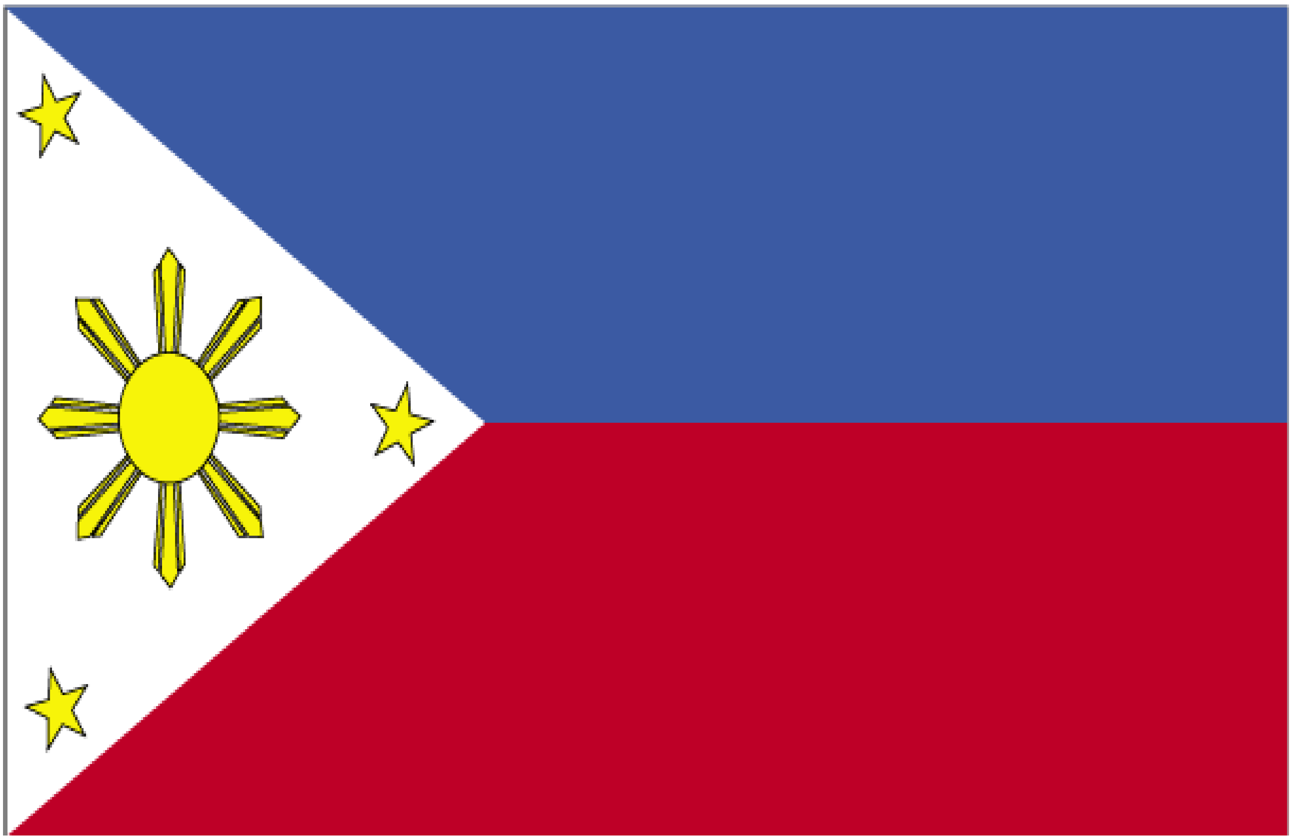

DOING BUSINESS IN PHILIPPINES:

A CONSTRUCTION PERSPECTIVE

2011

Foreword

The contents of this document serves as a guide and are current as at February 2011. The information in this guide is meant for the purposes of reference. This document does not purport to be professional advice, nor a complete or comprehensive study on the subject. It is recommended that professional advice be sought before taking any action pursuant to any matter contained in this document. The material used in the preparation of this document has been obtained from various sources, but is not endorsed by Construction Industry Development Board Malaysia as to accuracy, authenticity or completeness. No warranty, express or implied, is being made or will be made by Construction Industry Development Board Malaysia as regards the accuracy or adequacy of the information contained in this document. Due care has been taken in the preparation of this document, but because of the possibility of human and mechanical error, no liability is assumed for the correctness of any of the information contained herein, the Construction Industry Development Board Malaysia assumes no liability for the interpretation and/or use of the information contained herein. This document has been prepared with the cooperation and assistance of Dynamic Fulcrum Enterprise.

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1.0 BASIC COUNTRY DATA

Location:	The Republic of the Philippines consists of an archipelago of 7,107 islands situated southeast of mainland Asia and separated from it by the South China Sea. The Philippines is separated from Taiwan on the north by the Bashi Channel (forming part of the Luzon Strait) and from Sabah, Malaysia (northern Borneo), on the southwest by the Balabac Strait (off Palawan) and the Sibutu Passage (off the Sulu Archipelago). Bordering seas include the Philippine Sea and the Pacific Ocean on the east, the Celebes Sea on the south, the Sulu Sea on the southwest, and the South China Sea on the west.
Area:	300,000 sq. km
Land Area:	The land area covered is 298,170 square kilometers and the 1,830 kilometers is covered by water bodies. The Philippines has a total coastline of 36,289 kilometers.
Population:	99,900,177 (July 2010 est.) (source from www.cia.gov)
Population density:	306.6 inhabitants per sq km
Capital:	Manila
Administrative Division:	80 provinces and 120 chartered cities

80 provinces are as per table:-

Abra	Agusan del Norte	Agusan del Sur	Aklan	Albay	Antique
Apayao	Aurora	Basilan	Bataan	Batanes	Batangas
Biliran	Benguet	Bohol	Bukidnon	Bulacan	Cagayan
Camarines Norte	Camarines Sur	Camiguin	Capiz	Catanduanes	Cavite
Cebu	Compostela	Davao del Norte	Davao del Sur	Davao Oriental	Dinagat Islands
Eastern Samar	Guimaras	Ifugao	Ilocos Norte	Ilocos Sur	Iloilo
Isabela	Kalinga	Laguna	Lanao del Norte	Lanao del Sur	La Union
Leyte	Maguindanao	Marinduque	Masbate	Mindoro Occidental	Mindoro Oriental
Misamis Occidental	Misamis Oriental	Mountain Province	Negros Occidental	Negros Oriental	North Cotabato
Northern Samar	Nueva Ecija	Nueva Vizcaya	Palawan	Pampanga	Pangasinan
Quezon	Quirino	Rizal	Romblon	Samar	Sarangani
Siquijor	Sorsogon	South Cotabato	Southern Leyte	Sultan Kudarat	Sulu
Surigao del Norte	Surigao del Sur	Tarlac	Tawi-Tawi	Zambales	Zamboanga del Norte
Zamboanga del Sur	Zamboanga Sibugay				

120 chartered cities are as per table:-

Alaminos	Angeles	Antipolo	Bacolod	Bago	Baguio
Bais	Balanga	Batac	Batangas	Bayawan	Bislig
Butuan	Cabadbaran	Cabanatuan	Cadiz	Cagayan de Oro	Calamba
Calapan	Calbayog	Candon	Canlaon	Cauayan	Cavite
Cebu	Cotabato	Dagupan	Danao	Dapitan	Davao
Digos	Dipolog	Dumaguete	Escalante	Gapan	General Santos
Gingoog	Himamaylan	Iligan	Iloilo	Isabela	Iriga
Kabankalan	Kalookan	Kidapawan	Koronadal	La Carlota	Laoag
Lapu-Lapu	Las Pinas	Legazpi	Ligao	Lipa	Lucena
Maasin	Makati	Malabon	Malaybalay	Malolos	Mandaluyong
Mandaue	Manila	Marawi	Marikina	Masbate	Mati
Meycauayan	Muntinlupa	Munoz	Naga	Navotas	Olongapo
Ormoc	Oroquieta	Ozamis	Pagadian	Palayan	Panabo
Paranaque	Pasay	Pasig	Passi	Puerto Princesa	Quezon
Roxas	Sagay	Samal	San Carlos (in Negros Occidental)	San Carlos (in Pangasinan)	San Fernando (in La Union)
San Fernando (in Pampanga)	San Jose	San Jose del Monte	San Juan	San Pablo	Santa Rosa
Santiago	Silay	Sipalay	Sorsogon	Surigao	Tabaco
Tacloban	Tacurong	Tagaytay	Tagbilaran	Taguig	Tagum
Talisay (in Cebu)	Talisay (in Negros Occidental),	Tanauan	Tangub	Tanjay	Tarlac
Toledo	Tuguegarao	Trece Martires	Urdaneta,	Valencia	Zamboanga (2009)

Time zone:	GMT + 8.00 hours
Principal languages:	Filipino (also known as Tagalog), and English are the official languages of the Philippines. Eight major dialects are Tagalog, Cebuano, Ilocano, Hiligaynon or Ilonggo, Bicol, Waray, Pampango, and Pangasinan. About 180 languages and dialects are also spoken in the islands, almost all of them belonging to the Borneo-Philippines group of the Malayo-Polynesian language branch of the Austronesian language family. Both Tagalog and English are used in government, education, print and broadcast media, and business. Other languages include Spanish, and Arabic, both recognized as auxiliary languages in the Philippine Constitution. The use of Spanish is prevalent among some groups of Hispanic mestizo. Arabic is used by Filipino Muslim, and taught in maradrasah (Muslim) schools.
Principal religions:	Roman Catholic- 80.9%, Muslim- 5%, Evangelical -2.8%, Iglesia ni Kristo -2.3%, Aglipayan -2%, other Christian -4.5%, other -1.8%, unspecified -0.6%, none- 0.1% .(source from www.cia.gov)
Education and literacy:	Philippines's literacy rate stands at 92.6 per cent. Female : 92.7 per cent Male : 92.5 per cent (source from www.cia.gov)
Currency:	Peso (PHP)

Measures:	Metric system
Business hours:	Most business are open from 8.00am to 5.00pm weekdays and 8.00am till noon on Saturdays. Government office hours are from 0800 hours to 16.45 hours from Monday to Friday. Banks are open from 9:00 AM till 3:00 PM Monday through Friday and post offices are open from 9:00 AM to 5:00 PM weekdays only. The Standard lunch hour is noon to 12:00 to 1:00 pm. Almost all businesses and government offices are closed.
Credit Cards:	American Express, Diners Club, MasterCard and Visa credit cards are widely accepted across the country. Travelers' checks (preferably American Express) are accepted at hotels and large department stores.
National Airlines:	Philippine Airlines is the national carrier of the Philippines. It has its main hubs at Ninoy Aquino International Airport (MIA), Manila and Mactan-Cebu International Airport (CEB) near Cebu City. Philippine Airlines flies between Manila and Kuala Lumpur nine times a week and between Cebu and Kuala Lumpur twice a week on **Malaysia Airlines**-operated flights through Code sharing (Source from : http://www.philippineairlines.com/flights/codeshare_flights/codeshare_flights.jsp)

Other Airlines

Other airlines that fly to Manila are Malaysian Airlines and Air Asia. The flight duration from Kuala Lumpur to Manila is about 3 hours 13 minutes.

