

Towards the Development of Philippine Agricultural and Service Exports in the light of the Doha Round of Negotiations

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A. Background and Introduction:

Even prior to its becoming a founding member of the WTO in 1995, the Philippines had already instituted a comprehensive tariff reform program that provided for a liberal schedule of tariff reductions and concessions on selected industrial and agricultural products, which were overtly in excess compliance of the commitments required by the organization. This trend can be noted in the remarkable reduction of the country's average MFN tariff rates from 26% in 1992 to a little below 10% in 2003. Notwithstanding the crushing impacts of the Asian Financial Crisis of 1997, which crippled the financial viabilities of several industries across Asia, the Philippine government resolved to attain its target of a 5% average MFN tariff rate by January 2004¹ and managed to maintain wide differentials between its applied and bound rates.

Furthermore, beginning from the incumbency of President Fidel Ramos, the country pursued an aggressive liberalization program in trade and investment policy by opening up strategic sectors such as telecommunications, mining and retail trade to partial foreign ownership; progressively eliminating tariff peaks and setting a course towards the tariffication of quantitative restraints. To provide vital safety nets for the protection of domestic industries, and as countermeasures against possible preparations of unfair trade practices, the country consequently ratified key legislation in the form of anti-dumping, countervailing and safeguard duty laws. These trends reveal an apparent firmness on the part of the Philippine Government to conscientiously advance in its unilateral path towards freer trade in all economic sectors notably in anticipation of reciprocity and special and differential treatment from its trade partners in the developed world to accommodate its high value export goods.

a) Unmet expectations and opportunities posed by negotiations

Unfortunately, the expected reciprocity and/or special and differential treatment, which were expressly anticipated by the country during the Uruguay

¹ A reversal however was realized early in that same year, following the results of a tariff review commissioned in 2003 which entailed a long process of consultations with domestic industry representatives who clamored for additional tariff protection to preserve their viability.

Round of negotiations, did not completely materialize. The emergence and continued maintenance of subsidies in the agricultural sector, tariff discrimination, and non-tariff barriers such as sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT) in the developed countries of the EU, US and Australia have remained perennial market access issues for the developing world, inclusive of the Philippine experience. The Doha Development Round of negotiations would therefore afford the Philippines another venue in which its interests and legitimate clamors, and those of the rest of the developing world could reverberate and bear upon the hindrances to fair trade imposed by the developed world. This will enable members of the developing world to assertively rally their cause to exploit their respective comparative advantages in the agricultural and service sectors, as the modalities of negotiations are finalized.

In September of 2003, the 5th Ministerial Conference was held in Cancun, Mexico, with renewed hopes that the developing countries would finally get their fair share of the bargain. The conference however, resulted in the now infamous impasse, that was attributed mainly to the insistence of developed countries to prioritize discussion of the “Singapore Issues”² ahead of agricultural market access, domestic support and export subsidies. Nonetheless, despite the retention of the status quo with time lost and nothing gained at the multilateral arena, some analysts still describe the Cancun collapse as a shining moment for developing countries which banded together to form the Group of 22 (G-22) and collectively resisted the muscle of the developed countries to prevent the entire conference from arriving at a bad deal. With multilateral talks at a standstill however, the rest of the world which was eager to liberalize and benefit from the gains of freer trade seemingly, for a while, saw their patience in the WTO waning and opted to consider bilateral and regional trade deals. In a matter of days after the collapse of Cancun, several countries such as the US and Singapore set out on FTA finding missions to engage potential trading partners via the bilateral route.

b) Revival of hopes with the “July Package”

Less than a year later, in July of 2004, movements once again picked up at the WTO when member countries worked round the clock under the auspices of the WTO General Council to arrive at a consensus to jumpstart the hitherto stalled Doha Development Round. Aiming to rectify the stalemate at Cancun, the General Council, at the closing hours of July agreed upon a set of modalities that would determine how the future negotiations of the Doha Round would proceed.

The July Package, as the document was called, contained a number of elements deemed favorable to developing countries – having incorporated a number of their proposals (including that of the Philippines which will be

² The trade topics of Competition Policy, Transparency in Government Procurement, Investments and Trade Facilitation which were first brought up during the Ministerial Conference in Singapore in 1996.

discussed briefly later). It tackled agriculture, non-agricultural market access, trade in the services and trade facilitation.

