Chapter 6.

Responsible business conduct in the Philippines

This chapter provides an overview of the responsible business conduct landscape in the Philippines, outlining the actions the government of the Philippines has taken to regulate, facilitate, promote, cooperate on and exemplify responsible business practices. It also provides recommendations for how the climate for responsible business conduct in the Philippines can be further enhanced with a view to promoting high quality investment and sustainable development.

...the business of business must also be to ensure the long-term development and sustainability of our environment. Business should also be concerned with the human resource growth of our children as future workers in the workplace.

Washington Sycip,
Chair of the Sycip Gorres Velayo & Co. Group of Companies

To the extent that the businessman's economic activities generate an imbalance in society and create social tensions he must undertake social development programmes which respond to these social problems.

Sixto K. Roxas,
Chairman, Maximo T. Kalaw Institute for Sustainable Development

Summary

The expectation that businesses should avoid and address negative impacts associated with their operations as well as contribute to sustainable development is widespread and increasingly being formalised in international trade and investment agreements, domestic law and company policy. Behaving responsibly often also represents a competitive advantage for businesses. Governments can provide an enabling framework for responsible business conduct (RBC) through regulation, promotion and facilitation, co-operating with relevant stakeholders, and exemplifying responsible practices within their own role as an economic actor. The Philippines has a long-standing culture of corporate philantrophy and some progressive legislation and initiatives in place to promote and support RBC. Efforts to further improve the RBC climate in the Philippines could contribute to attracting and retaining quality investors and promoting sustainable development.

The Philippines has a long history of corporate philanthropy and corporate-community engagement rooted in the concept of '*bayanihan',* a part of Philippine culture reflecting values of brotherhood and mutual aid. The state is active in promoting this culture through government and non-government initiatives, but good corporate citizenship continues to be viewed predominantly as a concept rooted in philanthropy, rather than as a core responsibility and function of business. To strengthen the environment for RBC, governments can emphasise the expectation that companies avoid and address adverse impacts and contribute to sustainable development.

The Philippines has regulations in place for protecting public interest and underpinning RBC. Certain challenges with regard to adverse impacts linked to business activities persist, however, despite government efforts to address them – particularly concerning community displacement, labour and employment, environmental issues and corruption. Reforming regulations which impede RBC and enhancing oversight to ensure those that promote RBC are adequately implemented in practice could strengthen responsible business practices in the Philippines.

Mainstreaming policy on RBC and developing a communications strategy to clearly explain expectations concerning business behaviour could also be helpful in facilitating responsible conduct among businesses operating in the Philippines. Alignment with international standards such as the OECD *Guidelines for Multinational Enterprises* ('the OECD *Guidelines'*) or other widely recognised standards on RBC could signal the government's commitment to RBC and provide a well-recognised framework of expectations on RBC for investors.

Scope and importance of responsible business conduct

Responsible business conduct means that businesses should make a positive contribution to economic, environmental and social progress with a view to achieving sustainable development and should avoid and address adverse impacts through their own activities as well as prevent or mitigate adverse impacts directly linked to their operations, products or services by a business relationship. While the concept of corporate social responsibility (CSR) is often associated with philanthropic corporate conduct external to business operations, RBC emphasises integration of responsible practices within internal operations and throughout business relationships and supply chains. Due diligence is the process a company uses to meet its responsibilities in this regard. Businesses are expected to carry out due diligence to identify, prevent and mitigate risks of adverse impacts and account for how those impacts are addressed when they do occur.

The expectation that business should manage environmental and social risks throughout their operations has increased with the development and recognition of international standards such as the UN *Guiding Principles for Business and Human Rights* and the OECD *Guidelines* (Box 6.1). This expectation is not only reflected in international instruments but is increasingly being integrated into national legislation. For example, a proposal currently under consideration in the French Senate aims to mandate that companies over a certain size engage in due diligence throughout their supply chains in accordance with the OECD *MNE Guidelines* (Assemblée Nationale, 2015). Furthermore, the inclusion of language related to

sustainable development or the promotion of responsible business conduct in investment treaties has become common practice in recent years. More than three-fourths of recently concluded international investment agreements (*i.e.* between 2008 and 2013) contain language on RBC.[1] Virtually all of the investment agreements concluded in 2012 and 2013 include such language (OECD, 2014).

Box 6.1. **OECD Guidelines for Multinational Enterprises**

The OECD *Guidelines for Multinational Enterprises* are recommendations jointly addressed by governments to multinational enterprises. They aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises.

The *Guidelines* are aligned with the UN *Guiding Principles for Business and Human Rights* and include a general principle on the need to exercise due diligence to avoid or mitigate negative impacts on third parties, notably with respect to the management of supply chains and other business relationships.

The recommendations of the *Guidelines* cover all major areas of corporate responsibility, namely:

- disclosure,
- human rights,
- employment and industrial relations,
- environment,
- combating bribery, bribe solicitation and extortion,
- consumer interests,
- science and technology,
- competition, and
- taxation.

The *Guidelines* comprise a distinctive implementation mechanism, the National Contact Points (NCPs), which are government offices charged with advancing the *Guidelines* and handling enquiries in the national context and supporting mediation and conciliation procedures, called "specific instances".