Malaysian Airlines

Kuala Lumpur To Manila		Manila to Kuala Lumpur	
10.15am	1.40pm	3.05pm	8.30pm
Daily	Tues, Wed, Thurs, Fri and Sat	Daily	Mon and Sat

(Source from: http://www.malaysiaairlines.com/my/en/book-and-plan/flight-timetable.html)

Air Asia

Kuala Lumpur To Manila (Clark)		Manila (Clark) To Kuala Lumpur	
7.20am	7.25am	11.25am	11.45am
Daily	Daily	Daily	Daily

(Source from : http://www.airasia.com/iwov-esources/my/common/pdf/AirAsia/flightschedule/fullFlightScheduleReport.pdf)

Airport: Manila Ninoy Aquino International Airport

(Source from www.**manila-airport**.net)

Railway network:	The Philippine National Railways operate two different rail lines, namely the North Main Line (Green Line) and the South Main Line (Orange Line), along with the three spur lines, which serve various parts of Luzon with its currently 127 active stations. The only operating line, the South Main Line (Orange Line), serves as the regional rail backbone of Southern Luzon.
Road network:	Roadways in Philippines is a total of 201,910 km. (Source from www.cia.gov)
Ports and Harbours:	The major ports in Philippines are Batangas, Cagayan de Oro, Cebu, Davao, Liman, Manila (Source from www.cia.gov)
Exchange rate:	RM 1 ~ 14.3418 PHP USD1 ~ 43.8PHP (source from universal currency converter as of 14.02.2011)

ITEM/COUNTRY	PHILIPPINES	MALAYSIA
Population	99,900,177 *(July 2010 est.)*	28,274,729 *(July 2010 est.)*
Land Size	298,170sq. km	329,847sq. km
Reserves of Foreign Exchange and Gold	USD49.74 billion *(31December 2010 est.)*	USD104.1 billion *(31 December 2010 est.)*
GDP – Per Capita	USD3,500 *(2010)*	USD14,700 *(2010)*
GDP – Real Growth Rate	7.3 % *(2010)*	7.1 % *(2010.)*
Debt - External	USD61.86 billion *(31 December 2010 est.)*	USD 62.82 billion *(31 December 2009 est.)*
Inflation (consumer prices)	4% *(2011 est.)*	2.1 % *(2011 est.)*
Labour Force	38.19 million *(2010 est.)*	11.62 million *(2010 est.)*
Corruption Perception Index Ranking (2010) Out of 178 countries	134	56

Source from : www.cia.gov (info correct as at 3.01.2011), en. wikipedia.org/wiki/Corruption_Perception_Index 2010 (info correct as at 01.12.2010) & world economic outlook database www.imf.org. (info as10.2.2011)

2.0 PHILIPPINES AT A GLANCE

2.1 Geography & Climate

The Philippine islands are an archipelago of over 7,000 islands lying about 500 miles (805 km) off the southeast coast of Asia. Only about 7% of the islands are larger than one square mile, and only one-third have names. The largest are Luzon in the north (40,420 sq mi; 104,687 sq km), Mindanao in the south (36,537 sq mi; 94,631 sq km), and Samar (5,124 sq mi; 13,271 sq km). The islands are of volcanic origin, with the larger ones crossed by mountain ranges. The highest peak is Mount Apo (9,690 ft; 2,954 m) on Mindanao.

The Philippines has a tropical marine climate dominated by a rainy season and a dry season. The summer monsoon brings heavy rains to most of the archipelago from May to October, whereas the winter monsoon brings cooler and drier air from December to February. Manila and most of the lowland areas are hot and dusty from March to May. Even at this time, however, temperatures rarely rise above 37° C. Mean annual sea-level temperatures rarely fall below 27° C. Annual rainfall measures as much as 5,000 millimeters in the mountainous east coast section of the country, but less than 1,000 millimeters in some of the sheltered valleys.

Monsoon rains, although hard and drenching, are not normally associated with high winds and waves. But the Philippines does sit astride the typhoon belt, and it suffers an annual onslaught of dangerous storms from July through October. These are especially hazardous for northern and eastern Luzon and the Bicol and Eastern Visayas regions, but Manila gets devastated periodically as well.

2.2 History

The Philippine Islands became a Spanish colony during the 16th century; they were ceded to the United States in 1898 following the Spanish-American War. In 1935 the Philippines became a self-governing commonwealth. Manuel QUEZON was elected President and was tasked with preparing the country for independence after a 10-year transition. In 1942 the islands fell under Japanese occupation during WWII, and US forces and Filipinos fought together during 1944-45 to regain control. On 4 July 1946 the Philippines attained their independence.

The 20-year rule of Ferdinand MARCOS ended in 1986, when a widespread popular rebellion forced him into exile and installed Corazon AQUINO as president. Fidel RAMOS was elected president in 1992 and his administration was marked by greater stability and progress on economic reforms.

2.3 Government

The Philippines has a representative democracy modeled on the U.S. system. The 1987 constitution, adopted during the Corazon Aquino administration, reestablished a presidential system of government with a bicameral legislature and an independent judiciary. The president is limited to one 6-year term. Provision also was made in the constitution for autonomous regions in Muslim areas of Mindanao and in the Cordillera region of northern Luzon, where many aboriginal tribes still live.

The 24-member Philippine Senate is elected at large, and all senators serve 6-year terms. Half are elected every 3 years. There are currently 278 members in the House of Representatives, 226 of whom represent single-member districts. The remaining House seats are occupied by sectoral party representatives elected at large, called party list representatives. The Supreme Court approved the introduction of 31 additional party list seats in April 2009, in time for May 2010 national elections. All representatives serve 3-year terms, with a maximum of three consecutive terms.

At local government level, the country is divided into provinces, cities and municipalities. A governor heads each province, while mayors head the cities and municipalities are further divided into barangays, which are headed by barangay captains. Local government units are given autonomy and to fund their operations, they are empowered to impose limited local taxes and fees.

The government continues to face threats from terrorist groups. An international monitoring team continues to watch over a cease-fire agreement between the government and the separatist Moro Islamic Liberation Front (MILF).

3.0 CONSTRUCTION OUTLOOK & OPPORTUNITIES

3.1 The Construction Scenario

The Philippines is categorized as a developing country with a diversified economy reflecting the endowment of natural resources. The country was least affected by the recent global financial crisis due to higher levels of domestic consumption, less dependence on exports and the sustained large remittances from overseas.

The Philippines government also initiated the Economy Resiliency Program (ERP) to mitigate the impact and stepped up spending on infrastructures. In 2007, the Philippines Government through its Comprehensive and Integrated Infrastructure Program (CIIP) identified key transport related infrastructure projects to connect rural areas to ports and nearby metropolitan areas, recognizing the importance of interconnection among rural and urban areas to nearby ports and hubs that play a vital role in boosting the country's economy. The CIIP contains a list of infrastructure projects to meet the requirements set forth in the Medium Term Philippine Development Plan (MTPDP). The government announced a stimulus package of PHP330 billion and other measures such as zero tariff on import of essential construction materials. The private sector is also actively engaged in the commercial construction, tourism and also residential projects that will need to address the 3.8 million housing backlog.

The government's public-private partnership (PPP) projects as well as the expected increase in foreign investments to be placed in the mining and infrastructure projects are also seen to boost growth in the construction sector. The government, in June 2010, has announced vast numbers of infrastructure projects it plans to offer to private investors and furthur invite bids for USD16.825 billion worth of infrastructure projects within the next two years as it moves expeditiously to overcome the country's substantial shortage of infrastructures. International Funding Agencies such as the World Bank, the Asian Development Bank have also mobilized to support the initiatives of the Philippines Government.

3.2 Challenges in the Philippines Construction Sector

The general challenges as reported are mainly the following:-

1. Graft and corruption in government and business remain a major business constraint, despite the government's effort to combat them.
2. A severe shortage of judges and prosecutors, corruption, and a weak record of prosecution plaque the judicial process resulting in an ineffective judicial system.
3. The Philippines lags behind many other ASEAN countries in infrastructure development in particular the transportation sector. Capacity at Ninoy Aquino International Airport is much of a concern and impedes development and tourism. There is also a need for a mass transportation system to solve vehicular congestion.

3.3 A SWOT Analysis of the Philippines Construction Industry Sector

Further to the general challenges of doing business in the Philippines, the following is a presentation on a SWOT analysis that are linked to the construction industry.