Among other things, the July package called for a definite deadline for the elimination of all trade distorting domestic support in developed countries, the use of a tiered formula in tariff and subsidy cuts and setting of final bound rates as the uniform basis for continual tariff reduction.

c) Overview of Agricultural and Services in Total Economic Performance

The Agriculture and Service sector may be considered as the extremes of the spectrum of Philippine trade competitiveness. On one end, we can observe an irony in an agricultural sector, which despite the abundant existence of arable lands and natural resources, had failed to live up to its most productive potentials. For a fact, the country has become a net importer of essential agricultural products such as rice, milk, cream and wheat notwithstanding the dedication of 47%, or 13 million hectares³ of its total land area for farming. In 2001, the trade deficit in agricultural products shot up by 27% to US\$1 billion, while in 2002 agricultural growth declined to 3.5% from the 2001 figure of 3.5⁴. Nonetheless, in 2004 agriculture's share of total exports increased by 13.2% with exports receipts moving up by 17%⁵.

On the other end, we have the multi-faceted sector of the services, which has proven to be a veritable repository of Philippine comparative advantage, particularly in low to high value added labor-intensive services. In 2004, the service sector posted the highest rate of growth at 7.3% (up from its 2003 level of 5.8%) as against industry 5.3% (from 3.8% in 2003) and 4.9% (also from 3.8% in 2003) for industry and agriculture respectively⁶. This considerable rate of growth in the services was rallied by the transport, communications, and storage services which expanded by 12.2, followed by finance at 8.4, trade at 6.8%, private services also at 6.8% %, real estate at 6.0%, and government services at 1.6%.⁷

These trends can be readily observed in the composition of the country's total production output, which reflects the underutilization of the country's agricultural factors and resources. In the beginning of the 1980s Philippine agriculture made up a quarter of GDP, with the services edging slightly ahead at 35%⁸. The coming years however will witness a widening performance gap between the two sectors, as the delineation of comparative advantage became much clearer. During the aftermath of the financial crisis, the service sector laid

³ <http://www.tradepartners.gov.uk/agriculture/philippines/profile/overview.shtml>

⁴ *ibid*

⁵ http://www.bar.gov.ph/news_out/agrisurges.asp

⁶ data from the National Economic and Development Authority (NEDA) January 2005

⁷ *ibid*

⁸ data gathered from Philippine Statistical Yearbook of the National Statistics Coordinating Board.

claim to a clear majority of the total Philippine GDP at 52%, while agriculture settled for a comparatively lower share of 17%. In 2002 owing to a rebound in the industrial sector, 46% of GDP was attributed to the services, while agriculture only accounted for 20% of total GDP⁹.

d) Purpose

This paper is meant to provide a brief factual background of the current political and economic situation enveloping the Philippine agricultural and services sectors in view of the widening export opportunities brought before it by the multilateral round of negotiations and other regional trading initiatives. Furthermore, it will also discuss the initiatives that the country has done and is currently undertaking to promote its competitiveness in these sectors for the purpose of finally recommending possible focus areas of the present Doha Round.

B. Agriculture

a) Years of adversity under a regime of import substitution industrialization

The immediate cause of the dismal performance displayed by agriculture in the Philippines can be partially ascribed to the country's hard line resolution to pursue a strategy of import substitution industrialization at the beginning of the latter half of the 20th century. This era was characterized by generous subsidies granted to heavy industries, high tariff walls for industrial products and substantial disbursement of foreign loans to finance capital intensive industries and bail them out from constant losses. This policy mindset diverted vital funds and attention from the country's flailing agricultural sector, which was deprived of the necessary irrigation, infrastructure and crop development projects during those crucial years. The failure to invest in farm to market roads, farmer training, advanced agricultural techniques and strategic irrigation facilities caused the sector to progressively lag behind relative to its ASEAN counterparts. Furthermore, the flow of public funds and incentives for business were concentrated on the development of the urban areas, particularly Metro Manila instead of the farming and fishing villages in the hinterlands whose rudimentary methods of production barely surpassed levels of subsistence, making it impossible to achieve linear development and exploit economies of scale.