Beyond emerging global expectations, businesses are learning that environmental and social risks, including human rights risks, can pose material threats to their business operations. Such threats include serious reputational damage, opportunity costs in the form of lost future expansions or partnerships and direct costs arising from damages or compensation paid as a result of adverse impacts, lost productivity due to temporary shutdowns and senior staff time being diverted to manage grievances. As a result of these potentially significant implications, institutional investors are assessing the social and environmental effects of their investments. Governments that do not enforce or facilitate responsible business practices risk seeing their economy marginalised or excluded from global supply chains.

All parties – including both businesses and governments – have a role to play in building a healthy business environment. While businesses are expected to act responsibly, governments have a duty to protect the public interest from potential negative effects of business activities and a role in providing an enabling environment for businesses to act responsibly. To the extent that governments fulfil this role, they are more likely to attract and retain high quality and responsible investors and hence to ensure broader value creation and sustainable development.

Governments can enable RBC in several ways:

- *Regulate* – establish and enforce an adequate legal framework that protects the public interest and underpins RBC, and monitor business performance and compliance with regulatory frameworks;
- *Facilitate* – clearly communicate expectations on what constitutes RBC, provide guidance on specific practices and enable enterprises to meet those expectations;
- *Co-operate* – work with stakeholders in the business community, worker organisations, civil society, the general public, across internal government structures, as well as other governments to create synergies and establish coherence with regard to RBC;
- *Promote* – demonstrate support for best practices in RBC;
- *Exemplify* – behave responsibly in the government's role as an economic actor.

Progressing beyond corporate citizenship centred on philanthropy

Corporate citizenship has historically been a part of business culture in the Philippines and is actively promoted by the government. In a survey of 166 business executives of companies operating in the Philippines, 82% agreed that good corporate citizenship helps the bottom line, 59% agreed that it improves the image and reputation of the company and 53% believed corporate citizenship is important to their customers (Maximiano, 2005).[2] Philippine companies have frequently received awards for corporate social responsibility. They are consistently the leading recipients of the Asian CSR awards, granted annually by the Asian Forum on Corporate Social Responsibility, across a range of categories.[3] Additionally, Philippine businesses are proactive in contributing to community development. For example, Philippine Business for Social Progress (PBSP), a non-profit business association founded in 1970 representing over 260 Philippine businesses, collaborates with the government on private-public initiatives in the areas of health, education and the environment. Members pledge to contribute 1% of their companies' net income towards poverty reduction programmes.[4] Likewise the Philippine Business for the Environment has partnered with the government in implementing several national initiatives.[5]

The government has likewise been instrumental in instilling corporate citizenship within local business culture. The 2013 draft version *Corporate Social Responsibility Act* currently under consideration in the Philippine Congress represents a formal commitment to promote CSR in the country. Under the Act the state encourages the private sector's active participation in fostering sustainable economic development and environmental protection in the Philippines (Box 6.2).

While a culture of corporate citizenship already exists, a shift from a focus on philanthropy to one emphasising company responsibility for economic, social and environmental impacts and the contribution towards sustainable development would strengthen RBC in the Philippines. This was a key recommendation for the ASEAN region more broadly, raised by a study conducted on the nexus between business and human rights by the ASEAN Intergovernmental Commission on Human Rights (Thomas & Chandra, 2014).

Government engagement through training and awareness-raising with business leaders could usefully promote wider understanding and recognition of RBC. Educational institutions such as business schools and existing business initiatives pursing social objectives can also be important platforms for changing mentalities with regard to RBC.

Box 6.2. **Provisions of the 2013 draft of the Corporate Social Responsibility Act**

All business organisations established and operating under Philippine laws, whether domestic or foreign, are encouraged to observe corporate social responsibility.

Specifically, the 2013 draft of the *Corporate Responsibility Act*:

- Amends the Corporate Code to say that funds for CSR projects or programmes represent an exception to the rule that corporations may not retain surplus profits in excess of 100% of their paid-in capital stock.
- Maintains the full deductibility of contributions or gifts actually made or paid to accredited donee institutions in computing taxable income. (The Tax Code, referenced in the Act, provides CSR-related incentives to corporations, such as tax exemptions and deductions primarily under a clause that allows income deductions for charitable giving.)
- Mandates that the state should provide awards and recognition to business organisations for strong CSR performance.
- Mandates local government units to extend whatever assistance necessary for businesses to perform their CSR.
- Mandates that all business organisations submit a list of their CSR activities as part of their reporting activities to the Securities and Exchange Commission, Department of Trade and Industry and Department of Finance as relevant.

Tackling ongoing challenges to RBC

Protection of human rights defenders

The Philippines is a signatory to all of the major human rights conventions[6] and was one of the first nations to vote in favour of the 1948 Universal Declaration of Human Rights. The 1987 Constitution calls for establishing an independent Commission on Human Rights tasked with investigating human rights violations, providing assistance to victims and providing recommendations to Congress on promoting human rights and provision of remedy to human rights victims (CHR, 2012). In 2002, the Presidential Human Rights Committee was created to monitor adherence and compliance with international human rights instruments and report to the UN on implementation of treaty obligations (GOVPH, 2002).

