *Bangko Sentral ng Pilipinas (BSP) Circular No. 1389*, classified imports as follows:

1. *Freely importable commodities* - importation of which may be effected without the prior approval of, or clearance from, any government agency;
2. *Regulated commodities* - importation of which requires clearances and/or permits from appropriate government agencies, including the BSP;
3. *Prohibited commodities* - importation of which is not allowed under existing laws.

Regulated and prohibited commodities as defined in numbers 2 and 3 comprise the Philippines' domestically prohibited goods (DPGs). We have attached an illustrative list of these commodities as **Appendices I and II** hereof. A perusal of these commodities shows that in the Philippines, *the coverage of DPGs is indeed very broad.*

National Legislations Controlling Trade of DPGs

The following discussion on the laws, rules and regulations and other issuances enacted to control trade of DPGs will demonstrate the *preferential attention given to our national priorities*, such as, public health and safety, the environment and national interests as a whole.

Toxic Substances and Hazardous And Nuclear Wastes Control Act Republic Act No. 6969

Among the countries in Southeast Asia, the Philippines is ahead in the institution of measures regarding chemicals, chemical substances, and nuclear wastes.

Republic Act No. 6969 responds to the increasing problems associated with chemicals, chemical substances and toxic, hazardous and nuclear wastes.

This Act is the *first in Asia*.

It covers the importation, manufacture, processing, handling, storage, transporting, sale, distribution, use and disposal of all chemical substances and mixtures in the Philippines, including the entry, *even in transit*, as well as, the keeping or storage and disposal of hazardous and nuclear wastes in the country.

The Department of Environment and Natural Resources (DENR) has been tasked to effectively manage the chemicals and chemical substances by doing the following:

- a. ***To compile and update an inventory of chemicals and chemical substances, which are stored, imported, exported, used, processed, manufactured or transported in the country.***

The country's inventory list of chemicals and chemical substances is known as the *Philippine Inventory of Chemicals and Chemical Substances* (PICCS). The PICCS covers twenty four thousand (24,000) chemicals and chemical substances available in Philippine commerce.

The development of the PICCS was done in stages. Completion of the initial core of inventory was done by the Environmental Management Bureau (EMB) from 1994 to 1995. As published, the inventory identified the most commonly used chemicals and chemical substances with their Chemical Abstracts Service Registry Numbers (CAS No.) nominated by the local chemical industries. The adopted format is similar to that of the US or EEC registries. Errors and omissions in the inventory were checked to determine the veracity of the CAS numbers submitted and to standardize chemical names into (IUPAC) nomenclature. In the second phase the Inventory Document was widely circulated to all participants to provide them with the opportunity for re-nominations subject to the specific criteria of the eligible chemicals.

The PICCS database is divided into two (2) parts:

- *Chemicals and Chemical Substances Database*, includes all the pertinent data of chemicals and chemical substances in the country; and
- *Industrial Firms Database*, covers the essential information about the firms that submitted chemicals and chemical substances for nomination in the PICCS.

The information provided by the industries in the compilation of the inventory was occasionally classified as confidential because of the significant commercial disadvantage, which may otherwise occur. The substance may either be in the published inventory or public version, or filed in the Confidential Business Inventory (CBI), hence the two (2) versions of the PICCS, namely:

- An unedited draft that includes the chemicals as nominated by industries; and
- An edited and standardized final copy of PICCS.

For easy reference 2 diskettes containing the standard final copy of the PICCS are included herewith and marked as **Appendix III**.

- b. ***To monitor and regulate the importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk or injury to health or to the environment in accordance with national policies and international commitments.***

Of the several thousands of industrial chemicals presently in use within the Philippines, priority assessment is given to the more toxic ones according to their greatest intrinsic toxicity, highest potential ill effects brought about by exposure, based on the quantities used and the nature/ manner of use(s), as well as, the lack of reliable hazard evaluation thereof.

In line with this, the DENR has established the *Philippine Priority Chemicals List* (PCL), a list of existing and new chemicals, which potentially pose unreasonable risk to public health in the workplace and in the environment.

Assessment of the potential hazards and risks posed by each chemical in the PCL is not an easy process. *The following set of criteria based on those used by industrialized nations, such as, Australia, Japan, Canada and the United States has been adopted:*

- *Persistence*, refers to the *property* of a substance whose half-life in water, soil, or air exceeds a duration of fifty (50) days;
- *Toxicity*, refers to the *quality* of a substance, which meets any of the following: (a) acute lethality; (b) chronic or sub-lethal toxicity; (c) Teratogenicity; and (d) carcinogenicity.
- *Bioaccumulation potential*, is the *measure* of a substance' ability to bioaccumulate in the food chain.

In addition, *the DENR uses quantitative and qualitative data* in its assessment of the potential hazards and risks posed by a chemical, such as: the chemicals' use and management; production quantity; percentage of release; occupational exposure; disposal methods; and technical and economic feasibility of its regulation.

The chemicals currently included in the PCL were taken from the PICCS upon showing through research and information, that they may pose an unreasonable risk to health and environment. This assessment is done by the Chemical Review Committee of DENR, composed of high level representatives from various disciplines, i.e., toxicologist, chemist, chemical engineer, etc.

The PCL is updated every five (5) years at which time the DENR may: (a) add more chemicals to the PCL; (b) delete a chemical from the PCL; or (c) impose additional requirements under the PCL rules.

Appendix IV itemizes the chemicals listed in the PCL.

With regard to *new chemicals*, DENR requires manufacturers or importers to submit a *pre-manufacturing or pre-importation notification* (PMPIN) before they enter the Philippine market.

There are two (2) kinds of PMPIN forms for notification presently used and they are the following:

- *PMPIN Abbreviated Form*, is used when the new chemical to be manufactured or imported is being used with no control in a country with a similar chemical review process as the Philippines.
- *PMPIN Detailed Form*, is used when the manufacturer or importer cannot adequately document the safety of the new chemical, or when DENR determines that the information submitted is not sufficiently supported to ensure the safety of the new chemical.

Sample forms of the PMPIN Abbreviated Form and the PMPIN Detailed Form are attached as **Appendices V and VI** respectively.

New chemicals may be added to the PICCS after assessment and approval by DENR according to the following set of criteria: hazard identification; exposure assessment; dose response assessment; risk characterization; and risk management.

Under special circumstances, DENR may issue an Interim Status Permit (ISP) to import or manufacture a new chemical, and this is valid for one (1) year, subject to the following conditions: submission of a hazardous registration form; obtaining an ID number; submission of a PMPIN form and payment of the required fee; voluntary agreement with DENR to ensure safe handling of the new chemical.

c) To issue Chemical Control Orders (CCOs) on chemicals and chemical substances that pose unreasonable risks to public health or the environment.

With due consideration to industrial needs, health and environmental risks, the Philippine commitment to international and regional treaties and conventions, and DENR's capabilities and resources to manage the controlled chemicals, DENR determines each year, what chemicals listed in the PCL shall be regulated, controlled or phased-out.

However, taking into account the current limitations of DENR in fully enforcing CCOs for a large number of chemicals, it has initially issued only five (5) CCOs covering: Ozone Depleting Substances; Cyanide; Asbestos; Mercury; and PCBs (due for publication).

Copies of the CCOs are attached as **Appendices VII, VIII, IX and X** hereof.

Fertilizer and Pesticide Authority Act, Presidential Decree No. 1144 and its Implementing Rules and Regulations

The Fertilizer Industry Authority (FIA) which was created under Presidential Decree No. 135, as amended was replaced by the Fertilizer and Pesticide Authority (FPA) by virtue of Presidential Decree No. 1144.

The FPA was established to protect the farmers and the public from the risks inherent in the use of pesticides, as well as, to educate them in the use of these inputs.