Perennial conflicts in the political sphere such as the protracted armed struggles of insurgent farmers and communist factions in the rural areas arising from discontentment over the long delayed implementation of the agrarian and structural land reform served to aggravate the situation towards a more somber prognostication. Vast tracts of fertile lands and untapped natural resources thus

⁹ ibid

became less accessible and less attractive to develop and extract due to the constant threat of violence and the likely extortion of so called “revolutionary taxes” from the active insurgents who may take unsolicited interest in the land’s produce. Less than concerned landlords likewise, no longer bothered to harness the full potential of the hectares of farmland they owned and allowed their assets to lay idle and unproductive, much to the detriment of the domestic farmers who then, rarely had the opportunity to own up to the lands they tilled.

b) Renewed hopes: export orientation and WTO renegotiation

Towards the middle of the 1990s however, late in the realization of the country’s primeval source of comparative advantage and as the viabilities of infant industries turned for the worse, the Philippines started adopting a policy of export orientation and agricultural support. In 1994, Congress passed legislative measures to support the domestic export industries. RA 7844, or the Export Development Act of 1994, recognized that “the link between export growth and countryside development must be strengthened through policies favorable to SMEs, regional industrial centers, and export-processing zones to boost rural and farm-based entrepreneurship in identified geographic economic growth areas of the country” and articulated that “agricultural policies shall build up the viability and competitiveness of the country’s agriculture sectors and facilitate their linkage with industry to strengthen the industrial-industrial base of the country’s export thrust. “⁴Its provisions allow for the granting of tax incentives to Philippine exporters, and tax credits for the importation of non-locally produced raw material inputs destined for export processing and special economic zones; the existence of which has provoked some anxieties and questions on the part of the developed countries⁵.

Holding true to its commitments under the WTO however, the country did not automatically call for a readjustment of tariff rates for agricultural products; instead focused on the tarrification of quantitative restraints, except for rice, and sought refuge for 118 sensitive products under the Special Agricultural Safeguard Measures, Parallel to these developments, the Philippine government recognized the necessity to produce in light of the imminence of multilateral tariff reduction and globalization in 1997, Congress ratified the Agriculture and Fisheries Modernization Act (AFMA) which granted various tax and duty exemptions for essential inputs to the agricultural sector such as machineries, fertilizers, and seeds. This same act likewise appropriated a fund of more than a billion pesos for the rehabilitation of the sector and afforded for the installment of social safety nets which may be needed to ameliorate the potential displacements brought about by the gradual elimination of agricultural tariffs.

⁴ http://www.virtual-asia.com/ph/bizpak/legalcodes/export_1994_01.htm

⁵ <http://mkaccdb.eu.int/mkdb/stb/barrierdesint.pl?bnumber=010052>

c) Private sector consultations on modalities for future negotiations and TF-WAR

To purvey and assert domestic agricultural concerns at the multilateral trade negotiating table, the Department of Agriculture and concerned private sector groups formed a Task Force for WTO Agriculture Agreement Renegotiations (TF-WAR) to discuss possible modalities for agricultural negotiations for the next WTO round of talks, which would be reflective of the interests of the country and, to a certain degree, the rest of the developing world. This task force convenes regularly and has already presented proposals for the negotiations on agriculture. These proposals contain a suggested framework for the modalities of the WTO round of negotiations giving due consideration to the interlinkages between the issues of market access, domestic support and export subsidies. Some elements of these proposals, as mentioned above, were incorporated in the July Package, to a certain degree.

d) The Philippine position

The Philippine proposal, which speaks of the country's adamant stance to assure market access and stimulate export development, argues that a scheduled tariff reduction will have to be complemented by a simultaneous, or interlinked compromise that will guarantee the commensurate phase out of trade distorting domestic support. This consists of two stages⁶, each to be implemented for a period of three years. The first phase, or the harmonization stage will entail the setting of up of a mechanism for tariff reduction beyond negotiated levels, integrating special and differential treatment to address tariff peaks and mega tariff distortions. For purposes of harmonization and uniformity, this phase would entail the conversion of all tariff scheduled into ad valorem terms, and the reference to Uruguay round bound rates as the relevant base levels for reduction. To insulate developing countries from trade distorting export subsidies and domestic support measures from the developed world, special and differential countervailing measures will be applied throughout the two phases. During the second stage, termed as the tariff reduction phase, the Philippines recommends the application of the Swiss formula⁷, without exception provided that the coefficient of developing countries will maintain a comfortable magnitude higher than that of the developed countries to allow slower reductions and longer implementation periods for the former. This completion of the first stage and the commencement of the second will be realized as soon as the developed countries have substantially lowered their levels of trade distorting domestic support. A lobby to reserve developing countries the exclusive right to avail of special safeguards (SSG) and since although intended to address price