Despite a legal framework recognising human rights and an oversight committee monitoring human right issues, Human Rights Watch

documented several instances of attacks on anti-mining and environmental protestors and journalists in its 2013 and 2015 World Reports (HRW 2013, 2015). These reports urged the government to bring to justice any state security forces, individuals or organisations involved or complicit in human rights infringements, to ensure such infringements are reported upon and that whistle-blowers and human rights defenders are adequately protected.[7]

Agricultural investment and large scale displacement

Investment in agriculture is a longstanding industry in the Philippines and is expected to continue growing as food supply needs increase globally. Agricultural investment can be a significant source of FDI for developing economies, but large agricultural investments also pose risks of large-scale displacements of local populations, leading to a loss of livelihoods. This risk is exacerbated by insecure land tenure and a lack of a clear monitoring of land leases and concessions. In the Eastern Visayas region, for example, almost one third of the population consists of informal settlers with insecure land tenure (Oxfam, 2014).

It has been reported that some land falling under the Comprehensive Agrarian Reform Programme (CARP)[8], the national land redistribution programme, as well as forest land managed by the Department of Environment and Natural Resources (DENR) has been made available to agricultural investors through long-term leasing agreements (Pulhin & Ramirez, 2013). Civil society groups have raised concerns that such arrangements may threaten dispossession of local farmers and have recommended completing the distribution of land under CARP prior to leasing land. (Pulhin & Ramirez, 2013). The National Land Use and Management Act, which aims to address numerous laws resulting in conflicting land uses may also help address some of these issues once enacted.[9] Furthermore international standards on respecting land tenure rights could also provide a useful resource for best practices in this regard (Box 6.3).

Where agricultural investment could result in adverse impacts to local populations, proper stakeholder consultation should take place and due process regarding compensation should be respected. The Philippines is one of the only countries to explicitly recognise the concept of free prior and informed consent (FPIC) for indigenous peoples in domestic law. Nevertheless, it has been reported that a lack of oversight and clarity as to how FPIC should be obtained has led to situations where this principle has not been respected in practice (Oxfam, 2013). Additional clarity on expectations regarding FPIC, such as establishing a formal or recognised process of how companies should obtain FPIC can be useful to ensure it is

properly implemented. Recognised guidance on consultation with indigenous peoples can be a useful resource in this regard.[10]

Box 6.3. **The FAO-OECD Guidance for Responsible Agricultural Supply Chains**

The United Nations Food and Agriculture Organization (FAO) and the OECD have developed guidance to help enterprises observe existing RBC standards applying to agricultural supply chains. These include the OECD *Guidelines for Multinational Enterprises*, the *Principles for Responsible Investment in Agriculture and Food Systems* of the Committee on World Food Security, and the FAO *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*.

The model enterprise policy proposed in the FAO-OECD guidance outlines the content of these leading standards by defining responsible investment in agricultural supply chains. On land tenure rights, it recommends that enterprises:

- Respect legitimate tenure right holders and their rights over natural resources, including public, private, communal, collective, indigenous and customary rights, potentially affected by their activities. Tenure rights over natural resources include rights to land, fisheries and forests as well as existing and potential water uses;
- To the greatest extent possible, commit to transparency and information disclosure on their land-based investments, including transparency of lease/concession contract terms, with due regard to privacy restrictions;
- Give preference to feasible alternative project designs to avoid or, when avoidance is not possible, minimise the physical and economic displacement of legitimate tenure right holders, while balancing environmental, social, and financial costs and benefits, paying particular attention to adverse impacts on the poor and vulnerable;
- When holders of legitimate tenure rights are negatively affected, ensure that they receive fair and prompt compensation

Source: OECD 2015a, forthcoming

Extractives sector and community conflict

The mining sector represents one of the Philippines' most significant potential investment opportunities, as untapped mineral wealth is estimated at USD 840 billion (Raymundo, 2014).[11] Investment in the extractives sector can generate large revenue flows and development opportunities but is also

associated with significant social and environmental impacts and thus must be managed responsibly.

Under the *Philippine Mining Act* of 1995 companies must contribute a percentage of their operating costs to local community development (DENR, 2010). Under the 2010 Revised Implementing Rules and Regulations of the *Philippine Mining Act*, a Community Relations Record describing the character of a company's past relations with local communities, cultural appropriateness and social acceptability of its resource management strategies must be submitted with applications for various mining licences and permits (DENR, 2010). Furthermore, as a requirement for securing an Environmental Compliance Certificate, communities much reach an informed decision on the social acceptability of a mining project. Participation in the Extractive Industries Transparency Initiative (EITI) is also mandated for mining operations in the Philippines over a certain size (DENR, 2012).While the mining regulations of the Philippines include some progressive provisions, a lack of capacity and resources to effectively oversee compliance with expectations of the law as well as corruption at the level of state agencies has been reported to undermine their effectiveness (Raymundo, 2014).

Box 6.4. **Due diligence guidance in the extractives sector**

The *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractives Sector* provides a framework for identifying and managing risks with regard to stakeholder engagement activities to ensure they play a role in avoiding and addressing adverse impacts as defined in the *OECD Guidelines for Multinational Enterprises*. The guidance also includes an assessment framework for industry to evaluate their stakeholder engagement performance and targeted guidance for specific stakeholder groups such as indigenous peoples, women, workers and artisanal and small scale miners.

Overarching recommendations of the *Guidance* include:

- Integrate stakeholder engagement into project planning and regular business operations through sharing of decision-making power with interested and affected parties.
- Practice stakeholder engagement that is driven by stakeholders through ongoing consultation and follow-through.
- A stakeholder engagement strategy which prioritises engagement with the most affected rather than the most influential stakeholders

Source : OECD 2015b.