Relative to pesticides, the FPA determines the *specific uses or manner of use* for each pesticide, or pesticide formulation; establishes and enforces *tolerance levels* and *good agricultural practices*; *restricts or bans* the use of any pesticide or pesticide formulations upon evidence that it is an imminent hazard or it has caused, or it is causing widespread serious damage to crops, fish or livestock or to public health and the environment; *prevents the importation* of agricultural commodities containing pesticide residue above the accepted tolerance levels; *inspects the establishments and premises* of pesticide handlers to insure that industrial health and safety rules and anti-pollution regulations are followed; *enters and inspects farmers' fields* to insure that only recommended pesticides are used in specific crops in accordance with good agricultural practices; requires whenever necessary every handler of these products to *submit a report* stating the quantity, value of each kind of product exported, or imported, manufactured, produced, formulated, repacked, stored, delivered, distributed or sold; and *imposes controls* as may be necessary in the interest of the public.

Presidential Decree No. 1144 has declared *unlawful* for any handler of pesticide to do any of the following acts: *engaging* in any form of production, importation, distribution, storage and sale in commercial quantities, *without securing from the FPA, a license therefor*; using any pesticide or pesticide formulation on crops, livestock and the environment in *a manner contrary to good agricultural practice*; *deal* in pesticides which have *not* been registered with FPA, or *which registration has expired*, or has been *suspended*, or *revoked*; *adulterating* pesticide formulations; *imposing as a condition* for the purchase of fertilizer, the *simultaneous purchase of pesticide* or other agricultural chemicals inputs and vice-versa; *mislabelling* or *making claims*, which differ in substance from the representation, made in connection with a pesticide registration or from its actual effectiveness.

The *Rules and Regulations* implementing Republic Act 1144 require handlers of pesticides to do the following:

a. *Registration of Pesticides*

Pesticides to be imported, exported, manufactured, formulated, repacked, distributed, delivered, sold or offered for sale, transported, delivered for transportation, or used, *must be duly registered with FPA, or covered by a numbered provisional permit issued by FPA.*

Separate registrations shall be required for each brand and formulation of pesticides.

The requirements for registration are:

- a. The sworn application for registration must contain complete and detailed information, such as: the proposed *trade name* of the subject pesticide; the *composition and chemical identities* of its active ingredients, including their stability in storage; *toxicological data*; *Instructions for use, precautionary measures, first aid, claims* and other statements; official

reports on biological tests regarding the efficiency and safety of the pesticide under Philippine conditions; methods of analysis of the formulated compound; methods of determination of its residues; information regarding the pesticide's efficiency and safety.

- b. A *hearing* on the application is conducted by the FPA before the subject pesticide can be registered.
- c. If the *uses* of the pesticide could be *divided into general and restricted*, FPA shall classify it accordingly and directions relating to its general uses shall be separated from those relating to its restricted uses. The packaging and labeling of the pesticide shall likewise be done in the same manner.

Each registration shall be *in force for three (3) years*, unless sooner revoked.

2. *Licensing of Pesticide Handlers.*

All commercial applicators apply for a *license*. A *license number* is *assigned* by FPA for each place of business in the Philippines. Aerial commercial applicators are also required to register with the Civil Aeronautics Board.

- a. The sworn application for a license, shall contain detailed information about the applicant, the activity and the handling and storage facilities.
- b. A *hearing* shall be conducted to show proof and competence before the license is issued.

Each license shall be *in force for three (3) years*, unless sooner revoked.

3. *Labeling, Packaging and Advertising of the Pesticide.*

Every pesticide container must be appropriately labeled to include the following: composition by percentage, and identity of all the active ingredients; registration or provisional permit number; name and address of the handler; common name of the pesticide; net content in metric unit of the pesticide; directions concerning use and time of application; warning and precautionary measure including symptoms of poisoning; instructions concerning decontamination and safe disposal of used containers; label claims as accepted by FPA; Lot number and year of formulation.

***The Environment Code of the Philippines
Presidential Decree 1152 (PD 1152)***

This law provides the guidelines for the management of municipal wastes (solid and liquid), sanitary landfilling, incineration and disposal sites in the Philippines. At present, incinerators are not acceptable in view of very strong public objection to it.

***Implementing Rules and Regulations of RA6969
Department of Administrative Order 29 (DAO 29)***

DAO 29 contains the implementing rules and regulations of RA 6969.

Relative to waste management and disposal of toxic, hazardous substances and nuclear wastes, it imposes the minimum requirements on hazardous wastes generators, as contained in the following provisions:

- *Section 26 provides the reporting requirements on waste generated.* Industries are encouraged to collect data on waste generation on a quarterly basis, and the submission to the DENR of said data per category as follows:

Category 1: 30 September 1996 and
annually thereafter

Category 2: 30 September 1996 and
biennially thereafter

Category 3: 30 September 1996 and every
three years thereafter

The DENR *integrates* this information into the *hazardous waste-tracking database*, which is used for monitoring and enforcement; re-classification of wastes and development of analysis of waste generation for purposes of national planning, monitoring and adjustment of relevant programs.

- *Section 26.3 of DAO 29,* requires handlers to submit a *comprehensive contingency plan* to DENR to mitigate and/or combat spills and accidents involving chemical substances and hazardous wastes. Included in the contingency plan is the following information: name and responsibility of an emergency coordinator; evacuation response procedures; and reporting and record keeping requirements.
- Articles (a) and (b) of section 26.4 of DAO 29 require *Training Programs* for premises that handle hazardous wastes. The training requirements per generator category are the following:

Category 1 - Contingency plan distribution; chemical hazard information, initial training program; annual training update and record keeping.

Category 2 - Contingency plan distribution; chemical hazard information initial training program.

Category 3 - Contingency plan distribution and chemical hazard information

Additional training requirements for Categories 1 and 2, include the following: proper use of emergency equipment; waste characterization and labeling; potential hazards of the wastes; and roles and responsibilities for implementing the contingency plan.

- Sections 27 and 28 of DAO 29 require the generators to transport their wastes in *properly labelled containers*, which are in *good condition* and made of *appropriate materials*. The generators must also use *DENR-licensed transporters* and *holders of DENR permits*, and must *provide* them with a *Spill Response Plan*, that includes the *instructions for cleaning spills* in case of accident. These sections also require the handlers to follow a "*cradle to grave*" tracking system.

Each time, a hazardous waste is transferred from a generator to a transporter, to another transporter, and so on, up to the TSD premises *the manifest must be signed and acknowledged accordingly*.

The DENR has developed a *Hazardous Tracking Database* incorporating the manifest reports submitted by TSD premises. The said database records the type of waste, quantity in each shipment, name of generator, transporter and designated TSD premises including relevant data found in the annual reports submitted by generators, transporters and TSD premises.

Under DAO 29, there are five (5) categories of TSD premises, to wit:

- **Category A**, manages only *on-site* generated wastes, by using one or more of the following modes: incineration, landfill, reprocessing, treatment and long-term storage.
- **Category B**, is engaged in *off-site* incineration of wastes, using *detoxification* by destroying organic compounds, reducing the volume, and vaporizing the liquid content of the hazardous wastes. The owner and operator of this category must comply with emission standards established by DENR specifically for thermal treatment technology.

Permit to operate this category will not be done until a *test and trial burn* is conducted satisfactorily. A test and trial burn refers to the incinerator's ability to meet applicable standards when burning wastes under a set of operating conditions. For highly hazardous wastes, each new waste must be accompanied by a new plan and a new trial burn.

- **Category C**, is engaged in *landfills intended as permanent repositories* and therefore must be operated in a manner ensuring that waste is effectively contained within it and prevented from escaping into the environment during the landfill's operating life and even after it has been closed.

Closure and Post-closure requirements include the design and construction of final cover for landfill cells; maintenance of final cover, and maintenance and monitoring of leachate collection and removal systems and ground water monitoring systems.

- **Category D** accepts hazardous wastes for *recycling* and *reprocessing*.

Recycling premises uses hazardous wastes directly as a substitute material or ingredient without having to be treated or reprocessed in any manner.

Reprocessing premises receives wastes intended to be recycled and must first be reprocessed (filtering or distilling). The premises is subject to all applicable TSD standards. Residuals from reprocessing (bottoms, filtrates) that remain hazardous must also be managed accordingly.

- **Category E** premises refers to *treatment*, of wastes in *containers, tanks, lagoons, or other devices*. This Category is used to *reduce waste toxicity*, by changing its formulation or other characteristics to make it less toxic; *water mobility*, by changing its matrix or other characteristics to make the waste less leachable, *waste volume*, by changing its mixture ratios to become more concentrated and more manageable, i.e., dewatering.