3.3.1 Strengths

1. The Philippines construction industry is purported to have a distinct advantage of compliance towards competitive pricing and quality, and environment friendly operations coupled with reliability and commitments.
2. The construction industry is forecasted to have a high growth in the medium term. (2010-2015)
3. The construction industry real growth in 2009 was still substantial (4.3% year on year) despite global economic downturn and registered a growth of 5.8% in 2010.
4. With the current boom in commodity prices, the economy is forecasted to grow even more in 2011 and that there will be significant investment in the infrastructure and residential development of the country.
5. The Philippines has launched some projects on private finance initiatives and is thus a precedent for more projects to be mobilized in the coming years.
6. The Philippines construction industry has the presence of numerous internationally established construction companies.
7. The country’s constitution is framed on an American style bill of rights and Philippines is also a “major non-NATO ally” of the United States, which serves as the de facto guarantor of the country’s security.

3.3.2 Weakness

1. The Philippines construction industry is entirely dependent on imported construction equipment largely from Japan, the United States and Singapore.

2. The government is looking towards tightening its fiscal policies in the near future due to a high budget deficit and the construction industry would have to look more private sector driven investment.
3. Philippines and in particular the construction industry has been perceived with high levels of corruption.
4. Besides growing internal political risks, the civil strife especially in the Mindanao region has still been unresolved.
5. Philippines has experienced high levels of long-term currency volatility.
6. The repeated budget deficits have lead to a sharp increase in public debts and the government spends more than 20% of its annual budget on servicing the interest payments alone.
7. Unemployment rate remains high at exceeding 7% and reflects the high crime rate.

3.3.3 Opportunities

1. The government in an effort to overcome the deficit in infrastructure has moved towards sponsoring the upgrade of at least 20 airports, as well as bridges, roads, railways, ports and ferry services, water treatment and irrigation projects.
2. There is a severe back-log of at least 3.5 million low cost housing needs to be addressed urgently.
3. Renewable energy sector I being focused for investment.
4. The domestic banks are keen to increase infrastructure lending, with three having teamed up with International Finance Corporation (IFC), an agency of the World Bank Group, to increase lending for green energy projects.

3.3.4 Threats

1. The Philippines government’s fiscal position draws caution and would result in a public funding crisis for the country’s infrastructure programs should there be a renewed global market confidence.
2. There is an ongoing electricity shortage.
3. Changes in government with almost each election may result in policy changes. Philippines has not spared expropriation of assets and the government has displayed little political will to bring changes administrative wise, and remove legislative barriers towards encouraging more foreign investment.

3.4 The Major Infrastructure Projects

3.4.1 Public Authorities responsible for Implementation of Infrastructure Projects

The two major ministries (departments) involved in the implementation of infrastructure projects are

1. The Department of Transport and Communications (DOTC) and
2. The Department of Public Works and Highways (DPWH)

3.4.1.1 The Department of Transport and Communications

The Department of Transport and Communications (DOTC) is the agency responsible for the policies, planning, implementation and operations for a coordinated network of transportation and communication systems in the country.

The DOTC covers road, rail, air, water and communications sector. A full list of projects being planned and implemented are available at DOTC's website : www.dotc.gov.ph

Major Infrastructure projects in Philippines under DOTC

1. Airports

The following are the major airports projects that have been slated for construction, expansion or rehabilitation.

1.1 Panglao Island Airport

The project consists of a 7,600 sq. metre passenger terminal, a 2,500 metre airstrip and related infrastructures. The project is located in central Bohol, is expected to cost USD171 million and scheduled to be completed by 2015. The tenders are expected to be called in 2011.

1.2 Puerto Pincesa Airport (Balabac)

This airport in south-western Palawan, rehabilitated at an estimated cost of USD 97million and bids are expected to be called in 2011.

1.3 Daraga International Airport

The Daraga International Airport in Central Philippines is proposed to be constructed at a cost of USD71 million. The bids are expected to be called in 2011.

1.4 Clark International Airport

The upgrading of this airport estimated to cost about USD150 million will be called for tenders soon.

1.5 Construction of Legaspi Airport

The feasibility study for the construction of this airport has been completed and the estimated cost is USD68 million.

2. Railways

The following are a list of major railway projects in the pipeline:-

2.1 Mindanao Railway

The feasibility study for this project estimated to cost USD1300 million is ongoing.

2.2 Light Rail Transit (LRT) Line 2

The feasibility study of the proposed extension of LRT Line 2 to link Ninoy Aquino International. Terminal 3 is currently ongoing. The project is estimated to cost USD235 million for a length of 5.2 kilometres.

2.3 Upgrading of Metro Rail Transit (MRT)

The program to upgrade the 17 kilometres MRT, estimated to cost AUSD700 million is currently being planned.

3. Ports

3.1 New Cebu Port

The development of a new port at Cebu is now being planned.

4. Roads and Bridges

4.1 Cavite – Laguna (CALA) Expressway

The 27.5 Cavite side section of the expressway which is estimated to cost USD262 million will be called for bids in 2011

3.4.1.2 The Department of Public Works and Highways (DPWH's website: www.dpwh.gov.ph)

The Department of Public Works and Highways (DPWH) is another major developer of the infrastructure projects in the Philippines. The DPWH is currently responsible for the planning, design, construction and maintenance of infrastructure especially the national highways, flood control and water resources development system, and other public works in accordance with national development objectives. The list of infrastructure projects approved under the Comprehensive and Integrated Projects (CIIP) in 2007 are now being prioritized for implementation.

The funding for the infrastructure projects under this department are largely funded by the following sources:-

a. Government of Philippines (GOP)
b. International Bank of Rehabilitation and Development (IBRD)
c. The Asian Development Bank (ADB)
d. The Saudi Development Fund (SDF)
e. The Japanese Bank of International Cooperation (JBIC)

The local funding is approximately 75% of the budget whilst the remaining 25% is sourced from the foreign funding agencies.

The list of projects being approved for implementation with funding from the various sources is as follows:-

Source of Fund	Project	Cost (USD million)	Project Status
World Bank	Cavite - Laguna North South Highway	140	Pipeline
World Bank	Manila Wastewater Management Project	300	Pipeline
World Bank	Local Government Support For Performance Grants	70	Pipeline
World Bank	Regional Infrastructure For Growth	100	Pipeline
World Bank	Participatory Irrigation Development Project	70.36	Active
World Bank	Additional Financing For Rural Power	40	Active
World Bank	National Roads Improvement and Management (APL) Phase 2	232	Active
World Bank	Mindanao Rural Development Project Phase 2	83.75	Active

Source of Fund	Project	Cost (USD million)	Project Status
ADB	Strengthening Public Private Partnerships in the Philippines	9.7	Pipeline
ADB	Road Sector Institutional Development and Investment Program (MFF $500m)	763.6	Pipeline
ADB	Water District Development Sector Project	51.2	Pipeline
ADB	Urban Water Supply and Sanitation Project	72	Pipeline
ADB	Power Sector Development Program Loan	625	Pipeline
ADB	Financing Facility for Renewable Energy and System Loss Reduction	57	Pipeline
ADB	Rural Community-based Renewable Energy Development in Mindanao	57	Pipeline
ADB	VISAYAS Base –Load Power Project	120	Approved
ADB	Agusan Integrated Water Resources Management Project	3	Approved
ADB	PASIG River catchment sewerage project	0.3	Approved
ADB	Irrigation System Operation Efficiency Improvement Project	100.0	Approved

Sources : http://www.adb.org/Projects , http://www.worldbank.org and www.dpwh.gov.ph

3.5 Malaysian Companies currently active in Philippines

Companies
1. Makati Shangri-La Hotel &Resort, Inc.
2. MTD Manila Expressways, Inc.
3. Shangri-La Mactan Island Resort
4. Chemkimia Philippines, Inc.
5. Asia Online (Philippines), Inc.
6. Air Asia Philippines, Inc.
7. Gagasan Steel, Inc.
8. Philippine Racing Club, Inc.
9. FRONTKEN Philippines, Inc.
Banks
1. Maybank Philippines, Inc.

Source from : http://www.matrade.gov.my/cms/documentstorage/com.tms.cms.document.Document_e61221f3-7f000010-4fb34fb3-11a8d4e3/Philippines.pdf

3.6 Basic Construction Material Prices in Philippines

Material	Price (In Pesos)
Cement – 40 kilos/l bag	210-230
Steel **10mm** **12mm**	 130-145 185-210
Wood (rough) - each **2x2x8** **2x4x8**	 105-135 225-255
Plywood (marine) - each **¼”** **¾”**	 320-355 880-895
Galvanized Iron Sheet (26) per kilo **30mm**	 450-475
PVC Pipe (1”) per metre **Blue** **Orange** **PVC Pipe (¾”)** **Blue**	 140 135 80
Hollow Blocks (per piece)	14
Paint (1 gallon) **Flat Latex** **Gloss** **Flat wall Enamel** **QDE Enamel**	 445-475 500-525 485-510 525-540

Source from : http://www.magkano.com/construction/hardware.htm (Updated Aug. 3, 2010)

4.0 STRUCTURES FOR DOING BUSINESS

4.1 Principal forms of doing Business

In Philippines the most common types of business are sole proprietorship, partnership and corporations. The choice of the form of business or business organization depends on various factors. The preferred choice for a foreign company to establish a local presence to do business is by incorporating a legal entity as a subsidiary or to open office such as a branch office, or preferably a share corporation with a charter limited to 50 years, renewable for succeeding 50-year terms. An investor will need to register with the Philippines Securities and Exchange Commission and with various government offices.

4.2 Requirements of a corporation

4.2.1 Capital

At least 25% of the authorized capital stock must be subscribed at the time of incorporation, and at least 25% of the subscribed capital (minimum PHP 5,000) must be paid up. If the paid up consists of cash and property, the applicant must also submit the corresponding deed of assignment, a statement of assets and liabilities executed under oath, an appraisal report (transfer value must be the same as value per tax declaration), certified copies of the original or transfer certificate of title from register of deeds, past and current real property payment receipts and written consent of any creditors of the property being assigned, if subject to heir or encumbrances.