Community conflict in relation to mining operations has been reported by civil society organisations (HRW, 2015) and can pose a risk for communities and investors alike. For example a recent study found that the cost of community conflict amounts to a loss of approximately USD 20 million a week on average for major mining operations due to lost productivity as a result of delays or stoppages (Davis and Franks, 2014). Increased attention and guidance to investors on how to conduct proper stakeholder engagement could be helpful in avoiding future issues and in expanding the mining sector in a responsible manner (Box 6.4).

Employment and labour relations

The Philippines is party to all eight International Labour Organization conventions and has been recognised as having a 'mature and stable'' regulatory framework with regard to labour rights (Bitonio, 2012). In 2013 it established the National Tripartite Industrial Peace Council as a consultative, advisory mechanism representing workers, employers and the government which is responsible for formulating and monitoring of implementation of labour and employment policies.[12] The Philippines also reformed the *Labour Code* in 2012 to institutionalise tripartism in labour relations as a state policy (RA 10395) and to formalise a conciliation-mediation mechanism for labour disputes (RA 10396). The Council has been criticised for its lack of adequate resources which has resulted in significant delays in reviewing cases of anti-union behaviour (ITUC, 2012). At the same time the Labour Standards Enforcement Framework developed in 2004 partially in response to resource constraints has been criticised for weakening implementation and enforcement of the *Labour Code* as it promotes self-regulation instead of formal inspection by the labour inspectorate (ITUC, 2012).

The right to strike is restricted under the *Labour Code*. For a strike to be lawful all other conciliation procedures must be exhausted, a mandatory 'cool-off' period must be respected and notice must be given 30 days in advance (DOLE, 2009). A union may not call a strike for issues other than a bargaining deadlock involving economic issues and grave acts of unfair labour practice as defined by law (DOLE, 2009). Penalties for illegal strikes are significant and can include a prison sentence of up to three years (DOLE, 2009). Furthermore, public sector employees have no right to strike and are not permitted to bargain over matters related to wages or other forms of remuneration. Complaints from public sector workers must be filed with the Civil Service Commission, a special body which arbitrates disputes involving public workers (ITUC, 2012).

Environmental protection

Environmental issues are of critical importance in the Philippines. Approximately one third of the population relies on natural resources, such as arable land and oceans, for its livelihood.[13] Furthermore, the Philippines is highly vulnerable to climate change, as demonstrated by a series of natural disasters in the past decade. As a result the government has stated that it is eager to improve protection of the environment and management of natural resources and sees such improvements as vital in the achievement of inclusive growth (BSP, 2015).

Domestic environmental policy is grounded in the Constitution which provides that the "State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature". Domestic legislation imposes standards on air pollution[14] (GOVPH, 1964), mandates environmental impact assessments[15] and encourages environmental litigation and protection through legal processes.[16] A consultative and oversight role of stakeholders has been formalised under national environmental regulations. For example the Department of Environment and Natural Resources requires public consultations as part of environmental impact assessments and the creation of a multipartite monitoring team during the implementation stage of environmentally critical projects (DENR, 1996).

The Philippines is party to the UN *Framework Convention on Climate Change*, including the *Kyoto Protocol* and several other international environmental agreements.[17] It also participates in the Greenhouse Gas Protocol.[18] Climate change adaptation and mitigation is stated as a priority area for the current administration. The government aims to develop climate/disaster-resilient infrastructure facilities to ensure resilience to disasters and mitigate the impact of climate change[19] (GOVPH, 2014).

The fisheries industry is a priority sector highlighted in the 2014 IPP, specifically with regard to strengthening regulation and boosting fishery production. However overfishing represents a serious issue in the Philippines. Lack of regulation and enforcement of fisheries laws has contributed to a decline of 90% in the quality of marine resources in certain traditional fishing areas with an estimated cost of USD 420 million in lost revenues.[20] In 2014 the Department of Agriculture issued a Moratorium on the Issuance of Commercial Fishing Vessel and Gear License and Other Clearances in response to the problem of over fishing and to return fish stocks to a sustainable level (BFAR, 2014).

The current Philippine Development Plan 2011-16 (PDP) highlights conflicting and overlapping policies with regard to environmental management and lack of capacity and resources to monitor and implement

commitments as salient challenges to tackling environmental issues (NEDA, 2011). The PDP Midterm-Update includes focused interventions geared towards: (*i*) increasing adaptive capacities of communities; (*ii*) effectively managing the country's environment and natural resources for sustainability; and (*iii*) improving environmental quality to address some of these issues (NEDA, 2014).

Corruption

The Philippines has ratified the UN *Convention against Corruption* but is not a signatory to the OECD Anti-Bribery Convention. Curbing corruption is listed as a priority area under the PDP and support of private sector anti-corruption initiatives is encouraged. For example the Joint Foreign Chambers of the Philippines, a coalition of international businesses and investors operating in the Philippines, engages in the Compliance and Integrity Programs for Business, in which members pledge not to bribe public officials, to report corruption, and to embed anti-corruption into standard corporate practice (NEDA, 2011). Specific recommendations are also made to strengthen the public's role in this regard, such as establishing reporting platforms for civil society or the public to report exemplary performance or corrupt practices of the government (NEDA, 2011).