Treatment modes include the following:

- a. *Physical or chemical processes*, i.e., pH neutralization; metals recovery; air strippers; ion exchange; recycling and reuse, etc.;

- b. *Biological process* i.e., biodegradation; cells; land farming; bio-pads;
- c. *Miscellaneous processes*, i.e., lagoons; equalization ponds, etc.

- **Category F** premises provides for *temporary storage* for hazardous waste that is not produced or generated at the premises. Several methods for storing hazardous waste are regulated, including containers and container storage areas, tank systems whether above ground and/or underground, lagoons and piles.

The overriding performance standards for these storage premises is to effectively contain the hazardous waste and prevent its migration into the environment.

TSD owners and/or operators of this category are required to obtain a two (2) part permit from DENR: Application to construct; and Application to operate.

DENR conducts *site inspection* of both existing and new TSD premises *prior to issuance of a permit*.

It is an *illegal act* for TSD premises to accept any wastes for which it has not been approved and permitted by DENR. Premises approved to treat acid wastes may not presume approval to treat alkaline wastes. Premises approved to recover and reprocess used oil may not presume approval to manage waste oils contaminated with PCBs.

Shipment of hazardous waste cannot be considered acceptable in a TSD premise unless the following requirements are in place: *proper manifests* from the generator to transporter and to TSD

premises; *proper labeling* as to the types of wastes and of its potential hazards; *licensing and approval by DENR* of the hazardous waste transporter; *approval by DENR of the waste type* which the TSD premises accepts and manages; *approval by DENR of the TSD mode* used to treat, store, or dispose the waste in question. adequate *liability coverage* and the financial coverage for closure and post-closure care activities.

Waste generators are required to demonstrate *financial responsibility* to third parties, for their contingent liability for personal injury and property damage stemming from a release of hazardous waste. Property damage is construed to include the environment and natural resources regardless of ownership. When property damage affects the nationality patrimony, DENR shall assess the extent of the damage, which shall be expressed, as the cost for corrective action.

The following *mechanisms* may be used to *demonstrate financial responsibility*:

- (a) *insurance* – face amount must be equal the current closure or post-closure estimate, unless part of the cost estimates are covered by other financial mechanisms;
- (b) *financial tests* – by submitting year-end, audited financial statements and cost estimates for closure and post-closure care;
- (c) *irrevocable letter of credit* issued by a financing institution which operations are regulated and examined by the Bangko Sentral ng Pilipinas;
- (d) *surety bond*, which can either be a guarantee or performance bond; and
- (e) *Trust fund* for closure and post-closure care.

We have attached as **Appendix XI** an expanded Table of Waste Listings and Standards under DAO No. 29

Dangerous Drugs Act of 1972
R.A. 6425, as amended

The *Dangerous Drugs Board (DDB)*, was organized on 14 November 1972, following the promulgation of Presidential Decree No. 44 Amending Republic Act 6425, otherwise known as "The Dangerous Drugs Act of 1972".

Under its Enabling Charter, the Board is the *highest policy making, coordinating arm, and national clearing house on all matters pertaining to law enforcement and control of dangerous drugs*, treatment and rehabilitation of drug dependents, drug abuse prevention and community information, research and statistics on the drug abuse problems and training or personnel engaged in the aforesaid activities.

The DDB's *structure and working capability* is based on the concept of *inter-disciplinary* coordination and *multi-agency* cooperation and the involvement of all government and private institutions having to do with drug abuse prevention and control, such as: Department of Justice (DOJ); Department of Health (DOH); Department National Defense on his representative (DND); Department of Education, Culture And Sports or his representative (DECS); Department of Finance or his representative (DOF); Department of Social Welfare and Development (DSWD); Dangerous Drugs Board (DDB); and National Bureau of Investigation (NBI).

DDB established the following control measures for importers, distributors and wholesalers:

- Registration with the Control, Regulation and Intelligence Division of the Dangerous Drugs Board;
- Payment of fees;
- Accomplishment of Special Permit before importation;
- Submission of quarterly report on distribution, disposition, or usage;
- Submission of forecast estimate to be imported the following year;
- Inspection of premises; and
- If for re-export, clearance from the Board must be secured.

The DDB also established the following criteria for classifying and declassifying substances and drug preparations as dangerous drugs: ill effects of the drug including each of the separate ingredients; reported instances of abuse and reported adverse effects; synergism's or antagonisms among ingredients; deterrent or antagonistic effects of the non-controlled ingredients; usefulness of and the need of the drug in medical therapy.

Classification and Declassification of dangerous drugs are done in accordance with: the List of Narcotic drugs under International Control; the List of Psychotropic substances included under the Vienna Convention; the US List of Controlled Substances; and the Australian List of Controlled Substances.

Food, Drug and Cosmetic Act
Republic Act No. 3720 as amended by
Executive Order No. 175

The Department of Health (DOH) establishes standards and quality measures for foods, drugs, and devices and cosmetics; adopts measures to ensure pure and safe supply of the same; and adopts measures to ensure the rational use of drugs and devices, such as, but not limited to *banning, recalling or withdrawing* from the market, drugs and devices which are not registered; unsafe, inefficacious or of doubtful therapeutic value; adopts an official National Drug Formulary, and the use of generic names in the labeling of drugs.

Section 27 of Executive Order No. 175, *prohibits* the following acts, among others:

- The manufacture, *importation*, exportation, sale, offering for sale, distribution or transfer of *adulterated* or *misbranded* food, drug, device or cosmetic.

A drug or device shall be deemed *adulterated*, if: it consists in whole, or in part, of any filthy, putrid. Or decomposed substances; it has been manufactured, prepared or held under unsanitary conditions and therefore, contaminated with dirt and filth; if the drug or device, or its container, either in whole, or in part is composed of poisonous, or deleterious substances; if it has been mixed or packed with any other substance, or substituted in whole or in part to reduce its safety, efficacy, quality, strength or purity; and if the methods used do not conform with current good manufacturing practices.

A drug shall be deemed *misbranded*, if: its labeling is false or misleading, or does not bear the standard data contained in a label, i.e. name and place of business of the importer, manufacture, packer etc; no quantity in terms of weight, measure or numerical count is indicated; absence of adequate directions; warning against use in certain pathological conditions or by children; duration of administration is not indicated; or if it is an imitation of another drug.

- The *alteration, mutilation, destruction, obliteration, or removal* of the whole or part of the *labeling* of said articles;
- The manufacture, *importation*, exportation, sale, distribution, or transfer of any drug or device which is *not registered* with the Food and Drug Administration (FAD);
- The manufacture, *importation*, exportation, sale, offering for sale, distribution, or transfer of any drug or device by any person *without a license*;
- The sale or offering for sale of any drug or device *beyond its expiration or expiry date*.

***Philippine National Standards
Republic Act 4109, Republic Act 7394;
Executive Order 913, Series of 1993 and
DAO No. 08, Series of 1995***

Pursuant to the abovementioned laws and issuances, the Department of Trade and Industry (DTI), issued Department Administrative Order No. 08 of 1995, containing the rules and regulations governing the issuance of the Import Commodity Clearances (ICCS), to imported articles covered by Philippine National Standards declared mandatory through the Bureau of Products Standards (BPS).

Importers of products covered by Philippine National Standards (PNS) declared mandatory are required to apply for the ICCS with the DTI immediately upon arrival of their import shipments, using the DTI prescribed forms together with the standard import documents plus a test certificate from its country of origin, issued by its national standards body, or its recognized testing authority, establishing conformity of the import shipment to the requirements of the applicable PNS or BPS – recognized international/foreign standard.

Shipments that have been certified abroad, may be randomly subjected to re-sampling and testing and should there be inconsistencies, all subsequent import shipments shall be subjected to a continuous per shipment sampling and/or testing for no less than three (3) consecutive shipments until the quality of the import shipments are consistent with the test certificate issued by the country of origin.

All import shipments not accompanied by a test certificate from the country of origin shall be subject to inspection, sampling and testing by the BPS.