4.2.2 Shareholders, Directors and Management

There may be 5 –15 shareholders, the majority of whom must be residents of the Philippines, unless other laws allow otherwise. If it is 60% Filipino owned, then it is considered a Filipino corporation; if more than 40% foreign owned, it is considered a domestic foreign-owned corporation.

Each director must own at least one share of capital stock of the corporation. The majority of the directors must be residents of the Philippines, unless allowed by other laws. The corporate secretary must be a resident citizen of the country.

4.2.3 Disclosure

Audited financial statements must be filed with the Securities and Exchange Commission (SEC) after each fiscal year. Accounting practices are similar to those in the United States. Books may be kept in Tagalog, English or Spanish.

4.2.4 Taxes and Fees

The following fees must be paid to the Securities and Exchange Commission (SEC) when articles of incorporation are submitted:

a. For a stock corporation with par value, one-fifth of 1% of the authorized capital stock or the subscription price of the subscribed capital stock, whichever is higher, but not less than PHP 1,000.
b. For a stock corporation without par value, the fee is one-fifth of 1% of the authorized capital stock calculated at PHP 100 per share or the subscription price of the subscribed capital stock, whichever is higher, but not less that PHP 1,000.

4.2.5 Setting up a company

To form a corporation, the incorporate must subscribe to the proposed articles of incorporation and bylaws. The articles are then submitted to the Securities and Exchange Commission (SEC) for approval and filing fees paid. The SEC requires submission of the following documents (in six copies): namely verification slip (may be secured online or from the SEC Name Verification Unit after a check indicates no duplication of the proposed corporate name), a bank certification of paid-up capital and registration data sheet. A Tax Identification Number (TIN), which may be obtained from the website of the Bureau of Internal Revenue (BIR), is required in the registration data sheet.

If there are foreign subscribers to the share corporation, THE SEC requires photocopies of their passports and proof of inward remittance of investment by nonresident foreign subscribers, which may be a certification from a bank. In addition, the company must submit a statement of assets and liabilities executed under oath by the treasurer, if the paid-up capital consists of property and cash. The treasurer must certify that at least 25% of the proposed capitalization is subscribed and that 25% of the subscription is paid up. As a matter of policy, however, the SEC requires the initial subscription of foreigners to be fully paid up at time of incorporation. The incorporation them meet to elect a board of directors, which appoints the management.

The SEC will issue a registration statement within five days of the filing of the application. Registration application forms must be filed with the Company Registration Department of the SEC and filing fees paid. The required paid-up capital may be deposited with accredited commercial banks or with the SEC.

After obtaining a Certificate of Registration, the business must apply for a business permit with the local government in the city or municipality where its main office is to be located.

Routine registration is also required by other government bodies, the Department of Labor and Employment, the Social Security System, the Department of Finance and the central bank.

5.0 DOING A CONSTRUCTION BUSINESS

5.1 The Current Infrastructure Scenario

Other than the Department of Public Works (DPWH) and Department of Transport and Communication (DOTC) below is a list of principal stakeholders in the construction industry in Philippines:-

The Principal Construction Industry Stakeholders in Philippines

1.1 <u>The Construction Industry Authority of the Philippines (CIAP)</u>

The Construction Industry Authority of the Philippines (CIAP) was established in November 1980 by virtue of a Presidential Decree. THE CIAP is an agency of the Department of Trade and Industry (DTI). CIAP was created to promote, accelerate and regulate the growth and development of the construction industry. It exercises jurisdiction and supervision over the following implementing boards:-

a. the Philippines Accreditation Board (PCAB) which issues, suspends and revokes licenses of contractors.
b. the Philippines Domestic Construction Board (PDCB), assigned to formulate, recommend and implement policies, guidelines, plans and programs for the efficient implementation of public and private construction in the country.
c. the Philippines Overseas Construction Board, (POCB) which is assigned to formulate strategies and programs for developing the countries overseas construction industry, and
d. the Construction Industry Arbitration Commission (CIAE)

The contact information for the Construction Industry Authority of the Philippines (CIAP) is as follows:-

Construction Industry Authority of the Philippines,
2/F & 5/F, Executive Center Bldg.
369 Gil Puyat Ave., cor. Makati Ave., Makati City
Tel. Nos.: (+632) 895.4424 / 895.6826
Fax No.: (+632) 897.9336
E-mail: ciapdti@yahoo.com
Website: www.dti.gov.ph

1.1a <u>The Philippines Contractors Accreditation Board (PCAB)</u>

The Philippines Contractors Accreditation Board (PCAB) was originally called the Philippines Contractors License Board. The Republic Act (RA) 4566 as amended by Presidential Decree P.D. No. 1746 provides that no contractor (including sub-contractor and specialty contractor) shall engage in the business of subcontracting without first having secured a PCAB license to conduct business. All engineers and architects preparing plans and specifications for works to be contracted out in the Philippines shall stipulate in their invitation to bidders, whether a resident of the Philippines or not, and in their specifications that it will be necessary for any bidder, whether contractor, sub-contractors or specialty contractor , to have a license before his bid is considered. The Contractor’s License Law (R.A. 4566) that allows only qualified and reliable contractors are allowed to undertake construction in the industry is waived for overseas contractors participating in international bids invited for works funded by international funding agencies such as the World Bank (WB), Asian Development Bank (ADB) and the Japanese Bank for International Cooperation (JBIC). However successful bidders in such cases are expected to register and obtain their license from PCAB which shall not unreasonably deny any application.

In such cases, then the joint venture company, consortium, or the foreign contractor shall apply for the "Special License" which authorizes the entity to engage only in the construction of a single, specific project or undertaking.

The contact information for the The Philippines Contractors Accreditation Board (PCAB) is as follows:-

The Philippines Contractors Accreditation Board,
Licensing and Registration
Construction Industry Authority of the Philippines
Tel. Nos.: (+632) 895.4258 / 897.0869
E-mail: pcabphil@yahoo.com

1.1b Other Stakeholders

Some of the other stakeholders in Philippines construction industry are as follows:-

i. The Philippines Constructors Association (PCA) (representing large contractors)
ii. The National Constructors Association of the Philippines Inc. (NACAP)
iii. The Cement & manufacturing Association of the Philippines (CEMAP), and
iv. The following professional bodies:-
    1. Council of Engineering Consultant in the Philippines (CECOPHIL)
    2. Construction Project Management Association of the Philippines (CPMAP)
    3. Confederation of Filipino Consulting Organization of the Philippines (COFILCO)
    4. Geodetic Engineers of the Philippines (GEP)

5. Institute of Electronics Engineers of the Phils., Inc. (IECEP)
6. Institute of Integrated Electrical Engineers of the Philippines (IIEE)
7. National Master Plumbers / Plumbing Engineers of the Philippines (NAMPAP)
8. Philippine Association of Landscape Architects (PALA)
9. Philippine Institute of Interior Designers (PIID)
10. United Architects of the Philippines (UAP)

5.2 Registering A Construction Business

The best option available for Malaysian companies to partake in the opportunities in Philippines would be to establish a domestic corporation by joint venture with a local Filipino company and to subscribe to the requirements of being registered as a construction entity or as an investor in public-private participation projects.

The Government of Philippines has established the Government Procurement Policy Board (GPPB) which has published the guidelines for foreign participation in government procurement projects. Full details are available at www.gppb.gov.ph.

5.2.1 Market Entry Strategies and Approaches

1. Understanding the Business Environment and Culture in Philippines

The business environment in Philippines is highly personalized and a proper introduction by a trusted intermediary is recommended to enter the markets. Malaysians generally would recognize that there are similarities in the business culture and would be able to easily assimilate the practice.

Business matters are always best dealt with a direct person to person basis and relation building is vital as to a Filipino, cultivation of friendship, establishing trust and developing a personal rapport are the prelude to a successful business. Therefore it is a sound investment of time before establishing or embarking on a business to fully understand the traits and etiquette as a requisite for the necessary cordial atmosphere attached to the business environment.

Malaysian focusing on Philippines should also be aware of “pakikisama”. “Pakikisama” is a Filipino cultural concept, loosely translated as “group loyalty”. “Pakikisama” is an important cultural value in the Philippines and defines the social need for comradeship and general consensus. “Pakikisama” is closely linked with maintaining harmony and as a result, disagreement and interpersonal tension are considered negative aspects of behavior. In business terms, it is often necessary to gain a group decision before proceeding further which can make negotiations seem more in definite and take more time.

2. Structure, Hierarchy & Working Relationship

There exists a strong sense of hierarchy within most Philippines business organizations, where different levels of subordinates and business protocol need to be negotiated until the final decision maker is reached. The seating arrangements at meeting will reflect the order of hierarchy within the organization.

Mutual respect and reputation are vital components in establishing successful business relationships in the Philippines and as a result, age and status require a high level of respect and thus the Malaysian representative should be guided to adapt this culture.

5.2.2 The Opportunities

The Philippines government has in recent times embarked on an aggressive approach to overcome the large deficit in its infrastructure development as discussed under Chapter 3.1c and detailed in Chapter 3.4.

The Filipino construction industry has been a very highly competitive sector with the presence of many large infrastructure contractors both locals and foreigners. The local contractor's associations (Philippine Constructors Association) and the Philippines Construction Chamber of Commerce has been noted to protect their interests in the industry through strong representations to the government. The Philippines has specified that the eligibility of contractors in the government procurement for infrastructure projects such as water, electricity, telecommunications and transportation shall be least 60 percent Filipino-owned. The general policy of the government for foreign funded projects is also inclined towards providing a fair advantage towards local contractors or at least towards joint venture companies with local participation.