Businesses reportedly continue to face a high risk of encountering corruption in the Philippines when obtaining permits and licences as well as in accessing public utilities,[21] but progress is being made on this front. For example from 2011 to 2014 the Philippine ranking on the *Global Corruption Perception Index* improved from 105th to 85th out of 175 nations.[22] The World Economic Forum which had listed corruption as one of the top problems in doing business in the Philippines in its 2010-11 *Global Competitiveness Index Report* (WEF, 2011) recognised in its 2014 report that the efforts made by the government to combat corruption have begun to demonstrate results (WEF, 2014).

The Philippines has made significant efforts to tackle corruption and promote government transparency. Through its involvement in the Open Government Partnership, the government launched the open data portal in 2014. It has published over 660 data sets online, including information on contracting, procurement bids and processes, agency performance, tax and budget management.[23] This initiative represents an unprecedented effort by the government to improve transparency.

Non-financial reporting

The Philippine Securities and Exchange Commission requires public companies to make a statement regarding their compliance with

environmental laws and regulations, but currently there are no sustainability indices or official guidelines on non-financial reporting in the Philippines (WRI & IFC, 2009).

In 2010, the Maharlika listing segment for the Philippine Stock Exchange was launched, creating listing and disclosure rules for companies that voluntarily abide by corporate governance practices beyond those required by law (Lindsay, 2012). A similar index could be developed to promote RBC through, for example, reporting obligations for environmental and social governance issues. The Philippine Institute of Certified Public Accountants has been promoting sustainable reporting and engages in training to promote environmental accounting and reporting in line with the Global Reporting Initiative. Such initiatives could be built upon in mainstreaming sustainability reporting.

Mainstreaming and achieving coherence on RBC

Mainstreaming RBC at a government level

Mainstreaming responsibilities for promoting and enforcing RBC can be challenging but can provide improved visibility on RBC issues and ensure policy coherence with regard to expectations across sectors. Currently the government has no official policy or action plan on RBC, and no specific ministry or government body is charged with overseeing this policy area. Under the 2013 draft of the *Corporate Social Responsibility Act,* local government units (LGUs) are expected to extend whatever assistance necessary for businesses to perform their corporate social responsibility. LGUs are also identified as the appropriate interlocutors or representatives to facilitate RBC with regard to other matters, such as by facilitating community involvement in reviewing social acceptability of mining operations. LGUs also have a leading role with regard to environmental management.[24] What such assistance might look like is not further enumerated, and no information on available services in this regard is readily accessible on LGU webpages or promotional material.

The 2014 Investment Priorities Plan is aligned with the updated Philippine Development Plan and includes some objectives related to RBC. For example, incentives are provided for business models that integrate low-income groups as producers, distributors, or employees and for investments that promote environmentally sound businesses practices (*e.g.* improved environmental performance in pulp and paper mills, prioritising e-vehicles). Incentives comprise 4-8 year tax holidays and waiver of duties for imported capital goods (BOI, 2014). The link to RBC can nevertheless be further strengthened under both plans. For example the current P includes little discussion of the role of the private sector and investment in promoting

social welfare and environmental integrity, nor does it discuss RBC as a potential competitive advantage for Philippine industry.[25]

Clearly communicating RBC priorities and expectations

The Philippines has expressed a willingness to develop a National Action Plan on Business and Human Rights (Box 6.5) which would be useful in defining and communicating the government's priorities and anticipated actions in this area. It could also be helpful in defining objectives and their links to other policy agendas to ensure coherence on these issues. A National Action Plan on RBC could also be developed, which would incorporate human rights issues as well as topics crucial to RBC such as corruption and the environment. Many countries are taking this approach.

Box 6.5. **National Action Plans on RBC**

National Action Plans (NAPs) are strategy documents that governments are encouraged to develop as part of the state responsibility to disseminate and implement the UN *Guiding Principles on Business and Human Rights*. Several governments have already developed NAPs, namely the United Kingdom, the Netherlands, Italy, Denmark, and Spain, while Switzerland and Finland are in the process of doing so.

The OECD hosted a workshop in June 2015 on National Action Plans that brought together policy makers and experts to exchange experiences in developing NAPs and to identify best practices and important strategies, including:

- focusing on the salient issues or sectors, rather than articulating a comprehensive approach may be a more realistic and strategic first step.
- business, civil society, consumers and the general public are important stakeholders to consult during the process.
- ownership and championing of the process by one specific body is a key determinant of a successful NAP process.
- implementation of NAPs should be considered proactively, beginning at the NAP development stage.

Communicating RBC expectations through investment promotion agencies, investment agreements or through government contracting practices can also help investors understand the local standards and

expectations of RBC from the point of entry and discourage entry of investors with poor social and environmental practices. The Philippines is already incorporating social and environmental standards in its international trade practices and, in December 2014, became the first country to be accepted into the EU's GSP+ programme.[26] The GSP+ is a special incentive trade arrangement for the implementation of 27 international conventions on labour and human rights, environmental protection and good governance.