Commodities not conforming to the PNS requirements shall not be issued ICCS and shall not be disposed of in the domestic market in any manner, but re-exported by the proper Philippine authorities.

Commodities that comply with the Bureau of Customs (BOC) requirements shall be conditionally released if one hundred percent (100%) inspection and testing is required i.e. LPG cylinder requalification, or completion of the test shall take more than twenty (20) days. Pending the issuance of the ICCS, there shall be no distribution, sale, use and/or transfer to any place other than the address specified.

Attached herewith as **Appendix XII** is the list of commodities where Philippine National Standards were declared mandatory.

Harmonization of Policies with Regional/International Commitments

The Philippines fully recognizes the important role of multilateral environmental agreements (MEAs) in addressing transboundary and global environmental problems brought about by DPGs. This is why the country took a more active role in the international arena by being a party to almost all the major MEAs, such as the following:

- * Agreements on the Protection of the Ozone Layer
 - Acceded to the Vienna Convention in 1991;
 - Acceded to the Montreal Protocol in 1991; and
 - Ratified the London Amendment in 1993.

- * Other Multilateral Environment Agreements (MEAs)
 - Ratified the CITES in 1981;
 - Ratified the Convention on Biological Diversity in 1993;
 - Ratified the Basel Convention in 1994;
 - Ratified the UNFCCC, Climate Change in 1994;
 - Signed the Kyoto Protocol Climate Change in 1998.

- * Other International Conventions

- Ratified the United Nations Convention Against Illicit Trafficking on Narcotic Drugs and Psychotropic Substances in 1996;
- Acceded to the Psychotropic Substances included in the Vienna Convention;
- Participated in all the United Nations' International Convention on Drugs and the ASEAN Regional Agreement on Cooperative Drug Control.
- Participated in the United Nations International Convention on Precursor Drugs.

The DDB has also maintained bilateral cooperative relationships with the ASEAN member countries as well as other foreign countries like the U.S.A., Canada, Great Britain, W. Germany, Netherlands, Japan, Australia and New Zealand.

It works closely with counterpart agencies under the United Nations and its specialized agencies, Customs Cooperative Council (CCC), Colombo Plan Bureau, and other multi-lateral organizations.

Compliance with its commitments in the aforesaid MEAs was incorporated in its national policies, legislations and other issuances to balance national priorities such as public health and safety and the environment with the importation of DPGs. To cite a few examples-

- On 23 February 2000, DENR issued a Chemical Control order (CCO) for Ozone Depleting Substances. The CCO bans, limits and/or regulates the use, manufacture, import, export, transport, processing, storage, possession or sale of chemicals and chemical substances

in Groups I and II of Annex "A" and Groups I, II and III of Annex "B" of the Montreal Protocol.

Regardless of source, these substances can be in the forms as defined under Article I paragraph 4 of the Montreal Protocol as clarified under Decision 1/12 A of the First Meeting of the Parties and decision 11/14 of the Second Meeting of the Parties.

- On 23 December 1997, DENR issued a CCO for Mercury and Mercury Compounds, which are toxic to aquatic life even at low concentrations, especially the methylated forms of Mercury. It is also known to bioconcentrate greatly in the food chain causing risks to humans who become ecological receptors through fish ingestion. It is also used in a variety of applications, i.e. preparation of chlorine, production of electrical apparatus, industrial controls, switches, anti-fouling coatings and fungicides, and in metallurgy and mining.

To minimize the health and environmental hazards of the said chemicals, the CCO covered the importation, manufacture, processing, use and distribution of Mercury and Mercury contaminated wastes in the Philippines.

- On 23 December 1997, DENR also issued a CCO for Cyanide and Cyanide Compounds which are used in a variety of industrial applications, including steel, plastics, synthetic fibers, chemical synthesis, electroplating, metallurgy and mining.

The control order on Cyanide and Cyanide Compounds applies to the importation, manufacture, processing, use and distribution of Cyanide and Cyanide Compounds, as

well as, the treatment storage and disposal of Cyanide bearing, or Cyanide contaminated wastes in the Philippines.

One of the "must" requirements is the submission by the importer of a Cyanide Management Plan, which shows that the importer has the necessary mechanism to manage the raw materials or products and that they are used for their intended purposes and are not released to the environment.

- On 06 January 2000, the DENR issued a CCO for Asbestos. Epidemiological studies have linked prolonged exposure to certain varieties of Asbestos fibers to forms of lung cancer. The International Agency for Research on Cancer considers Asbestos as carcinogen.

The CCO mandates that an annual report containing a general information about the importer/ manufacturer; quantity; types and kinds of Asbestos imported/ manufactured; number and category of employees exposed to Asbestos releases; pollution control and safety devices and preventive measures used to address the release of Asbestos to the environment; Asbestos wastes generated; treatment; storage facilities; land disposal premises, including their locations and methods of TSD. The CCO also mandates labeling and manifest requirements for off-site treatment, storage and disposal of Asbestos.

- In 1989, the Prior Informed Consent (PIC) was voluntarily adopted by the country-members of FAO and UNEP to control the imports of banned or severely restricted chemicals. It has created a global database regarding the controls established by each member nation, in the

use, import and export of hazardous chemicals. To date, of the twenty-seven (27) hazardous chemical identified by PIC as globally traded, the importation of twenty-six (26) has been regulated by Philippine laws, rules, regulations and other issuances (only PBB has not been included), to wit:

<i>Chemicals to be Imported</i>	<i>Status</i>
2,4,5-T	Banned
Aldrin	Banned
Captafol	Banned
Chlordane	Banned

No additional importations have been allowed since December 31, 1996. Use will be phased out by December 1998

Chlordimeform	Banned
Chlorobenzilate	Banned

Importation may be allowed only in cases of emergency as determined by the FPA.

Crocidolite	Restricted
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An Interim Import Clearance may be obtained from the Department of Environment and Natural Resources under Republic Act No. 6969 based on the evaluation of the data required to be submitted.

DDT Restricted

Special permit is required for malaria vector control through the Department of Health

Dieldrin Banned

Dinoseb and Dinoseb Salts Banned

Note: Not registered, WHO hazard class I

EDB Banned

Fluoroacetamide Banned

HCH (mixed isomers) Banned

Heptachlor Banned

Hexachlorobenzene Banned

Lindane Restricted

Use is restricted to pineapple plantations under strict conditions

Mercury Compounds Banned

Methamidolphos (Soluble liquid formulations of the substance that exceed 600 g. active ingredient) Banned

Importation higher than 600g/l has been prohibited since 1989

Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient Banned for all uses

Monocrotophos (Soluble liquid formulations of the substance that exceed 600 g. active ingredient/l) Restricted

Allowed only for beanfly control on legumes.

Parathion (all formulations – aerosols, dustable powder (DP), emulsifiable concentrate (EC), granules (GR) and wettable powders (WP) – of this substance are included, except capsule suspensions (CS) Banned for all uses

Pentachlorophenol

Banned

May be allowed for use in wood treatment by FPA-accredited wood treatment plants and institutions

Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g. active ingredient/l)

Banned

Product has been voluntarily withdrawn by the company manufacturing the same. No remaining uses are allowed.

Polychlorinated Biphenyls (PCB)

Restricted

An Interim Import Clearance may be obtained

from the Department of Environment and Natural Resources under Republic Act No. 6969 based on the evaluation of the data required to be submitted

Polychlorinated Terphenyls (PCTs)

Restricted

An Interim Import Clearance may be obtained from the Department of Environment and Natural Resources under Republic Act No. 6969 based on the evaluation of the data required to be submitted

Tris (2,3 dibromopropyl) phosphate

Restricted

An Interim Import Clearance may be obtained from the Department of Environment and Natural Resources under Republic Act No. 6969 based on the evaluation of the data required to be submitted

No final decision has been arrived by the Philippine Government regarding PIC Chemicals. Under Republic Act No. 6969 (Toxic Chemical Legislation), a Review Committee will be formed to evaluate the chemicals to be included in the Priority Chemical List and to make recommendations on the appropriate Chemical Control Orders to be issued and the chemicals they will cover.