Under the prevailing circumstances to partake in the infrastructure development industry in the Philippines, the best competitive option for Malaysian contractors would be to form a joint venture company with a local Filipino company. The discerning Malaysian contractor looking at opportunities in Philippines should focus on the string of projects funded by the multilateral and bilateral funding agencies that have been listed under Chapter 3.4.1.2.

Opportunities in the construction sector also exist through investment in the public-private participation (PPP) projects as discussed next.

5.2.3 The Strategies

a. <u>Investment in the Construction Sector</u>

The Philippines government has in recent years increasingly embarked on public private participation (PPP) projects in an effort to accelerate the development of the infrastructure sector and support the increased demand for public housing.

The National Economic and Development Authority (NEDA) overseas the implementation of PPP programs. Full details are available at its website: http://www.neda.gov.ph.

Some of the projects that have been embarked for implementation under the PPP schemes as of 2010 are as follows:-

Name of Project	Estimated Project Cost	Schemes
Transportation NAIA Expressway Phase II MIAA New International Cargo Terminal Project	PHP 5.4 billion PHP 7.5 billion	BOT BOT
Power Batangas to Manila Natural Pipeline Isabela Coal Mining and Power Plant Project Integrated Liquefied Natural Gas Terminal. Pipeline and Power Plant	USD 131 million USD 100 million USD 1,069 million	To be determined To be determined To be determined
Property Development Balog-Balog Multipurpose Project: Phase II Modernization PSP/BOT Project MWSS Treated Bulk Water Supply Metro Cebu Water District (MCWD) Treated Bulk Water Supply	PHP 8.8 billion PHP 100 billion PHP 34 billion	To be determined BOT Build-Own-and-Operate (BOO)

The modes of implementation of the PPP projects for investors are briefly described in the following:-

1. Build-Operate-and-Transfer (BOT)

A contract is signed between a proponent (business operator) and the government which provides the terms and conditions of agreement. At the end of the term, investment is transferred to the government. The proponent is responsible for the total infrastructure development.

To recover the investments and enable the business to operate profitably, the proponent, under the contract is allowed to charge rentals, fees, tolls and other charges for the use of the facility.

2. Build-Gradual-Transfer-Operate-and-Maintain (BGTOM)

A variation of the BOT scheme that provides for the gradual transfer of a specific infrastructure project to the government.

3. Build-Own-and-Operate (BOO)

The proponent is authorized to finance, construct, own, operate and maintain infrastructure or development facilities. In order to recover the investment as well as operating and maintenance costs, the proponent is entitled to collect rentals, fees, tolls plus a reasonable gain from facility-users. Proponent under this scheme may assign facility operators.

4. Build-and-Transfer (BT)

The project proponent undertakes the financing and construction of a given infrastructure or development facility and, after its completion, turns it over to the government agency or LGU concerned, which shall pay the proponent on an agreed schedule of its total investment expended on the project, plus a reasonable rate of return thereon.

5. Contract-Add-Operate (CAO)

A contractual arrangement whereby the project proponent adds to an existing infrastructure facility which it is renting from the government and operates the expanded project over an agreed franchise period.

6.0 ECONOMY OVERVIEW

The Philippines is a developing country with a diversified economy. The service sector contributes 54% of overall Philippines economic output, followed by the manufacturing industry (about 30%). Important industries include food processing, textile and garments, electrics and automobile parts. The business process outsourcing (BPO) industry has been the fastest growing segment of the Philippines economy and currently accounts for about 15 percent of the global outsourcing market and generated USD7.2 billion in 2009.

The agricultural sector employs more than 3.5 percent of the population but only accounts for 14 percent of the GDP. Philippines is one of the leading producers of rice and coconuts. Most industries are concentrated in areas around Metropolitan Manila. Mining has great potential in the Philippines, which possess significant reserve of chromite, nickel and copper. Significant offshore hydrocarbon finds have added to the country’s substantial geothermal, hydro and coal energy reserves.

The Philippines weathered the recent global financial crisis comparatively better than the neighbouring countries, partly as a result of the efforts over the past few years to control the fiscal deficit, bringing down debt ratios, and adopt internationally-accepted banking sector capital adequacy standards. The country also fared well due to high levels of domestic consumption, less dependence on exports and the sustained large remittances that come from overseas Filipino workers.

6.1 The Economic Outlook and Gross Domestic Product (GDP)

After a period of moderate growth (0.9%) in 2009, the Philippines registered a GDP growth of 7.3% in 2010. The strong growth was supported by strong domestic investment and growth in industrial output due to external demand which picked up in the developed economics like Europe and United States. It is noteworthy that demand within the region has also picked up: Singapore, China, Japan and Hong Kong have emerged as alternative export destinations. The semiconductors and electronics industry, accounting for two-thirds of Philippines export, witnessed an unprecedented surge.

Remittances from Filipinos living abroad constitute nearly 10 percent of the Philippines GDP and play a critical role in boosting domestic consumption and investment. The growth was also supported by the government expenditure related to the 2010 elections. The services sector, the biggest sector of the economy grew by 6.7% driven by Philippines being increasingly identified as an attractive location for business process outsourcing and as a source for skilled labor supply.

The domestic investment was reflected in the government expenditure on infrastructures, rehabilitation and reconstruction to typhoon–damaged facilities and including plans that were shelved during the economic downturn. The construction industry, representing 5.5% of the GDP, expanded by 18%. Overall investments made a significant contribution to GDP growth for the first time since 2007. Fixed capital investment surged by over 21 percent, with equipment investment rising by 30%. Strong growth was recorded in spending on commercial vehicles, industry machinery, and telecommunications equipment. Fixed investment as a ratio to GDP rose to 17.2%, the highest in 7 years.

Inflation has picked up in 2010 to 4.5 percent whilst current account balance stands at 4.0 percent of the GDP. The new government aims to limit the budget deficit by tightening expenditure in some areas and more determined tax administration to increase revenue collection to support social and development expenditure. The new government administration intends to promote public-private partnership to build infrastructure and to revamp the institutional and governance framework to encourage those arrangements to enhance social services, and to streamline business-registration procedures.

6.2 Investment Climate

The Asian Development Bank in its report "Philippines: Moving towards a Better Investment Climate", published in 2005 has identified 3 broad sets of factors deciding the investment climate: namely;

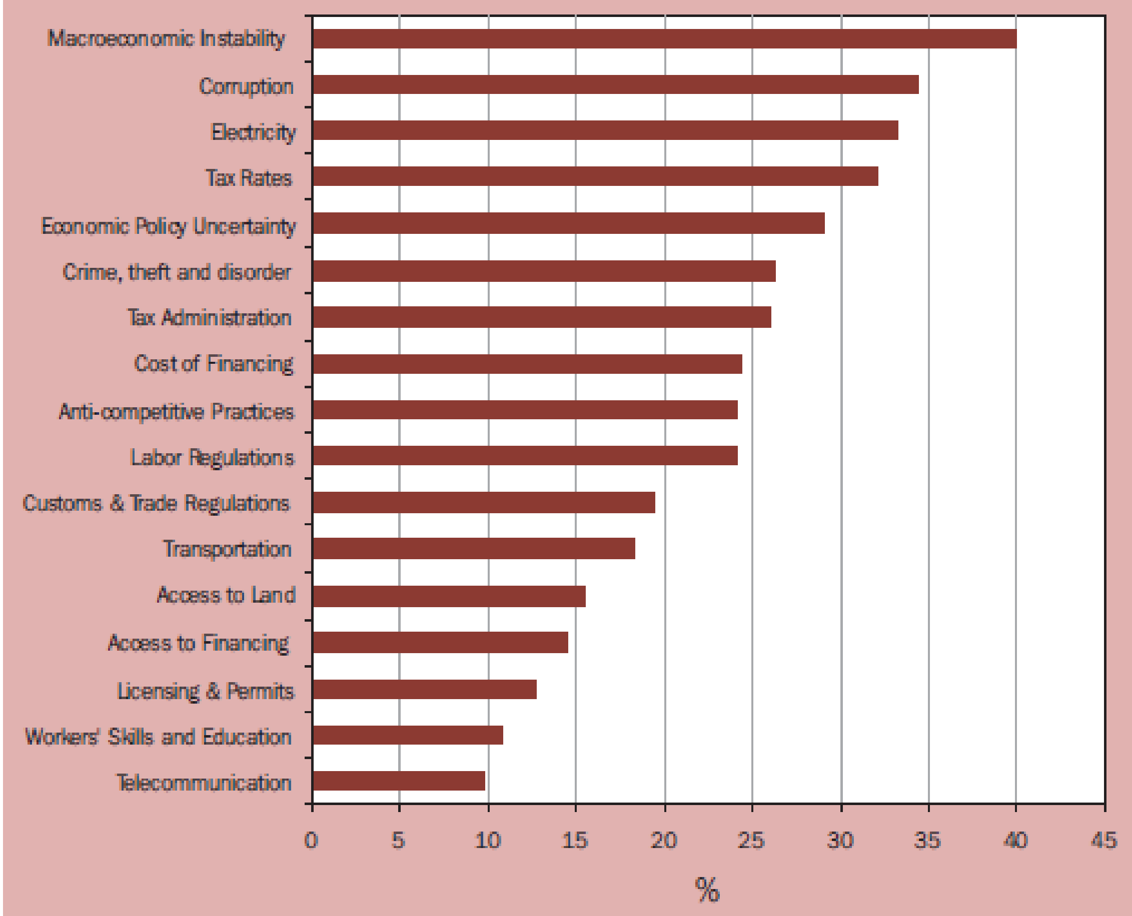
i. Macro fundamentals
ii. Infrastructure, and
iii. Governance and institutions.

The ingredients for a good set of macro fundamentals include achieving reasonable fiscal and external balances, realistic exchange rates, low inflation and interest rates, competitive markets, and social and political stability. The infrastructure factor involves the availability and quality of physical infrastructure, such as roads, rails and ports, telecommunications, power and water supply. Governance and institutions refer to transparency and efficiency in regulation, taxation and legal system, strong and well-functioning financial sector, labor market flexibility and skilled labor force.