Engaging in international initiatives on RBC

At a regional level, ensuring incorporation of CSR in the corporate agenda was included as one of the strategic objectives for the ASEAN Socio-Cultural Community Blueprint (ASEAN, 2009). The Philippines is an active participant in the ASEAN-CSR Network which provides opportunities for networking and exchange, acts as a venue for discussing and addressing regional issues and concerns regarding CSR, and is an advocate and capacity builder for acceptance of international norms of CSR behaviour.[27] As part of its mandate, the Network supports the adoption and implementation of the UN *Guiding Principles* through advocacy and consultative activities. The Philippines in also a member of the UN Economic and Social Commission for Asia and the Pacific (UNESCAP) which has been active in developing research and organising regional events to promote responsible business practices in the context of Asia.

At an international level, the Philippines is a national member of ISO 26000 and part of the UN Global Compact network – although in 2008, 93 companies or 85% of all members in the Philippine UNGC network at the time were delisted for failing to comply with reporting obligations.[28] The delisting was explained by the fact that Philippine companies are generally domestically oriented and thus less motivated to participate in international reporting programmes, despite potentially strong RBC performance (Knudsen, 2011).[29]

Aligning domestic policy with international instruments such as the OECD *Guidelines for Multinational Enterprises* could facilitate coherence of expectations of international investors. Current adherents to the OECD *Guidelines* make a binding-commitment to promote its recommendations among companies operating in or from their territories. As a result, the majority of global investment flows and global commerce is covered by these recommendations. By one estimate, adhering countries represent two thirds of the inward stock of FDI and 78% of the outward stock. In the case of the OECD *Guidelines,* further alignment could be achieved through adhering to the OECD *Declaration on International Investment and Multinational Enterprises* or simply through multilateral engagement and dialogue on recognised best practices.

Notes

1. The report explains that "major functions of such treaty language are, in the order of prevalence: (i) establishing the context and purpose of the treaty and setting forth basic SD/RBC principles through preamble language; (ii) preserving policy space to enact public policies dealing with SC/RBC concerns; and (iii) not lowering standards, in particular not relaxing environmental and labour standards for the purpose of attracting investment."

2. In this study good corporate citizen was defined under 6 categories: 1) providing safe and reliable products/services, 2) operating with ethical business practices, 3) working to improve conditions in the company, 4) making a profit, 5) providing jobs and 6) paying taxes, with the first two categories most highly recognised by survey respondents.

3. Asian Forum on Corporate Social Responsibility, www.asianforumcsr.com/awards/awardees(last accessed 19 May 2015).

4. Philippine Business for Social Progress. www.pbsp.org.ph/about-us/(last accessed 3 June 2015).

5. For example the Philippine Business Agenda 21 (for voluntary industry environmental action and self – regulation) in support of the national Philippine Agenda 21 under the UNDP; The Clean Air Campaign of the ADB – assisted Partnership for Clean Air (2001-2003) etc. Philippine Business for Environment, www.thepbe.org/ (last accessed 3 June 2015).

6. The Philippines ratified the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights on 23 October 1986; acceded to the United Nations Convention Against Torture, on 18 June 1986; ratified the Convention on the Elimination of All Forms of Racial Discrimination on 15 September 1967; ratified the International Covenant on Economic, Social and Cultural Rights on 7 June 1974; ratified the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 5 July 1995; ratified the Convention on the Elimination of All Forms of Discrimination Against Women, on 5 August 1981; ratified the Convention on the Rights of the Child on 21 August 1990; and ratified the Convention on the Rights of Persons with Disabilities on 15 April 2008.

7. Additional recommendations on how the Philippines should address the issue of extra-judicial killings have been developed by Human Rights Watch and are available here: www.hrw.org/ru/node/82034/section/13 www.hrw.org/ru/node/82034/section/13 (last accessed 18 April 2015).

8. The CARP was started in 1988 to redistribute lands to landless farmers and regular farmworkers, regardless of crops or fruits produced. While it is considered to have been fairly successful in redistributing land, the economic and social effects of the reform are mixed and the impact on poverty reduction considered by some to have been quite modest. For a more detailed discussion, see OECD (2017).

9. The National Land Use Act of the Philippines, Senate Bill No. 3091, was filed in 2011 but is currently still pending.

10. The OECD is currently developing *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractives Sector* which could also provide helpful guidance on consultation with stakeholders affected by agricultural projects. The FAO-OECD *Guidance for Responsible Agricultural Supply Chains* also provides some guidance on stakeholder engagement in line with OECD *Due Diligence Guidance*.

11. Mineral resources include copper, gold, nickel, chromite, limestone, clays, feldspar and semi-precious stones (Raymundo, 2014).

12. Tripartite Industrial Peace Council, Philippines Bureau of Labor Relations. www.blr.dole.gov.ph/2014-12-12-03-27-59/2014-12-27-07-24-17/about-tipc (last accessed 26 April 2015).

13. See World Bank Data, http://data.worldbank.org/indicator/SL.AGR.EMPL.ZS(accessed 20 September 2015).

14. Republic Act 3931 of 18 June 1964. Retrieved from www.lawphil.net/statutes/repacts/ra1964/ra_3931_1964.html

15. This decree was amended to limit the EIS obligation to environmentally critical projects (Presidential Decree No. 1586, 1987).

16. On 13 April 2010, the Supreme Court approved the Rules of Procedure for Environmental Cases as a significant catalyst for sweeping and far-reaching reforms in environmental litigation and protection (Human Rights Council, 2012).

17. Including the Convention on Long-Range Transboundary Air Pollution (1999); Vienna Convention for the Protection of the Ozone Layer (1985), Montreal Protocol on Substances that Deplete the Ozone Layer (1987); Basel Convention (ratified, 1993).