⁶ Taken from a contribution of the Philippine mission to the WTO entitled *Integration of reforms in Export Completion, Domestic Support and Market Access in World Agricultural Trade; Basic Elements*,

⁷ $\text{New Tariff} = (\text{Current Tariff} * \text{coefficient}) / (\text{Current Tariff} + \text{coefficient})$

volatilities and sensitivities in developing countries these measures have only been extensively utilized by the developed countries.

Salient features of the proposal relative to domestic support include the simplified classification of such measures into two categories; the amber box, for trade distorting support and the green box, for non to minimally distorting support. The contents of the blue box therefore, and the decoupled support payments under the green box will be rerouted to the amber box and scheduled for reduction. This will require a redefinition of the Aggregate Measures of support (AMS) to include within its scope, the amber box and decoupled support payments.

With regard to export subsidies and domestic support, the Philippine position calls for the obligation of developed countries to immediately eliminate all forms of export subsidies and prohibit them permanently and unconditionally over (3) three years, while extending the same obligation for developing countries for a longer timeferame of six (6) years. Minimum caps are also prescribed for various categories related to minimizing the, advertising and transport costs of exportation in developed countries.

To supplement these movements toward greater market access and fewer trade distortions from domestic support and export subsidies, the Philippine proposal makes an equivalent clamor for the elimination of export monopolies held by exporting state trading enterprises and putting in place a system of discipline in their operation in order to avoid conflicts with subsidy reduction commitments and ensure transparency. The same call for tighter discipline applies to the issuance of export credits.

It is perhaps worthy to consider that a notable number of these proposed modalities were incorporated in the so-called July Package, principally the clamor for a tiered formula in tariff reductions and the establishment of a fixed deadline for the abolition of domestic support. It must be borne in mind however that the contents of the July package are not yet the long-awaited set of agreements themselves, but merely the modalities that will determine the parameters of the future negotiations to be done under the Doha Round.

e) Perennial impediments to market access

These pillars of the Philippine trade negotiating team in agriculture are designed to develop the domestic agricultural sector through the creation of market opportunities in the developed world, and the propagation of small and medium scale enterprises engaged in the export of local produce.

However, much remains to be done in installing teeth in the government's capabilities at the Dispute Settlement Body (DSB). Discriminatory tariffs against

Philippine tuna exports to the EU and the US remain¹⁰. Meanwhile, excessive Australian sanitary and phytosanitary standards on the country's banana and pineapple exports¹¹ have served as a convenient – albeit – questionable non-tariff barrier that has deprived local producers of an otherwise legitimately claimed international market share. Philippine desiccated coconuts have been slapped countervailing duties upon entry in Brazil, based on almost entirely on technical grounds and questions on applicable laws⁸. While the Philippines remains wanting of the funds necessary to muster sufficient man power and technical expertise to successfully manage its dispute settlement concerns, market access and export development would remain a formidable challenge on top of the arduous uphill climb it already faces in the next round of negotiations.

f) Other options for export markets

Dauntlessly however, despite the road blocks that may lay ahead in securing its share of the international market under the auspices of the WTO (especially with the impasse at Cancun), the Philippines government, continues its consultation with domestic agricultural players to seek viable options to penetrate other markets through a bilateral and regional route.