We have attached as **Appendices VII to X** the CCOs aforementioned and the 26 chemicals among those identified by PIC as **Appendix XIII**.

- DDB regulates essential chemical precursors included in Tables I and II of the UN Convention against illicit drug

trafficking, so that before the said goods could be imported, the appropriate permits and/or licenses from DDB should first be secured.

- FPA's awareness and information campaign on the ill effects of pesticide was effective so that for the period from 1996 to 1998, the Philippine importation of pesticide has drastically decreased:

1996	Formulated Products	US\$ 133,512,950.06
	Technical Materials	46, 560,099.35
1997	Formulated Products	US\$ 65,786,491.80
	Technical Materials	47,616,471.50
1998	Formulated Products	US\$ 37,019,072.27
	Technical Materials	19,809,915.90

The detailed report is attached as **Appendix XIV** hereof.

- In order to continue the government's international commitments in the regional, inter-regional and global concerns on illicit drug trafficking and drug abuse prevention education, DDB maintained close coordination and tie-up with its counterpart, worldwide. While reports showed that the Philippines is used by international smuggling syndicates as a strategic trans-shipment point for narcotics, and other dangerous drugs, relentless cooperation of concerned agencies has kept the incidence, relatively low and at a manageable level.
- In the 60's and 70's the growth of world trade in chemicals, including pesticides gave rise to a concern for

the risks attendant to their use especially in developing countries where access relevant information was difficult. To address these concerns the FAO evolved the International Code of Conduct on the Distribution and Use of Pesticides. On the other hand, the UNEP developed the London Guidelines for the Exchange of Information on Chemicals in International Trade. Both documents were aimed towards the easy accessibility to information regarding hazardous chemicals to enable local authorities to assess the risk concomitant to their use.

South - South Information Sharing Mechanisms To Control Trade of DPG Imports

The inexorable trend on world trade towards the end of the previous millenium is spilling over into the new millenium. We are looking at a world where information and technology are indispensably important and therefore they have to be shared and accessed at the shortest possible time to keep up with global competition and at the same time protect their resources capital.

One area where the information sharing mechanism is urgently required is in the manner in which chemicals and chemical substances and other domestically prohibited goods (DPGs) are managed nationally, regionally and on a world wide basis.

The Philippine experience in this aspect is salutary .

To overcome the problems brought about by DPGs, the Philippines enacted government regulations and laws with heavy criminal and monetary penalties. But regulatory measures are not

that almighty if government lacks the resources to effectively implement them.

In recent years, the Philippines' financial resources have been channeled mainly to pro-poor programs and projects in the hope that when the quality of their life is improved, their contribution to environmental degradation will be correspondingly reduced.

Philippine policy makers believe that more important than regulatory measures is the build up of industrial and social systems, and the appropriate climate, to induce enterprises and civil society, to take the following initiatives:

- Establish programs or systems to gather data on DPGs to be used as basic reference materials.
- Establish programs or systems to monitor damages or adverse effects of DPGs.
- Establish programs or systems to correct or clean-up the damages done.
- Establish action programs to prevent environmental degradation and ill-effects on public health and safety.

The Philippines advocates the promotion of linkages and cooperations between and among South countries as well as South-North countries and their respective enterprises.

For this purpose, the Philippines is proactively participating in regional and/or international organizations that are presently promoting linkages and cooperations between and among government policy makers, enterprises, non-governmental organizations (NGO) and civil society to exchange views and information that promote cleaner production approaches and environmentally sound technologies.

These efforts have relevant components, such as, conducting waste assessments and technology demonstrations; developing and disseminating technical and reference material, organizing conferences, seminars, workshops and other training or awareness-raising events for entrepreneurs and civil society in general.

There are a number of reasons why these organizations seek to link efforts they have underway to different countries.

Information exchange cooperation allows ideas to spread, especially when new concepts engendered by these ideas are presented from twin sources – a foreign expert together with a developing country peer who can personally attest to the acceptability of the suggested approach based on direct experience.

Exchange of information can help avoid duplication and waste, especially when materials are good models which can be adapted to suit local circumstances. Materials developed cooperatively, with the full input of partners in developing countries, are usually more relevant to actual situations found in those countries, hence more practical.

The group solidarity developed in cooperative projects can strengthen the determination and induce the members to voice out their respective positions in international meetings where they might otherwise hesitate to speak out.

As the coordinating body for the environment within the UN systems, the Philippines is very appreciative of UNEP's initiatives which promote cooperation and coordination on environmental matters at the regional and international levels.

Three (3) examples, illustrate UNEP's approach with regard to cleaner production. These are:

1. UNIDO/UNEP National Cleaner Production Centres;

2. ODS Officers Network for Southeast Asia and the Pacific (ODSONET/SEAP); and
3. Network for Industrial Environmental Management (NIEM)

UNIDO/UNEP National Cleaner Production Centres

The National Cleaner Production Centre (NCPC) programme promotes the cleaner production concept at the national level. It has established centres in Brazil, China, Czech Republic, India, Mexico, Slovakia, Tanzania, and Zimbabwe and Tunisia. Activities consist broadly of showing the attractiveness of the cleaner production (CP) approach through in-plant demonstrations; educating CP practitioners through training activities; promoting the CP concept among a wider audience; and assisting policy makers to identify barriers to cleaner production by conducting policy analyses.

The programme is based on a philosophy of *cooperation* and *coordination*, from the overall administration to the local arrangements.

UNIDO provides overall administration, local liaison through its Country Offices, and industrial technical expertise, particularly for sectoral in-plant demonstrations. UNEP provides strategic environmental expertise in training, information exchange, and policy analysis.

Centres are selected through a competitive bidding process in which the promised level of local support and commitment weigh heavily. *Host Institutions* are selected partly for their willingness to share responsibility and costs for the programme, making them active, invested stakeholders.

In each country, UNIDO and UNEP have attempted to build on related programmes, past or existing, so as to make better use of available expertise and resources while avoiding duplication.

UNIDO and UNEP have been careful to consult with other bi- and multi-lateral agencies to avoid setting up competing centres. The partners decided not to establish centres in some countries because existing initiatives were too similar in scope. The NCPC programme has strived for practical and mutually beneficial donor coordination. It has built, where possible, on existing foundations and coordinated with related initiatives while avoiding duplication and unnecessary, potentially disruptive, competition.

Each Centre has been matched with a developed country institution that has a strong, well established cleaner production programme. This "big brother" scheme called the *counterpart institution arrangement*, allows each NCPC to draw on the experience and expertise of its counterpart institution, particularly during the start-up period. The counterparts are expected to provide continuous guidance, something difficult under usual consultancy arrangements. The selected institutions are either non-profit organizations attached to universities or autonomous bodies with a large degree of government support.

While the ideal is good in theory, in practice it has been more challenging than first envisioned. During the 1995 annual NCPC meeting, those Centres that had already worked with their counterpart institution were positive about the arrangement, while those who had yet to establish a close working relationship had reservations about the scheme, as did the Counterpart Institutions themselves. Most concerns stemmed from contractual provisions that attempted to encourage a longer term commitment between the partners without binding the Centres to the Counterpart Institutions in a monopolizing manner. UNIDO and UNEP have since tried to make the contracting arrangement more flexible, match better the

expertise between the NCPCs and Counterparts and improve communications between the partners. In the second phase of the NCPC project some of the first phase Centres may be experienced enough to serve as a Counterpart. This is hoped for NCPC-NCPC match-up will be the ultimate test of the merits of the scheme.

Disseminating information is one of the four major activities of the NCPC programme, and is UNEP's responsibility. The information component for the overall programme initially included:

- Establishing an information management system and staff training
- Preparing a training programme and materials
- Producing publicity materials for the media and public; and
- Issuing quarterly newsletters.

UNEP organized and conducted annual meetings of Centre directors, representatives from Counterpart Institutions, and UNIDO and UNEP staff to review progress and solve implementation problems.

In the course of programme implementation, the weaknesses caused by the limited opportunity for networking among all partners became apparent. All the Centres were experiencing common start-up and operational challenges individually, and it was clear that better communication among them would much needed mutual support. The Centres, lacked a timely, inexpensive, and regular mechanism making it difficult to rely on personal visits or even frequent use of telephone and fax.