18. The Philippine Greenhouse Gas Accounting and Reporting Program was launched in 2006 to assist businesses in the Philippines in preparing GHG inventories, identify GHG reduction opportunities, and participate in programmes and projects to reduce GHG emissions. Philippines,

Greenhouse Gas Protocol, www.ghgprotocol.org/programs-and-registries/philippines-program (accessed 25 April 2015).

19. The 2015 national budget has allotted PhP 14 bn for the Calamity Fund or the National Disaster Risk Reduction and Management Fund and PhP 6.7 bn for the Quick Response Funds. The administration's "Build Back Better" program designed to address the recovery requirements in the aftermath of Super Typhoon Yolanda and other previous calamities was allotted PhP 21.7 bn for 2015 to develop better and more resilient infrastructure that will enable the affected regions to weather future calamities. (GOVPH, 2014).

20. Environmental problems in the Philippines, World Wildlife Fund http://wwf.panda.org/who_we_are/wwf_offices/philippines/environmental_problems__in_philippines/ (last accessed 25 April 2015).

21. About one in four business executives surveyed in 2013 reported they had been asked for a bribe when obtaining national and local government permits or licences. Corruption Levels in the Philippines, Business Anti-corruption Portal. www.business-anti-corruption.com/country-profiles/east-asia-the-pacific/philippines/public-services.aspx (last accessed 20 September 2015).

22. Corruption Perceptions Index 2014, Transparency International, .https://www.transparency.org/cpi2014/results (last accessed 25 April 2015).

23. See generally http://data.gov.ph/catalogue/dataset (last accessed 25 April 2015).

24. The Local Government Code of 1991 gave LGUs a leading role in environment and natural resources management. LGUs are tasked with regulation of a) environmental impacts of SMEs; b) fishing in municipal waters; c) minor mineral extraction like small-scale mining and certain scales of quarrying and sand and gravel gathering; d) nuisance and pollution under the Clean Air Act; e) solid waste management under the Ecological Solid Waste Management Act; and f) antismoke belching program (NEDA, 2011).

25. The Chapter on Competitive Industry and Service sectors only highlights CSR as a thematic area to be adopted in the SME development plan, but does not otherwise mention it. Likewise the chapter on Social Development discusses strengthening public-private partnership but does not highlight the role of the private sector in contributing to social development through core operations. The chapter on Conservation, Protection & Rehabilitation of the Environment & Natural Resources minimally discusses the roles and responsibility of the private sector.

26. See EU GSP PLUS, Department of Trade and Industry of the Philippines www.dti.gov.ph/dti/index.php/resources/export-essentials/eu-gsp-plus (last accessed 3 June 2014).

27. ASEAN CSR Network, Mission and Objectives www.asean-csr-network.org/c/about-us/our-mission-a-objectives (last accessed 25 April 2015).

28. Only 56 Philippine companies are currently involved in the initiative (Knudsen, 2011).

29. A UN ESCAP study of high performing Asian firms with regard to sustainability revealed that there was low uptake of the ISO 26000 standards and low involvement with UNGC amongst the companies analysed. This finding corresponded with the practices of companies based in the Philippines although the sample size of Philippine companies examined was too small to be meaningful. Only 3 companies out of the 167 analysed were Philippine. Out of these all there were involved with GRI, 2 with UNGC and none reported use of ISO 26000 (UNESCAP, 2013).

References

ASEAN (2009, June), Asean Socio-Cultural Community Blueprint. Retrieved from http://www.asean.org/archive/5187-19.pdf.

Assemblee Nationale (2015), Proposition de Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre. Retrieved August 17, 2015, from http://www.assemblee-nationale.fr/14/ta/ta0501.asp.

BFAR (2014, October 8), Administrative Circular No. 253. Bureau of Fisheries and Aquatic Resources.

BOI (2014), Philippines Investment Priority Plan 2014-2016. Retrieved from http://www.boi.gov.ph/files/2014%20IPP.pdf.

BSP (2015), Input provided for Investment Policy Review of the Philippines.

CHR (2012, April), Guidelines and Proceedures in Investigating and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance. Retrieved from Philippines Commission for Human Rights.

Dasgupta et al. (1998), 'Capital Market Responses to Environmental Performance in Developing Countries'. World Bank Development Research Group.

Davis, R., and Franks, D. (2014), Costs of Company-Community Conflict in the. CSR Initative at the Harvard Kennedy School.

DENR (1996), Administrative Order No. 96-37. Retrieved from http://www.denr.gov.ph/policy/1996/ENV_DAO_1996-37.pdf.

DENR (2012), Executive Order No. 79 Institutionalizing and Implementing Reforms in the Phlippine Mining Sector. Retrieved from http://www.denr.gov.ph/component/content/article/831.html.

DENR (2010, June 28), Administrative Order 2010-21. Retrieved from http://www.mgb.gov.ph/Files/Policies/CDAO-Final.pdf.

DOLE (1974), Philippines Labor Code, Title VIII. Retrieved from http://www.dole.gov.ph/labor_codes/view/6.

GOVPH (2014), President Aquino sets P2.606T 2015 National Budget in motion. Retrieved from http://www.gov.ph/2014/12/23/president-aquino-sets-p2-606t-2015-national-budget-in-motion/.