On one hand, If all goes according to plan, a free trade area (FTA) amongst ASEAN members, with the eventual inclusion of China (under the ASEAN-China FTA) is bound to materialize in the next ten (10) years. At the Tariff Commission, Philippine exporters of carageenan and coconut oil for instance are currently battling for their inclusion in the Early Harvest Package (EHP) for them to avail of lower tariffs and successfully gain a portion of the enormous 1.2 billion China market. A proposal to draft an EHP list for the Philippines comprised of all non-locally produced unprocessed raw materials¹² has also been sounded at the Tariff Commission. However, owing to the general consensus of the Department of Trade and Industry that no genuine comparative advantage for the Philippines exists in raw, unprocessed agricultural products, apart from a small minority of fruits, vegetables, extracts thereof and seaweeds, prospects for the country's participation in the EHP does not hold much optimism. Corollary to this, in almost every public hearing of the Tariff Commission, majority of the agricultural producers meats and crops to the levels of their maximum MFN bound rates; often with the heated remark that the acceleration of tariff cuts was a unilateral decision which was not initially consulted with the private sector and that the AFMA funds allocated to serve as their safety nets had not been disbursed properly. Nevertheless, during the 10th ASEAN Summit in Vientiane, Laos last November 2004, the country has

¹⁰ See WTO Agreement of Agriculture: The Implementation Experience – Developing Country Studies (Food and Agriculture Organization of the UN, 2003) available online www.fao.org

¹¹ *ibid*

⁸ <http://www.sunsonline.org/trade/areas/commodit/10240096.htm>

¹² The coverage of the Early Harvest Package of the ASEAN-China FTA is limited to Chapters 1-8 of the Harmonized Commodity Description and Coding System (HS)

submitted its list of products (including processed food stuffs) for inclusion in the EHP, which China is currently mulling over. The National Economic Development Authority once issued a statement that the EHP would do more harm than good, if coverage would be limited to unprocessed agricultural produce, however with China's apparent openness to flexibilities, hope remains for the EHP to prosper.

Conversely, the Philippines is set to enter into another bilateral FTA with Japan by way of the Japan-Philippines Economic Partnership Agreement (JPEPA) for which agriculture is said to be a critical element to be granted duty free market access in Japan the next 10 years. Significant progress were made in the bilateral discussions with President Gloria Arroyo and Japan Prime Minister Junichiro Koizumi arriving at a "firm consensus" at the sidelines of the 10th ASEAN Summit held in Vientiane, Laos last November 2004 and the APEC Economic Leader's Forum held in Santiago, Chile on that same month. Philippine export winners that are seen to be extended tariff free access to Japan within the next decade are bananas, pineapples and tuna. One other important (and controversial) aspect of the agreement, which is expected to enter into effect by 2006, are its provisions on the services (particularly for Filipino entertainers and medical professionals working or seeking to work in Japan) which will be briefly discussed in the subsequent portion.

Apart from the current impediments that Philippine agriculture must hurdle at the level of multilateral trade negotiations, several domestic concerns still require the immediate attention and action of government. Foremost, is the long delayed institution of genuine agrarian reform to motivate domestic farmers to maximize idle, underutilized agricultural asserts. For the same purpose, agreeable profit sharing schemes between civil society groups, such as the Philippine Chamber of Commerce and Industry (PCCI), are requesting government financial institutions to accept farm lands as collateral for loans that farmers can use to acquire advanced machinery and build the irrigation systems necessary to improve crop yield and productivity. Technology transfer should also be accompanied by a massive educational effort to impart the important skills and expertise related to the application and management of modern farming techniques such as crop rotation and hydro phonics. Research and development is currently being intensified and profitable pharmaceutical or industrial usages for indigenous flora. Current research initiatives should similarly explore the likely conditions and locations in, which higher value crops such as vegetables, asparagus, and lumber can be planted and harvested for higher foreign exchange inflows from higher value exportations.

g) Other issues

Moreover, for the Philippine cause to be more favorable and attractive to its trading partners at the WTO, it should exude adherence to greater reciprocity by toning down the politically motivated anomalies in its confidence to foster healthy competition through trade liberalization and facilitation. A poignant case

in point is rice, which stands as the final frontier for the tariffication of all quantitative restrictions. The incumbent Secretary for Socio-Economic Planning once broached that the status quo of giving government exclusive rights to rice importation is a primary occasion for rent seeking government. He reckoned that only unscrupulous traders; who import rice during at exorbitant prices during planting season, are seen as the questionable beneficiaries of this scheme. In the greater interest of food security and transparency, it may thus be only a matter of time before the restrictions of rice are lifted and tariffied. This betrays and accentuates the urgent need to pursue a parallel track of research for higher value crops to replace crops in foregone expectation of the economic displacement of local rice farmers.