In 1995 the e-mail was used for bilateral communications. In that year, the partners decided to allocate resources for e-mail connections. Now, both they and the Counterpart Institutions are

increasingly relying on e-mail as a reliable and inexpensive way of communicating.

Another recommendation from the annual meeting was to set up an e-mail conference mechanism called a Listserv. which allows for a programme-wide exchange of information through posting of electronic messages and files, and its archive function will help build the institutional memory of the programme. The programme at last has a mechanism to allow communication among partners at a reasonable cost.

ODS Officers Network for Southeast Asia and the Pacific

Eliminating the production and consumption of ozone depleting substances (ODS) is an example of cleaner production involving one broad class of chemical substances. The ODS phaseout in developing countries involves both legal, administrative, and information issues, as well as, technical and economic issues. One of the main obstacles to a rapid global phaseout of ODSs is the lack of capacity to deal with the many facets of ODS problem in developing country governments. There is too often limited knowledge and experience regarding policy options, in particular the details critical to designing and implementing sound government phaseout policies and strategies.

Given the complex inter-relationships of options and consequences of being wrong, government officials sometimes avoid making hard decisions. In some governments there is a sense that the ozone depletion problem is not a priority issue, so even committed officials responsible for ODS phase-out programmes must often struggle for internal acceptance and

recognition of their work. A limited legal framework to respond to ODS issues compounds the problem in many countries.

To address these barriers, the ODS Officers Network for Southeast Asia and the Pacific (ODSONET/SEAP) was started in 1992 which main objective is to promote an early phaseout of the use of ODS in Southeast Asia and encourage developing countries to become Parties to the Montreal Protocol. The project links the principal government officials responsible for the ODS-phaseout issues in member countries: Australia, Brunei Darussalam, Fiji, Indonesia, Lao PDR, Malaysia, Myanmar, New Zealand, **Philippines**, Singapore; Sweden, Thailand and Vietnam. As the success of national phaseout programmes relies heavily on cooperation from industrial ODS users, chemical and equipment suppliers, and academic and training institutes, representatives of these groups are included in Network activities on an ad hoc basis.

Cooperation between governments is encouraged through a network approach that promotes the exchange of information and experiences on ODS issues.

The project has developed a framework of efficient exchange of experience among ODS Officers centered around periodic meetings of the members. It has also improved developing country access to information on all aspects of the ODS phaseout, and promoted sharing of information/outreach materials and joint activities between Network countries. The Network provides an easy mechanism for obtaining feedback on difficulties encountered by member countries and their needs regarding additional information and training. This has led to improved efficiency and cost savings through cooperation and replication of common activities and strategies, and decreased dependence on international consultants. The Network is a good example of Technical Cooperation Among Developing Countries.

ODS Officers have also recognized the importance of having Network countries become more involved in negotiations at the Meetings of the Parties and other meetings related to the Montreal Protocol.

The initial goal of the ODSNET/SEAP Network was to strengthen capacities of ODS Officers from Article 5 countries by having them learn from their colleagues in more advanced countries. Less than four years after the Network was established, it is evident that as much experience and information is being shared among the Article 5 member countries themselves. As ODS Officers of the Network have become more familiar with ODS phaseout issues, they have taken a more pro-active approach to this global problem. The network approach, first tested successfully in Southeast Asia, is now being used in Latin America and Africa.

Network for Industrial Environmental Management

The Network for Industrial Environmental Management (NIEM) was established in 1987 and consists of research institutions, laboratories, government agencies, and pulp and paper mills in China, Indonesia, India, Malaysia, **Philippines**, Thailand and Vietnam. *The Network's objective is to promote better environmental management and natural resource use in the pulp and paper industry, particularly in small-and medium-sized mills common in Asia.* These are a particular problem for environmental authorities in many countries given their resource intensive, polluting nature.

Earlier NIEM efforts concentrated on building the mechanisms for cooperative research and exchange of information.

There exists much scientific knowledge about the pulp and paper industry and its environmental effects, but much of this comes from studies in Europe and North America and is not very relevant in Asia because of different species of fibrous raw materials, mill processing conditions, receiving media characteristics. NIEM members started by conducting applied research studies in four areas, all related to improved environmental management in the pulp and paper industry:

- Mill wastewater discharge characterization
- Evaluation of receiving media (land and water)
- Rapid assessment of environmental impacts of small, existing pulp and paper mills, land
- Reuse of pulp and paper mill effluent.

During NIEM I, manuals and guidelines were developed for use in conducting the field studies which included manuals on *Mills Discharge Characterization*, *Receiving Water Quality Evaluation* and *Receiving Land Quality Evaluation*, and a guide on *Determining Acute Lethal Toxicity Pulp and Paper Mill Effluent to Freshwater Fish*. These were practically oriented, and aimed to provide a common approach so that results would be more widely applicable..

The NIEM II expanded the field studies at members mills and increased the emphasis on training and skills development. The individual study reports were compiled into general reports that also served as the backbone of two training packages, one on discharge characterization and improved mill management, the other on receiving water/receiving land quality evaluation and assessment of the environmental effects of mills. These were used in regional and national training workshops attended by approximately 250 persons in developing countries in the region.

NIEM III shifted emphasis slightly to emphasize cleaner production opportunities in the pulp and paper industry. The main emphasis is on demonstrating to mills the advantages of adopting a cleaner production approach and training mill personnel in each of the NIEM member countries on cleaner production assessment methods.

NIEM activities in each country are directed by a Node that is assisted by a Core Group. Composition of the Core Group differs from country to country, but generally includes the government agencies responsible for environmental and industry, an industry association a research or educational institute, and the active mills

A number of broad lessons are evident from UNEP's efforts to promote cooperation on cleaner production or improved environmental management in industry. These are summarized as follows:

1. Fact to face meetings and personal component are important. Cooperation or networking does not really take off until people have met each other and have established an element of familiarity and trust. Hence electronic means of communication can supplement traditional means not replace them entirely. This might be even more true in Asian cultures where face to face meetings are important.
2. Common tasks and unity of purpose strengthen cooperation and networking; the more diffuse the needs of the members, the less effectively a cooperative network is likely to be. Projects that replicate a number of countries the same types of activities also make it easier for the donor or implementing agency to draw broad lessons about the results and aid in project management..

Networks that are broad or expansive might seem appealing but rarely have enough common ground to be useful to

members and their breadth makes it hard to draw conclusions about their effectiveness.

3. Persons must feel some need for information and believe they can get something out of participating in the larger, cooperative effort before they make it work.
4. Cooperative arrangements to promote cleaner production can yield greater benefits in terms of lasting change, but projects that rely heavily on cooperation are harder to arrange and implement. There is often greater uncertainty, activities take longer to plan and undertake given the greater number of partners, and quality sometimes suffers.

The sustainability of cooperative ventures goes up sharply with time and donors with short time horizons are cautioned against expecting quick results.

5. Most people say that they benefit from a group information effort, such as a newsletter, but it is much harder to find volunteers willing to contribute to such an activity than it is to find those willing to praise its value.

In the case of toxic and hazardous chemicals, the experience of FAO and UNEP in the sharing of information is good example to follow, to update the South countries regarding toxic and hazardous chemicals and nuclear wastes. But, even in this instance, while the information is readily available, the South countries have not been able to put up the necessary systems and procedures to adequately protect their populace.

The Philippines would like to propose the setting of an information sharing mechanism similar to that used by FAO and UNEP to: (1) access information regarding domestically prohibited goods in general and (2) to set up effective regional systems and procedures to deal with the import, export, utilization and disposal

of domestically prohibited goods. In addition, it is also proposing a way to make the already existing systems set up by it and some of its neighboring countries to be made available to other nearby South countries utilizing the economies of scale in making these systems among country users more viable and affordable in the long term.