GOVPH (2002), Administrative Order No. 29. Retrieved from http://www.gov.ph/2002/01/27/administrative-order-no-29-s-2002/.

GOVPH (1998, June 10), Comprehensive Agrarian Reform Program, RA 6557. Retrieved from Comprehensive Agrarian Reform Program, RA 6657: http://www.dar.gov.ph/ra-6657-what-is-carp-comprehensive-agrarian-reform-program.

GOVPH (1995, March 03), RA 7942. Retrieved from Mining Act of 1995: http://www.psdn.org.ph/chmbio/ra7942.html.

GOVPH (1987), Constitution of the Republic of the Philippines. Retrieved from http://www1.umn.edu/humanrts/research/Philippines/PHILIPPINE%20CONSTITUTION.pdf.

HRW (2015), World Report 2015. Retrieved from Human Rights Watch: http://www.hrw.org/world-report/2015.

HRW (2013), World Report 2013. Retrieved from Human Rights Watch: http://www.hrw.org/news/2013/02/01/philippines-year-pluses-minuses-rights.

Human Rights Council (2012, June), Philippines National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. Geneva: Human Rights Council.

ITUC (2012, March), Internationally Recognised Core Labour Standards in Philippines: Report for the WTO General Council Review. Retrieved from International Trade Union Confederation: http://www.ituc-csi.org/internationally-recognised-core,10865.

Knudsen, J. (2011, November 24), Which Companies Benefit Most from UN Global Compact Membership? Retrieved from European Business Review: http://www.europeanbusinessreview.com/?p=3167.

Lindsay, H. (2012, April 16), Mandatory Reporting: Does it make a difference? Retrieved from CSR Asia: http://csr-asia.com/csr-asia-weekly-news-detail.PHP?id=12221.

Maximiano, J. M. (2005), The state of corporate social responsibility in the Philippines. Adelaide: Australian Association for Professional and Applied Ethics.

NEDA (2014), Philippine Development Plan 2011-2016 Midterm Update. National Economic and Development Authority.

NEDA (2011), Philippine Development Plan 2011-2016. National Economic and Development Authority.

Neidlein, Hans-Christoph (2014), Philippines increasingly embracing renewable energy. PV Magazine, 27 January. Available at: http://www.pv-magazine.com/news/details/beitrag/philippines-increasingly-embracing-renewable-energy_100014048/#axzz3kPQY9mQC.

OECD (2017), *Agricultural Policies in the Philippines 2017*, forthcoming, OECD Publishing, Paris.

OECD (2015a), *FAO-OECD Guidance for Responsible Agricultural Supply Chains*, forthcoming, OECD Publishing, Paris.

OECD (2015b) *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractives Sector,* forthcoming.

OECD (2014), Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A fact finding survey, Paris: OECD, http://www.oecd.org/investment/2014RBCMinisterial-TreatyRBC.pdf.

Oxfam (2013), Free Prior and Informed Consent in the Philippines Regulations and Realities, September. Retrieved from Oxfam: http://www.oxfamamerica.org/static/media/files/fpic-in-the-philippines-september-2013.pdf.

Oxfam (2014), Beyond Safe Land: Joint Agency Briefing Paper, August. Retrieved from http://www.oxfam.org/files/file_attachments/bp-beyond-safe-land-security-tenure-philippines-110814-en.pdf.

Presidential Decree No. 1586 (1987, June 11), Retrieved from http://www.gov.ph/1978/06/11/presidential-decree-no-1586-s-1978/.

Pulhin, J. M., & Ramirez, M. A. (2013), Republic of the Philippines. National Updates on Agribusiness Large Scale Land Acquisitions in Southeast Asia: Brief #4 of 8.

Raymundo, R. B. (2014, March), The Philippine Mining Act of 1995: Is the law sufficient in achieving the goals of output growth, attracting foreign investment, environmental protection and preserving sovereignty? De La Salle University.

Republic Act 10395 (2012, July 23), Retrieved from http://www.senate.gov.ph/republic_acts/ra%2010395.pdf.

Republic Act 10396 (2012, 23 July), Retrieved from http://www.senate.gov.ph/republic_acts/ra%2010396.pdf.

Republic Act 7916 (1995, February 21), Retrieved from http://www.peza.gov.ph/index.PHP/about-peza/special-economic-zone-act.

Smith, R. A. (1945, February), The Philippine Bill of Rights. The Far Eastern Quarterly, pp. 170-181.test. (2007). ssf. dd.

Thomas, T., and Chandra, A. (2014), Thematic Study on CSR and Human Rights in ASEAN. Retrieved from AICHR: http://aichr.org/?dl_name=AICHRs_Thematic_Study_on_CSR_and_Human_Rights_in_ASEAN.pdf.

UNESCAP (2013), From Corporate Social Responsibility to Corporate Sustainability: Moving the Agenda Forward in Asia and the Pacific.

WEF (2014), The Global Competitiveness Report 2014-2015. Retrieved from World Economic Forum: http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf.

WEF. (2011), The Global Competitiveness Index 2011-2012. Retrieved from World Economic Forum: http://www3.weforum.org/docs/WEF_GCR_Report_2011-12.pdf.

WRI & IFC (2009), Undisclosed Risk: Corporate Environmental and Social Reporting in Emerging Asia. IFC and World Resource Institute.

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