C. Services

a) Constant Sector Boom

Leaving the more sensitive issues of agriculture behind, we now delve into the background and future export development prospects for the country's service sector. It was already mentioned that the services, apart from accounting for almost half of local GDP, has also been that top performer in recent years, most especially in the export processing of semiconductors and electronic equipment. Undoubtedly, the upswing in which the service sector currently finds itself is a function of the aggressive measures undertaken in the early 90s to liberalize trade and investments in various sectors and opening them to foreign competition, notable of which is the breaking of the inefficient telecommunications monopoly which had been opprobrium to previous generations of consumers. The country's positive adoption of policies for domestic export support, and the conversion of the former US naval base of Subic and the airbase of Clark into special export processing zones further bolstered the expansion of the service sector.

b) Shortcomings: unemployment and underemployment

Despite the high growth rates registered by the domestic service sector however, it has not expanded fast enough to arrest the shrinkage of the domestic labor market. Since the domestic economy could not accommodate the hundreds of thousands of potential entrants to the labor force each year, job hunting has become an extremely competitive feat. Matching the qualifications of applicants with the appropriate work descriptions has become even more difficult, compelling and substantial portion of the domestic force to settle for low income menial occupations that lag far behind their actual credentials. The lack of quality jobs with sufficient compensation has led to a continuing phenomenon termed as the "Overseas Filipino Worker (OFW) diaspora" which began in the 1970s, at the height of the debilitating oil shocks and the rise of the Arab oil economies. Thousands upon thousands of Filipino engineers, and technical experts seeking

higher incomes flocked to the Middle East at the time to quench the highly skilled labor demands of the burgeoning oil and construction industries in Saudi Arabia, Bahrain, Iraq, Dubai, Kuwait, UAE and other Middle Eastern nations. This trend intensified into the 80s and 90s, as shortages in care givers, nurses and teachers befell developed economies with dwindling and aging populations, attracted more and more Filipinos to serve abroad. This exodus continues today with equal intensity. In 2002 alone 77,601 Filipinos lost their jobs, an 8.1% increase from the previous figure of 71,764. In that same year (2002), 886, 885 Filipinos left the country to take employment abroad.⁹

c) Human resources: bulwark of Philippine comparative advantage

I recently mentioned, that, as opposed to the agricultural sector, it is in the sector of the services where the country finds its greatest source of comparative advantage, made possible in large part by its highly competitive labor force which has been internationally recognized for their fast learning curves, high levels of literacy and extensive exposure to quality education and technical training. Based on its research surveys, the US Based Meta group ranked the country first in the availability of knowledge based jobs and workers worldwide and 4th among Asian nations in terms of labor quality. These findings are put into perspective by the fact that the Philippines is the 3rd largest English speaking country in the world¹⁰, since the language has been the designated as the medium of instruction at all educational levels since the early decades of the 20th century.

Today, Filipino labor and its distinct qualities can already be considered a fixture in nearly every country. Its managers, educators, professionals, engineers and staff share a competitive advantage with regard to service quality and proficiency. This unique advantage held by country's human resources may be attested to, by multinational companies, government agencies and other institutions both here and abroad who have previously hired the services of Filipinos. The General Agreement on Trade in the Services (GATS) therefore offers the country a more auspicious opportunity to exploit this comparative advantage and gain a substantial foothold in the international market. Further, through the GATS, it may negotiate for better terms, such as national treatment, fewer hindrances to labor mobility and special and differential privileges from the developed world. Establish international linkages in the service sector abroad will facilitate technology transfer and skills training locally, enabling the Philippines to continuously upgrade the capacities of its workforce. All local professionals, including farmers and agriculturists would likewise benefit from such arrangements and extensive global ties. This should reasonably imply however, that local interests are safeguarded from further labor displacements, loss of regulatory powers over labor practices and pricing structures, and lastly, the deterioration of cultural integrity.