6.2.1 Challenges

The same study by the Asian Development Bank to identify the weakness in the investment climate for Philippines, included a survey of conducted with 800 establishments, representing 4 major manufacturing sectors in three prime locations in the Philippines. The response from the CEOs and general managers of 716 establishments is summarized in the Figure 1 below.

Figure 1. Share of Firms Rating Constraints as Major or Severe



It should be noted that whilst this study was conducted in 2005, it is also pertinent to reflect upon later reports on improvements. However weak governance still remains a prevailing issue although the government has initiated a number of governance reforms. The measurement of these improvements can be reflected in the annual reports published by leading international agencies that includes World Bank,(Ease of Doing Business); the United Nations (Human Resources Development); the Heritage Foundation (Economy Freedom); the World Economic Forum (Global Competitiveness Index); Transparency International (Corruption Perception Index) and Maplecroft (Global Risk Atlas).

6.2.2 The World Bank Report on Ease of Doing Business

6.2.2.1 Background

The World Bank Report on Ease of Doing Business 2011 presents quantities, indicators on business regulations and the protection of property rights that can be compared across 183 economies. The report covers the period June 2009 through May 2010.

The indicators refer to a specific type of business and record all procedures that are officially required to start up and formally operate an industrial or commercial business. The study besides procedures also encompasses time, cost and paid-in minimum capital for a local, limited liability company based and operators in the country’s largest city.

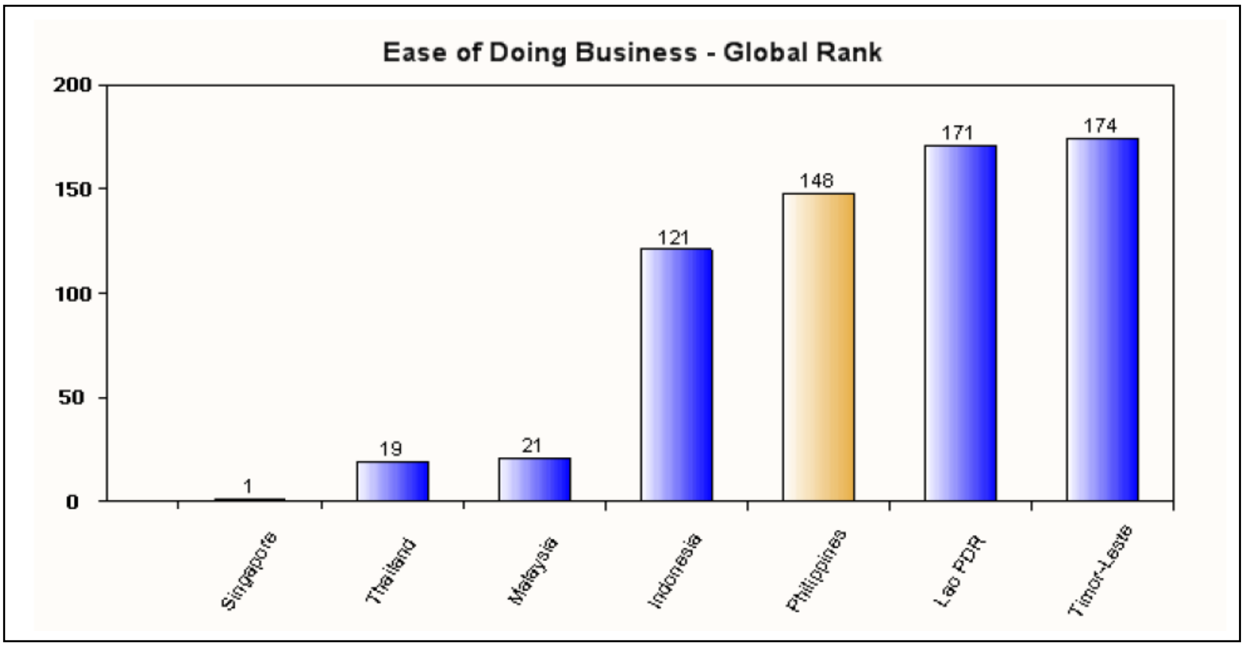
A set of regulations affecting 10 stages of a business's life is measured namely:-

1. Starting a business
2. Dealing with construction permits
3. Employing workers
4. Registering property
5. Getting credit
6. Protecting Investors
7. Paying taxes
8. Trading across borders
9. Enforcing contracts, and
10. Closing a business.

The World Bank's report put the Philippines at number 148 out of the 183 countries in terms of how easy it is to do business in them for 2011. The ranking is two places lower than the 146th place it occupied in the Doing Business 2010 Report. It must be noted that when one country's ranking goes down, it could only be because of either its performance in the various indicators used for ranking is deteriorating or some other countries simply outperformed and overtook it even if it is doing well. Philippines registered some improvement in "starting a business", and "trading across borders" by establishing a one-step centre at municipal level, and improving its electronic customs system but made issuance in dealing with construction permits due to cumbersome electricity connections.

Based on the ranking, Philippines is placed 22nd among 24 East Asian and Pacific islands countries of ease in doing business and also be considered as the 36th worst country. Lao PDR (ranking 171) and Timor-Leste (ranking 174) are the only other two countries in the region that trail the Philippines. Malaysia ranks 21st out of the 183 countries.

The following graph is a representative of the ranking of Philippines and the economies in the region and also compared to good practice economy.



6.2.2.2 Open Economy and Freedom

Economic freedom is defined as the fundamental right of every human to control his or her own labour and property. In an economically free society, individuals are free to work, produce, consume and invest in any way they please, with that freedom both protected by the state and unconstrained by the state.

The Heritage Foundation, based in Washington together with The Wall Street Journal, tracks and measures ten components of economic freedom, assigning a grade in each using a scale from 0 to 100, where 100 represents the maximum freedom.

The 10 components of economic freedom are related below together with the average score for Philippines in 2011.

1	Business Freedom	43.4
2	Trade Freedom	77.8
3	Fiscal Freedom	78.8
4	Government Spending	91.0
5	Monetary Freedom	76.3
6	Investment Freedom	40.0
7	Financial Freedom	50.0
8	Property Rights	30.0
9	Freedom from Corruption	24.0
10	Labor Freedom	50.7

Based on the report for 2011, Philippines economy is the 115th freest out of 179 countries. It has deteriorated from 2010 where it held the 104th ranking. The Philippines ranks 21st out of 41 countries in the Asia-Pacific region, and its overall score are slightly below the world and regional averages.

The Heritage Foundation reports that the Philippines has pursued a series of legislative reforms to enhance the entrepreneurial environment and develop a stronger private sector to generate broader-based job growth. Progress has been mixed, although some fiscal reforms have been accomplished. Deeper institutional reforms are required in four inter-related areas: business freedom, investment freedom, property rights and freedom from corruption. The government imposes formal and non-formal barriers to foreign investment, and foreign remittances do little to promote sustainable growth. The judicial system remains weak and vulnerable to political influence and corruption.

The methodology adopted and evaluations are described in detail at the following website: www.heritage.org/index/country/Philippines.

6.2.2.3 Country Governance (The World Bank)

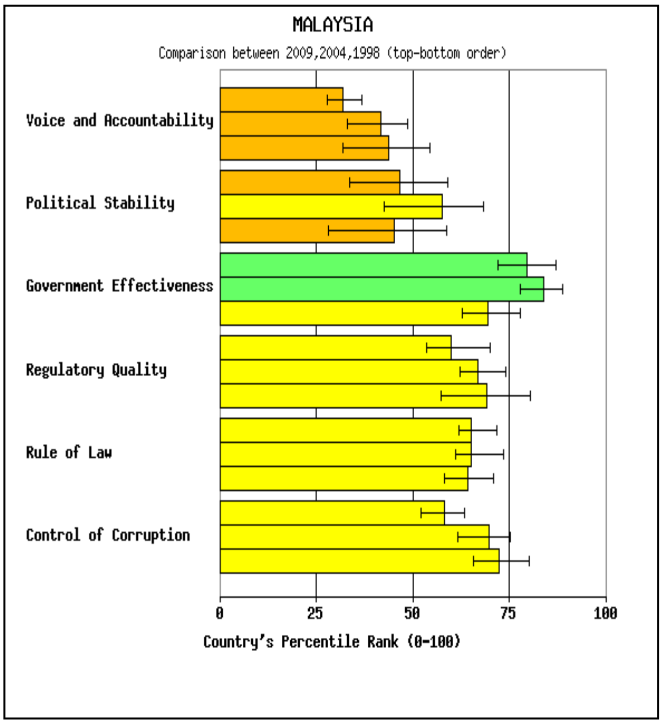
The World Bank Group, based on a long-standing research program, release the Worldwide Governance Indicators that capture six key dimensions of governance, namely:-

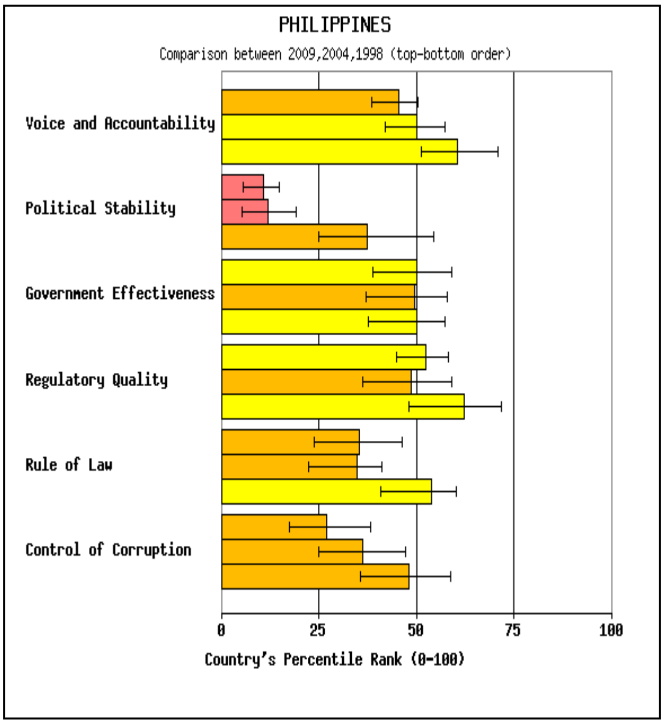
(i) voice and accountability
(ii) political stability and lack of violence
(iii) Government Effectiveness,
(iv) Regulatory Quality
(v) Rule of Law and
(vi) Control of Corruption.