The Philippines is further proposing the harmonization of the procedures for monitoring and enforcement in ASEAN to make it easier for the member countries to implement said procedures and to effectively address cross border cases of violators. This will make the maintenance and updating of the systems and procedures more affordable to all countries concerned. In other South country clusters where such systems and procedures are still non-existent, they could look into the possibility of using similar regional aggrupations to put up regional systems and harmonized procedures to deal with the dilemma. Expenses for the maintenance and updating of the systems can be shared among the participating countries as has been the experience of the CP Centres to ensure not only their affordability but also that the systems are kept up to date. In these endeavors, governments' and the private sectors' participation are indispensable. Where possible, governments should let the private sector take the lead, assisting them in terms of tax and duty and other fiscal and non-fiscal incentives.

These proposals can, however, run into difficulties because of certain realities. Experience has shown that North countries have a strong influence on their "economic satellites". While these "satellites" are politically independent, they are factually economically dependent on "economic godfathers" for markets, loans and grants to keep their political vehicles moving forward. Without the cooperation, collaboration and adoption among South countries of the necessary systems and procedures, the availability of updated information and technology will practically be useless.

The obvious solution to this problem is a multilateral international agreement between South and South and between South and North countries brokered by both the WTO and every possible international organization, i.e., UNCTAD, UNEP, UNIDO, and OECD, among others.

WTO cannot work in isolation from these international bodies. It should be emphasized, however, that the effectivity of the systems and procedures regarding domestically prohibited goods will have a salutary impact on international trade and the welfare of the member nations of WTO. Today, the WTO is THE body to deal with regarding world trade and the issue with regards to how domestically prohibited goods are treated is essentially a world trade issue.

The problem, however, is that even in WTO the North can sway policies to their own advantage to the detriment of the South. Despite the clear majority enjoyed by the South countries in terms of membership in the WTO which works under the "one country-one vote" regime, the fact that the South is largely dependent on the North for economic stability has led to decisions favorable to North, yet ultimately detrimental to the South.

Experience has shown that particularly in the field of environmental concerns, the problems are not only a national concern but a global concern as well. Detrimental effects to the environment cannot be confined within territorial limits because they have a total global effect.

This consciousness of global concern with respect to national environmental problems must be enhanced if we are to protect the world in which we live in.

This is not a matter of choice. It is a reality we have to deal with, unless science can provide us with another planet in which to transfer. Since this is the only world we have. We have to focus our

collective efforts to preserve this world, for us and those that will come after us.

On Market Access

Chemicals, whether occurring in nature, or manufactured in laboratories, are at the heart of any industrialized or industrializing society.

There are hundreds of thousands of chemicals and chemical compounds used worldwide. Of these, approximately one hundred thousand (100,000) are in commercial and industrial use. Additionally, several hundreds of new chemicals and chemical substances enter the international market every year.

And yet, of the existing chemicals and chemical substances in commerce, only about one percent (1%) has been adequately tested to determine their toxicity to human populations and the risks they pose to the environment.

All sectors in the Philippines, namely, government, industries and civil society, fully recognize that the problems associated with exposure to chemicals are invariably growing, as the number and quantity of chemical substances increase and the opportunities for their application expand.

Emissions, discharges and wastes from the production and use of chemicals and chemical substances contaminate the country's water, air and land resources.

The problem is further compounded by the fact that the harmful effects of many imported chemicals and chemical substances have not been adequately studied, so that the impact

and subsequent risks can only be felt after many years of use and exposure.

Since the Philippines is more of an importer, rather than a producer of chemicals and chemical substances, it has linked its market with its environmental laws, emphasizing conservation and protection; with its national policies giving preferential attention to public health and safety, and with its commitments in international/regional multilateral agreements, conventions and organizations, towards the pursuit of a cleaner and safer world.

The Philippines is biased for the adoption of the precautionary principle in view of the ill effects of chemical and chemical substances which are known only after years of exposure to said chemicals. As to PPMs, the Philippines favors a clear and workable approach to eco-labeling.

The Philippines does not intend to be unreasonable regarding the entry of chemicals and chemical substances to the country. It merely intends to use *a balanced approach*, giving due consideration to the national priorities as aforesaid. One way it knows how is to retain its rights to have imported DPGs conform with its national standards and prerequisites, which are after all, patterned after the set of rules and criteria of the countries where the DPGs come from. The Philippine authority also takes reasonable control measures when the DPG in question lacks full scientific certainty to back up the product's effect on public health and safety, as well as, on the environment.

Upon the other hand, the Philippines fully realizes that being a developing country, trade liberalization is not a panacea for growth and poverty reduction. In fact trade liberalization has created losers and winners in the national economy. And the small and medium enterprise which have not prepared early on are the most probable losers due to continuing lack of technology and financial resources.

The Philippines therefore, just like the other developing countries, is in earnest search of the win-win-win outcomes of trade liberalization and environment protection. One way it knows how is the integration of developing countries into a more receptive global economy. If there is inequality in opportunities, the logical consequence is income inequality, therefore poverty reduction in the developing countries remains painfully slow and uneven and environmental degradation continues on.

In fact, the fragility of Asian economic growth may be attributed to environmental degradation, exhaustion of energy and other types of natural resources capital.

A leading Japanese journalist and editor described the three (3) generations of world economic growth as follows:

- First generation, which included U.K., France and U.S.A. achieved economic development relatively quickly based on the *principle of market economy*.
- Second generation, which included Germany, Italy and Japan, lagged behind the first generation by one hundred (100) years. To catch up, said countries fostered and developed their domestic industries by using the *protectionist approach*.
- Third generation, which includes the Asian newly industrialized economies (NIEs), ASEAN, and China are trying to achieve economic maturity within twenty-five (25) to fifty (50) years, something which took one hundred (100) to two hundred (200) years, for the first and second generation economies to achieve.

The Philippines, therefore proposes:

1. *Parallel market arrangements and subsidized technological transfers*, backed up by meaningful partnerships and

cooperations with the countries and enterprises where the DPGs come from.

Corollarily, regional aggrupations should ask the Codex Alimentarius Commission to set a level playing field with regard to the adoption of standards. Experience has shown that developing countries like the Philippines, (i.e., the cases of carageenan, food mixes with annato as an ingredient) have lost a big chunk of its market share due to stringent and time-consuming standards of testing which proved unfavorable to the ready access to markets of products produced by developing countries which are also produced by developed countries.

2. For WTO to take the Initiative in pushing for the *amendment and/or modification of the existing agreement on subsidies*.

Or better still, WTO may push for the creation of a *Multilateral Agreement on Subsidy Reform*.

Developed countries provide generous agricultural subsidies to their farmers and fishermen which lead to over-capacity and distortion of prices, to the damage and prejudice not only of the market shares of the developing countries (in both their local and global markets) but also of their natural resources capital.

The Philippine experience is a good example. Presently, the local market is flooded with very cheap imported garlicks, onions, poultry products, squids and herrings, among others, that have prejudiced the local producers to the point of being wiped out.

WTO should also put up a distinction between bad and good subsidies at the shortest possible time.

It is time to seriously consider the reduction, if not the elimination of environmentally damaging subsidies, otherwise, the small and medium enterprises (SMEs) which are the engines of growth in all the developing countries, will not survive , ultimately causing the collapse of their economic development.

3. WTO or other concerned international organizations should take the lead in assisting the developing countries to *understand the workings of the sanitary and phytosanitary (SPS) and safeguard measures*. As it is, while the developing countries are subjected to these measures by developed countries as a means of protecting their local industries, the developing countries lack the understanding on the workings of sanitary and phytosanitary, as well as, safeguard restrictions imposed on their exports to be able to effectively protect their own local industries in the same manner.
4. It is time for WTO to *refine the rules of the game* in trade. It is time to move away from the "one size fits all" concept, because of their very damaging effects on the one hundred ten (110) developing country members. Although they compose the bulk in the WTO membership, this fact does not have any meaning, because it does not equate to power. Many developing countries lack the technical capacity to negotiate meaningfully or even assuming they have that technical capacity, they lack the political will to go against their Northern partners. The rules of the game are set by the rich and the better-prepared developing countries. WTO rules are often based on developed country models which prove inappropriate and prohibitively expensive for the poor WTO members.
5. *Developing countries must have a more real participation in the rule making process in WTO*. To do that, regional and collective aggrupations among them must be formed so that

they are heard as one strong voice. It is time to use the collective power of their votes until WTO becomes less power-based in its negotiating process.