⁹ <http://www.virtual-asia.com/ph/weekly/030203ph.htm>

¹⁰ http://www.boi.gov.ph/why_phils.html

d) Domestic silence with GATS

Despite the existence of the abovementioned considerations, however, circumstances still indicate inadequacies in the Philippine effort to exploit GATS to its greater advantage. In the ongoing sectoral talks in the services, the Philippines does not play as much of a role as it does for the controversial issues surrounding agriculture. As a matter of fact, one could surmise that the frequency of GATS as a topic in local debates and hearings is surprisingly low, considering the potential ramifications it may have on the country's fastest growing sectors. According to Philippine professor Rene E. Ofreneo "GATS remains a big unknown, very little is known about it, nor are there extensive discussions in Congress and in the planning circles about Philippine participation in GATS."¹¹ Nonetheless, by virtue of the 1994 Senate hearings, the country committed to a "stand still" position, meaning a passive stand not to pursue any further entry restrictions, in the following sectors: communications, financial, tourism and transport services.¹²

e) Oversights and shortcomings

The interest of the domestic service sector are not equally embodied in a formal task force comprised of private sector and government representatives with the same magnitude the one organized for agriculture. This may explain the infamous oversight of the Philippine negotiating panel when it failed to assert the inclusion of Overseas Filipino Workers (OFWs), under the concept of Mode 4¹³ of the GATS or the "movement of natural persons." Without their inclusion in the said definition, Filipinos working completing overseas contracts will not be definitively considered as service providers abroad, but solely rather as overseas employment seekers. To fully purvey and develop the competitive advantage of the highly skilled Filipino laborer, future negotiators should decisively resolve this contention¹³.

f) Foregone challenges to hurdle

The waters that Philippine negotiators will tread turn rough when the discourse begins to focus on the demands of OECD countries for the Philippines to lift its exemptions that the country holds with respect to the financial and

¹¹ http://apan-info.net/ndcp/occasional_papers/HTML/Phil%20under%20GATTS.htm

¹² *ibid*

¹³ The GATS classifies trade in the services under 4 modes: Mode 1 refers to cross-border supply, Mode 2 refers to consumption abroad, Mode 3 refers to commercial presence and Mode 4 pertains to the movement of natural persons – as discussed herein.

¹³ *ibid*

professional services. At present, the Philippines only accords MFN treatment foreign financial service providers abroad who render the same preferential treatment for their Philippine counterparts abroad. The opening up of the professional services to foreign applicants is forbidden under the Foreign Investments Act of 1991, pursuant to the admonition prescribed by the Philippine constitution. Although some exemptions have already been granted to accommodate foreign professionals covered by contracts with foreign organizations and companies related to the country's thrust to intensify infrastructure and construction development, this negative list is still bound to be questioned. Particular attention may be brought to the continued practice of "labor market tests"¹⁴ in the country and the criteria by which the results of these tests are based. Furthermore, land ownership restrictions for foreigners, which are explicitly mandated by the constitution, may be construed as inconsistent with GATS provisions could likewise be raised for debate.

It is most unlikely that the Philippines would bend over these demands just yet, since doing so would necessarily entail amending the constitution. In recent experience, any motion or proposal to alter specific provisions in the Philippine charter has been met with violent protests that have threatened to cause deep crevices in the country's social cohesion. Therefore, it will be in the best interest for the country's political and economic stability to have these exemptions extended or kept off the negotiating table until domestic issues have been first put to rest.

g) Identification and support for globally competitive services

Outside the negotiations, the country must focus its energies in identifying and extending the needed support for domestic service sector industries that have the potential to effectively compete internationally. A few years back education, tourism, recreation and medicine have already been identified by the government as prospective areas wherein Filipinos can excel and make a dent in the global market¹⁵. All that remains to be done are the investment in research and development projects and effective marketing strategies to further promote local services abroad. In the event that further liberalization could no longer be averted in the sensitive sectors of the utilities, professions and financial services, government will have to immediately contemplate and research the installation of safety nets or relief programs to find alternative occupations for potential displacements. Repercussions that may ensue from rescinding the country's "stand still" or *status quo* attitude in the sensitive service sectors however may be minimized, provided that direct competition would be limited to larger players, with due exemptions for micro to medium enterprises, just as the country did when it liberalized the retail trade sector in 2000.