The Worldwide Governance Indicator measures the quality of governance in over 200 countries based on close to 40 data source produced by over 30 different organizations worldwide and is updated on an annual basis. Full details on methodology adopted are available at the following website:- **http://info.worldbank.org/governance/wgi/resources.htm**

Comparison of Worldwide Governance Indicator (WGI) for Malaysia and Philippines

The following charts reflect the WGI indicators for Malaysia and Philippines. The charts with the explanatory notes will reveal a fair indicator of the progress of governance as ascertained by the World Bank Group.





This chart shows the percentile rank of the country on each governance indicator. Percentile rank indicates the percentage of countries worldwide that rate below the selected country. Higher values indicate better governance ratings. Percentile ranks have been adjusted to account for changes over time in the set of countries covered by the governance indicators. The statistically likely range of the governance indicator is shown as a thin black line. For instance, a bar of length 75% with the thin black lines extending from 60% to 85% has the following interpretation: an estimated 75% of the countries rate worse and an estimated 25% of the countries rate better than the country of choice. However, at the 90% confidence level, only 60% of the countries rate worse, while only 15% of the countries rate better

6.2.2.4 Corruption Perception Index (Transparency International)

Transparency International is a global network including more than 90% locally established national chapters. These bodies fight corruption in the national arena in a number of ways. They bring together relevant players from government, civil society, business and media to promote transparency in elections, in public administration, in procurement and in business. The global network of chapters and contacts also use advocacy campaigns to lobby governments to implement anti–corruption reforms. Transparency International has in its efforts, has developed the Corruption Perception Index and produces an annual report which orders the countries of the world according to “the degree to which corruption is perceived to exist among public officials and politicians”.

Transparency International released the Corruption Perception Index 2010 in October 2010. The 2010 Corruption Perception Index (CPI) shows that nearly three quarters of the 178 countries in the index score below five, on a scale from 10 (very clean) to 0 (highly corrupt). Philippines ranked as 134 sharing the ranking with Bangladesh, Zimbabwe, Sierra Leone, Togo and Ukraine with a score of 2.4 whilst Malaysia ranked 56 with a score of 4.4.

6.2.2.5 Political Risk Rating – International Country Risk Guide (ICRG)

Political risk is a factor that decides on the business environment of a country. The Political Risk Services Group (PRS) formed and developed “International Country Risk Guide (ICRG)” in 1992 as a country risk analysis system. The ICRG has been independently acclaimed and has evolved as one of the world’s most trusted resources for evaluating and forecasting international risk, and being sourced by researchers, the International Monetary Fund (IMF), the World Bank, and a host of other financial institutions.

The aim of the political risk rating is to provide a means of assessing the political stability of the countries covered by ICRG on a comparable basis. This is done by assigning risk points to a pre-set group of factors, termed political risk components. The minimum number of points that can be assigned to each component is zero, while the maximum number of points depends on the fixed weight that component is given in the overall political risk assessment. In every case the lower the risk point total, the higher the risk, and the higher the risk point total, the lower the risk.

The political risk rating includes 12 components. Four of these components can be considered to directly impact the business environment, investment profile, corruption, law and order and bureaucracy audits. The other components which deal with government stability, socioeconomic conditions, internal/external conflict, military influence, religious/ethnic tensions and democratic accountability may be more political, but will certainly affect a business decision to invest.

The ICRG produces on a monthly basis, the political, economic, and financial risk ratings for 140 countries that are important to international business. The ICRG ratings form the basis of an early warning system for opportunities and threats, country-by-country. Full details on methodology and information on the ICRG ratings are available at the following website: http://www.prsgroup.com/ICRG.aspx

Based on ICRG, Philippines was ranked 95th out of 140 countries monitored whilst Malaysia was ranked 43rd for the year 2010

6.2.2.6 Other Challenges

The other challenges affecting the business environment beyond those quantified earlier are

1. Inadequacy of infrastructure facilities,
2. Restriction in the ownership for foreigners especially in utilities,
3. Restriction for foreign professional to practice (although this will see some relief with the implementation of Asean AFAS (ASEAN Framework Agreement on Services) by 2015
4. Restriction on land ownership for foreigners.

7.0 TRAVELLING TO PHILIPPINES

7.1 Visa

Since Malaysia is one of the countries that has a reciprocity agreement with the Philippine, Malaysian Nationals who are travelling to the Philippines for business and tourism purposes are allowed to enter the Philippines without visas for a stay not exceeding twenty-one (21) days, provided they hold valid tickets for their return journey to port of origin or next port of destination and their passports valid for a period of at least six (6) months beyond the contemplated period of stay. However, Immigration Officers at ports of entry may exercise their discretion to admit holders of passports valid for at least sixty (60) days beyond the intended period of stay.

The normal visa fees for a stay beyond 21 days is RM 250.25 for single entry and RM 404.25 for multiple entry. (Source from : http://www.philembassykl.org.my)

Embassy/ High Commission / Consulate for Malaysia

CONTACT DETAILS

EMBASSY OF THE PHILIPPINES
No 1, Changkat Kia Peng
50450 Kuala Lumpur
Telephone: (+603) 2148 4233, (+603) 2148 9989, (+603) 2148 4682, (+603) 2148 4654, (+603) 2148 1508
Fax : (+603) 2148 3576
Email: webmaster@philembassykl.org.my
Website: http://www.philembassykl.org.my

The office hours for the Philippine Embassy are from 8.00am till 5.00pm and for public transaction it is from Monday to Friday from 9.00am till 11.30am and from 1.00pm-4.00pm

7.2 Flights and Airports

Manila Ninoy Aquino International Airport (NAIA) also known as Manila International Airport is one of the two international airports serving the Metro Manila Area and is the main international gateway to the Philippines.

Ninoy Aquino International Airport is located along the border between Pasay City and Parañaque City in Metro Manila. It is about 7 kilometers south of the country's capital Manila, and southwest of Makati City's Central Business District.

Ninoy Aquino International Airport consists of 4 terminals:

Terminal 1	NAIA Terminal - International flights, non-Philippine Airlines
Terminal 2	Centennial Terminal - All Philippine Airlines flights only (North wing International, South wing Domestic)
Terminal 3	NAIA International Terminal - International flights (Air Philippines, Cebu Pacific, PAL Express)
Terminal 4	Domestic Terminal - All domestic flights other than Philippine Airlines

Travelers departing from any airport whether on a domestic or international flight, departure tax must be paid at the airport. The fees are as 750 Pesos for International and 200 Pesos for Domestic flights. There is also a Travel Tax to be paid if the tickets are purchased abroad.

7.3 Ground Transport

Taxi service is available to Ninoy Aquino International Airport (NAIA) from all points of Metro Manila. Also, jeepneys and bus routes are available to the airport. Both forms of transportation facilities connect all three Ninoy Aquino International Airport terminals as well. Travelers are advised to take only official, metered or pre-booked taxis and not to accept rides from people that approach you in the terminal.

Taxis charge around 150-200 Pesos (6USD-8USD) to central Manila hotels. It will take about 20 minutes to one hour for the trip, depending on traffic. Many of the major hotels run cars which you can book in advance, or you can look for a hotel representative at the arrival terminals. The cost is around 750-950 Pesos (30USD-38USD).

Ninoy Aquino International Airport is also connected to the Manila Light Rail Transit System (LRT) by a two-kilometer taxi ride to Baclaran station. In the near future, with the extension of the existing Yellow Line, a new station, Manila International Airport station, is set to connect the airport, although still indirectly, to the LRT.

7.4 Security and Health

7.4.1 Security

The Philippines has certain safety and security issues that should be of paramount concern to any traveler. In big cities like Manila, grinding poverty makes crimes like kidnapping and theft, a sadly commonplace occurrence.

Terrorism by extremist groups is also a concern: groups like Abu Sayyaf have a history of kidnapping foreign tourists, and terrorist bombings have taken place in Manila and Mindanao's most crowded transport hubs and public places.

7.4.2 Health

When travelling to Philippines, vaccinations are recommended for hepatitis A, hepatitis B, hepatitis E, typhoid fever, cholera, tetanus, Japanese encephalitis and yellow fever..

Water and food-borne diseases such as cholera, amoebiasis, ETEC (e-coli), giardiasis, hepatitis A, hepatitis B, typhoid fever are common in Philippines.

Water used for drinking, brushing teeth or making ice should have first been boiled or otherwise sterilised. In Philippines, milk is unpasteurised and should be boiled before consumption. It is advisable to use powdered or tinned milk as they are available. Avoid dairy products that are likely to have been made from unboiled milk. Only eat well-cooked meat and fish. Vegetables should be cooked and fruit peeled.

7.5 Climate, Etiquette and Customs & Business Etiquette and Protocol

7.5.1 Climate

The Philippines has a tropical marine climate dominated by a rainy season and a dry season. The summer monsoon brings heavy rains to most of the archipelago from May to October, whereas the winter monsoon brings cooler and drier air from December to February. Manila and most of the lowland areas are hot and dusty from March to May. Even at this time, however, temperatures rarely rise above 37° C. Mean annual sea-level temperatures rarely fall below 27° C.