Conclusion

The Philippines as one of the developing countries of the world experienced the severe impact of industrial activities on all components of its natural environment. Among the countries in Southeast Asia, it is ahead in the institution of laws, rules and measures regarding chemicals, chemical substances and nuclear wastes also known as domestically prohibited goods (DPGs). It also took an more active part in bilateral and multilateral international agreements, cooperations and membership in international organizations pursuing a cleaner and safer world.

The Philippines contained the problems and aggravations to its local environment, as well as, to its public health and safety by effectively managing the importation, manufacturing, processing, handling, storage, use and disposal of chemical substances and mixtures in the country, including their entry, even in transit. To be able to do this, the appropriate Philippine authority, namely, the Department of Environment and Natural Resources was tasked to compile and update an inventory of chemicals and chemical substances manufactured or transported in the country and the country's inventory list is known as the Philippine Inventory of Chemicals and Chemical Substances (PICCS) which covers 24,000 chemicals and chemical substances available in Philippine commerce. The DENR also monitors and regulates the importation, manufacture, transportation and distribution of chemicals and chemical substances that present unreasonable risk or injury to health or to the environment in accordance with national policies and international commitments. In line with this, is the establishment of the Philippine Priority Chemicals List (PCL) where the set of criteria used is based on those used by industrialized nations, such as Australia, Japan, Canada and the United States. With due consideration to industrial needs, health and environmental risks, the Philippine commitment to regional and

international treaties and conventions, the DENR determines each year the chemicals to be regulated, controlled or phased-out.

Relative to pesticides, the Fertilizer and Pesticide Authority (FPA) determines the specific or manner of use of pesticides or pesticide formulations, enforces tolerance levels and good agricultural practices, and restricts or bans the use of the same upon evidence that it is an imminent hazard or will cause serious damage to crops, fish or livestock or even to public health and the environment. Due to an effective awareness program of the dangers posed by pesticides, the Philippine experience shows a drastic reduction in the importation of pesticides for the period from 1996 to 1998.

Relative to waste management and disposal of toxic, hazardous substances and nuclear wastes, industries are encouraged to collect data on waste generation and to submit to the DENR the same for integration into the hazardous wastes tracking database which is used for monitoring and enforcement; reclassification and development of analysis for purposes of national planning, monitoring and adjustment of relevant programs. To mitigate and/or combat spills and accidents, DENR requires a comprehensive contingency plan, as well as, training programs for premises that handle hazardous wastes per generator category. They are also required to demonstrate financial responsibility to third parties in case of personal injury and property damage stemming from the release of such hazardous wastes.

The Dangerous Drugs Board is the highest policy-making, coordinating arm and national clearing house on all matters pertaining to law enforcement and control of dangerous drugs. Its structure and working capability is based on the concept of interdisciplinary coordination and multi-agency cooperation. It establishes control measures for importers, distributors and wholesalers of dangerous drugs, as well as, the criteria for

classifying and declassifying substances and drug preparations as dangerous drugs.

The Department of Health establishes standards, and quality measures for food, drugs, devices and cosmetics to ensure pure and safe supply and rational use of the same.

The Bureau of Product Standards issues import commodity clearances to imported articles covered by Philippine National Standards declared mandatory.

Hand in hand with local legislations and issuances, the Philippines became a party to almost all the major Multilateral Environmental Agreements (MEAs) such as the Agreements on the Protection of the Ozone Layer, CITES, Convention on Biological Diversity, Basel, Climate Change, United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, ASEAN Regional Agreement on Cooperative Drug Control, United Nations Convention on Precursor Drugs, etc.

Cognizant of the trend towards trade globalization, the Philippine policy makers believe that the establishment of an effective and up-to-date information sharing mechanism, especially between and among South countries, is indispensable in managing DPGs, nationally, regionally and on a world wide basis. And more importantly than regulatory measures already instituted is the build up of industrial and social systems, as well as, the appropriate climate to induce enterprises and civil society to initiate programs and systems to gather data on DPGs as basic reference materials, to monitor damages or adverse effects of DPGs; and to correct or clean up the damages done by their release into the environment.

The Philippines advocates the promotion of linkages and cooperation between and among South countries and South and North countries for the following reasons:

- Information exchange cooperation allows ideas to spread especially when new concepts are presented by the North and accepted by the South.
- Exchange of information can help avoid duplication and waste especially when the information materials are good models that can be adapted to suit local circumstances; and
- Group solidarity developed in cooperative projects can induce the members to voice out their positions where they may otherwise hesitate to speak out.

The Philippines suggests that UNEP's initiatives which promoted cooperation and coordination on cleaner production on the regional and international levels be looked at as a model.

Since the Philippines is more of an importer, rather than a producer of chemicals and chemical substances, it is biased for the adoption of the precautionary principle in view of their ill effects which can only be known after years of exposure.

As to PPMs, the Philippines favors a clear and workable approach to eco-labeling.

As to the Sanitary and Phytosanitary (SPS) Agreement countries are encouraged to accept as equivalent the SPS measures of other members even if they differ from their own. This means that if the exporting country demonstrates that its measures achieve the importing members appropriate level of SPS measures the same should be recognized or adopted as adequate SPS protection.

Equivalency is the best option when harmonization of standards is not desirable or when international standards are lacking or inapplicable. For developing countries which face climatic, developmental and technological conditions different from

those prevailing in developed countries, equivalency of SPS measures represents a key instrument to enhance market access for their products. Equivalency facilitates trade between two countries which establish a mechanism for recognition of equivalence of sanitary measures.

The procedure to reach recognition of equivalence is rather complicated. The importing country has to explain the objective of the sanitary measure for which recognition for equivalency is sought. The exporting country presents the evidence that its own sanitary measure has the appropriate level of the sanitary measure of the importing country. The evidence includes domestic legislation regarding standards, procedures, policies, enforcement and control, efficacy of said enforcement and control and the powers of the regulatory authority. The recognition of equivalence is not easy to achieve because of several requirements. However, for developing countries who need to enhance their market access this option is worth pursuing.

The Philippines intends to use the balanced approach giving due consideration to its national priorities with regard to the entry of DPGs into the country. To this end, it will retain its rights to have imported DPGs conform with its national standards and prerequisites, as well as, to impose reasonable control measures when the DPGs in question lack full scientific certainty to back up the products' effect on public health and safety and on the environment.

The Philippines is in search of a win-win-win outcome of trade liberalization and environment protection through integration to a more receptive global economy.

In line with its stand, the Philippines posits the following proposals for a more equitable market access by developing countries:

1. Parallel market arrangements and subsidized technological transfers;
2. Amendment and/or modification of the existing agreement on subsidies to be led by WTO.
3. For the WTO and other international organizations to assist the developing countries in understanding the workings of the sanitary and phytosanitary (SPS) and safeguard measures.
4. The WTO should refine the rules of the game in global trade to move away from the "one size fits all" concept.
5. Developing countries must have a more real participation in the rule making process in WTO. To do that, regional and collective aggrupations among them must be formed so that they are heard as one strong voice that will protect their own special interests vis-à-vis those of the developed countries.

Developing countries must realize that in terms of numbers they usually constitute the bulk of the membership in international organizations. They must be able to use the "power of numbers" they have in certain international organizations to protect their individual and collective interests to ensure a level playing field in global trade. They really have no other choice if they are to compete on equal terms with developed countries. Global trade is a reality we all have to accept. But in accepting it, we do not necessarily have to sacrifice the interests of the South countries in favor of those of the North countries. Otherwise, the South countries will always remain on the wrong side of the road to North countries and this is a condition that cannot be acceptable.

Global trade is good. For everyone. But only if the North countries are receptive to the concerns of the South countries.

South countries have to have equal access to global markets to economically grow so that they can afford to set aside a percentage of their revenues for the protection of their domestic environments. They must also have access to environmental technology, support from the international community and funding from multilateral funding institutions in the pursuit of their environmental goals.

Otherwise, we cannot have real global trade nor a sincere global commitment to environmental protection.

We must commercially interact with each other within the context of a world that is environmentally stable to preserve it intact for the future generations. This is every country's concern. It should be every country's commitment.

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