¹⁴ These are conducted prior to the acceptance of a foreign application to ascertain whether the qualifications for the occupation he/she is to fulfill in the country is or is not available among the ranks of the domestic labor force.

¹⁵ http://apan-info.net/ndcp/occasional_papers/HTML/Phil%20GATTS.htm

h) Other service market opportunities

As with agriculture, the other FTA engagements to which the country has or is about to enter also include provisions on trade in the services. For one, the Framework Agreement of Comprehensive Economic Cooperation between ASEAN and China, calls for a “progressive liberalization in trade in the services”. However, in spite of the opportunity it alludes to at the moment, negotiations for the services may first have to take a backseat whilst the recently approved Agreement on Trade in Goods and the Philippines’ Early Harvest request is set for further discussion. Nonetheless, in parallel with the country’s preparations for the GATS negotiations, the services trade in the China-ASEAN FTA will also have to be within the radar of the country’s trade negotiators.

With regard to JPEPA, the concerns regarding trade in the services (primarily Mode 4, or the natural movement of persons) has apparently taken precedence in garnering controversy. The stickiest issue which has to be hurdled before the JPEPA is finally put into motion would seem to be that of Filipino overseas workers – for which the country is battling to include amongst the concessions for Japan to accommodate. As of this writing, reports have been released pointing at the possibility for Japan to allow a few hundred medical professionals and entertainers to work there under the JPEPA, provided that certain educational requirements set by Japan are first met. Among these educational requisites are certifications from schools recognized by the Japanese government, a degree of experience in their respective fields, and a proficiency in the Japanese language. Simultaneously, reports have likewise been sounded off that Japan will soon initiate a campaign against over 30,000 overstaying Filipinos, after just recently implementing stricter rules for entertainers applying to work there.

D. Conclusions/Recommendations

The Philippines is currently undertaking a simultaneous effort to develop its agriculture and service sectors, while securing a fair and favorable bargaining position for the exports of the same, at the WTO as a new wave of commitments under the ambit of the Doha round of negotiations draw nearer. This time around, notwithstanding a few setbacks, the country will have sufficiently mastered and fine tuned its arguments and straightened out its priorities to build a stronger case for these two sectors before the international trade negotiating community.

The country already manifested a high level of capability in unifying and rallying the cause of developing countries along its side in the ongoing talks regarding the access of their agricultural products to the markets of the developed world. Its proposed framework of modalities expounding on the inter-

linkage of tariff reduction with the export subsidies and domestic support has proven to be an effectual contribution in turning the tides of the discussion nearer the favor of the needier nations.

With regard to the service sector, a similar task force akin to TF-WAAR, will have to be organized to be effectually represent the country's interest, in particular reference to the millions of OFWs whose remittances contribute heavily to the stability of the country's domestic system of finances. A shrewd manner of bargaining must be planned and employed in order to assure that upon the conclusion of the following round of negotiations, OFWs would have already been included under the conceptual definition of "movement of natural persons" so as to recognize them as service providers or agents thereof, rather than job seekers. The Philippines would lose a great deal and miss out on fully maximizing the single most profitable advantage it grasps in its highly competitive labor force, if it does not successfully purvey this aspect of the negotiations. In this regard, the government should shake off from its long dormancy in tackling the fate of the country's service under GATS, and initiate bold moves to secure a more active role in the negotiations by conducting the needed consultations with the private sector.

At the end of the day however, what would constitute a defensible case for enhanced market access to developing countries and more favorable terms of negotiations, would be determined less by the specific contents of a single framework proposal than the overwhelming concurrence of the developing world to settle differences and rally in unison behind this cause. The capability of developing countries to surmount the likely adversities that may encounter in the next decade of the multilateral trade order will rest upon the consistency and harmony of their respective positions. Lines of communications between and among members of the developing world should be kept open, especially in these trying times, for the threshing out of elusive commonalities in negotiating positions. Supplemental to the continuing dialogues, efforts must also be focused in keeping the public and private sectors steeped in the discourse of previous and prevailing trade issues, so as to avoid the difficult situation of being left behind as negotiations, particularly in agriculture and the services, prosper during the Doha Round.