Annual rainfall measures as much as 5,000 millimeters in the mountainous east coast section of the country, but less than 1,000 millimeters in some of the sheltered valleys.

Monsoon rains, although hard and drenching, are not normally associated with high winds and waves. But the Philippines does sit astride the typhoon belt, and it suffers an annual onslaught of dangerous storms from July through October. These are especially hazardous for northern and eastern Luzon and the Bicol and Eastern Visayas regions, but Manila gets devastated periodically as well.

7.5.2 Etiquette and Customs

Meeting Etiquette
Initial greetings are formal and follow a set protocol of greeting the eldest or most important person first.
A handshake, with a welcoming smile, is the standard greeting.
Close female friends may hug and kiss when they meet.
Use academic, professional, or honorific titles and the person's surname until you are invited to use their first name, or even more frequently, their nickname.

Gift Giving Etiquette
If you are invited to a Filipino home for dinner bring sweets or flowers to the hosts
If you give flowers, avoid chrysanthemums and white lilies.
You may send a fruit basket after the event as a thank you but not before or at the event, as it could be interpreted as meaning you do not think that the host will provide sufficient hospitality
Wrap gifts elegantly as presentation is important. There are no colour restrictions as to wrapping paper.
Gifts are not opened when received

Dining Etiquette (If you are invited to a Filipino's house)
It is best to arrive 15 to 30 minutes later than invited for a large party.
Never refer to your host's wife as the hostess. This has a different meaning in the Philippines
Dress well. Appearances matter and you will be judged on how you dress.
Compliment the hostess on the house.
Send a handwritten thank you note to the hosts in the week following the dinner or party. It shows you have class

Table Manners
Wait to be asked several times before moving into the dining room or helping yourself to food
Wait to be told where to sit. There may be a seating plan.
Do not start eating until the host invites you to do so.
Meals are often served family- style or are buffets where you serve yourself.
A fork and spoon are the typical eating utensils
Hold the fork in the left hand and use it to guide food to the spoon in your right hand.
Whether you should leave some food on your plate or finish everything is a matter of personal preference rather than culture-driven.

7.5.3 Business Etiquette and Protocol

Relationships & Communication
Filipinos thrive on interpersonal relationships, so it is advisable to be introduced by a third party.
It is crucial to network and build up a cadre of business associates you can call upon for assistance in the future.
Business relationships are personal relationships, which mean you may be asked to do favours for colleagues, and they will fully expect you to ask them for favours in re
Once a relationship has been developed it is with you personally, not necessarily with the company you represent.
Therefore, if you leave the company, your replacement will need to build their own relationship.
Presenting the proper image will facilitate building business relationships. Dress conservatively and well at all times.
Business Meeting Etiquette
Appointments are required and should be made 3 to 4 weeks in advance.
It is a good idea to reconfirm a few days prior to the meeting, as situations may change.
Avoid scheduling meetings the week before Easter.
Punctuality is expected. For the most part your Filipino colleagues will be punctual as well
Face-to-face meetings are preferred to other, more impersonal methods such as the telephone, fax, letter or email
Send an agenda and informational materials in advance of the meeting so your colleagues may prepare for the discussion
The actual decision maker may not be at the meeting.
Avoid making exaggerated claims.
Always accept any offer of food or drink. If you turn down offers of hospitality, your colleagues lose face.
It is important to remain for the period of social conversation at the end of the meeting

Dress Etiquette
Business attire is conservative.
Men should wear a dark coloured, conservative business suit, at least for the initial meeting
Women should wear a conservative suit, a skirt and blouse, or a dress.
Women's clothing may be brightly coloured as long as it is of good quality and well tailored.
Appearances matter and visitors should dress well.

Business Negotiation
You may never actually meet with the decision maker or it may take several visits to do so.
Decisions are made at the top of the company
Filipinos avoid confrontation if at all possible. It is difficult for them to say 'no'. Likewise, their 'yes' may merely mean 'perhaps'.
At each stage of the negotiation, try to get agreements in writing to avoid confusion or misinterpretation.
If you raise your voice or lose your temper, you lose face
Filipinos do business with people more than companies. If you change representatives during negotiations, you may have to start over. . Negotiations may be relatively slow. Most processes take a long time because group consensus is necessary.
Decisions are often reached on the basis of feelings rather than facts, which is why it is imperative to develop a broad network of personal relationships.
Do not remove your suit jacket unless the most important Filipino does.

Business Cards
You should offer your business card first.
Make sure your business card includes your title.
Present and receive business cards with two hands so that it is readable to the recipient.
Examine the card briefly before putting it in your business card case.
Some senior level executives only give business cards to those of similar rank.

7.6 Business Hours and Public Holidays

Private and government offices are open either from 8:00 a.m. to 5:00 p.m. or from 9:00 a.m. to 6:00 p.m. Some private companies hold office on Saturdays from 9:00 a.m. to 12:00 noon. Most shopping malls, department stores, and supermarkets are open from 10:00 a.m. to 8:00 p.m. daily. There are 24-hour convenience stores and drugstores. Banks are open from 9:00 a.m. to 3:00 p.m., Mondays to Fridays, with automated teller machines (ATM) operating 24 hours.

The annual public holidays observed are:-

Holidays	**Date**
New Year's Day	1 January
Maundy Thursday	Movable date
Good Friday	Movable date
Eidul Fitr	Movable date
Araw ng Kagitingan (Bataan and Corregidor Day)	9 April
Labour Day	1 May
Independence Day	12 June
Ninoy Aquino Day	21 August
National Heroes Day	Last Monday of August
Eid'l Adha	Movable date
All Saints Day	1 November
Bonifacio Day	30 November
Christmas Day	25 December
Rizal Day	30 December
Last day of the year	31 December

7.7 Tipping

Tipping is expected for many services. The standard practice is 10% of the total bill. Tipping is optional on bills that already include a 10% service charge.

7.8 Time Zone

Philippines is **the same time** as Malaysia.(GMT + 8 hours)

7.9 Telecommunication

The country code for Philippines is 63

For calls from Philippines to Malaysia dial 00 + 60 + area code+ telephone number.

For calls from Malaysia to Philippines dial 00 + 63 + area code+ telephone number.

The country has international and national direct dial phone and facsimile service, mobile phone sites, internet and e-mail facilities, and worldwide express delivery service. The postal system is efficient. Most national dailies are in English. Foreign publications are sold at major hotels, malls, and bookstores in Metro Manila and key cities. There are 7 national television stations. which broadcast mainly in Filipino. Cable TV is available in many hotels in Manila and in many parts of the country

There are three major companies operating GSM 900/1800 networks:

- Globe www1.globe.com.ph,
- Smart smart.com.ph and
- Sun Cellular www.suncellular.com.ph.

Pre-paid SIM cards of these networks are easy to acquire and cost as little as 30 Pesos and provide a cheaper alternative to roaming charges. If you don't have a phone to begin with, a complete pre-paid kit with phone and SIM can be purchased for as little as 1,500 Pesos. Reloading pre-paid SIMs is a breeze. Electronic Load (E-Load) stations are everywhere from small corner stores to the large malls and you can also purchase pre-paid cards which are available in denominations of 100 Pesos, 300 Pesos and 500 Pesos.

7.10 Currency

The currency in the Philippines is the Peso (PhP), divided into 100 Centavos. Coins come in denominations of 1, 5, 10, and 25 centavos, P1, and P5, and notes in denominations of 10, 20, 50, 100, 500 and 1,000 pesos.

All commercial banks, most large hotels, and some malls are authorized to exchange foreign currency.

American Express, Diners Club, MasterCard and Visa credit cards are widely accepted across the country. Travelers' checks (preferably American Express) are accepted at hotels and large department stores.

7.11 Electricity

Most residents and business centers in the Philippines are using 220 volts a/c. However, a number of major hotels also have 110 volt a/c outlets.

Two-pin flat blade attachments and two-pin round plugs are mostly used.

7.12 Hotels

Below is the list of hotels listed according to the rates and the distance from the Ninoy Aquino International Airport. (Source : http://www.manila-airport.net)

Name Of Hotel	Rate(Star)	Distance (miles)	Amount (USD)
Makati Shangri-la Hotel Manila	5	3.1	276.51
The Peninsula Manila	5	3.1	184.34
Manila Marriot Hotel	4.5	0.6	159.99
Dusit Thani Manila, Philippines	4.5	2.0	128.60
Hotel Celeste	4.5	2.8	128.32
Ascott Makati	4.5	2.0	172.06
Heritage Hotel-Manila	4	2.3	82.00
New World Hotel Makati City Manila	4	2.0	110.59

Name Of Hotel	Rate(Star)	Distance (miles)	Amount (USD)
Makati Crown Regency Hotel	4	2.7	70.47
Somerset Millennium	4	2.9	109.22
Isabelle Garden Hotel & Suites	3	1.1	23.34
Microtel Manila Mall of Asia	3	2.8	97.65
The Copa Businessman' s Hotel	3	2.8	49.83
Copacabana Apartment Hotel	3	2.3	43.14
Intercontinental Manila	4	2.0	111.98
BSA Tower Makati	3	3.0	54.18
Somerset Olympia Makati	4	3.2	95.58
Atrium Hotel	3	3.2	44.29
Mandarin Oriental Manila	4.5	3.4	153.90
Somerset Salcedo	4	3.4	103.15
Fraser Place Manila	4	3.4	148.70
Makati Palace Hotel	3.5	3.7	57.29
Royal Bellagio Hotel	3	3.7	58.54
Sofitel Philippines Plaza	4.5	3.8	134.83
Traders Hotel – Manila	4	3.8	133.64
Berjaya Manila Hotel	3	3.8	52.82
Pan Pacific Manila	4.5	4.7	160.79
Diamond Hotel Philippines	4.5	4.8	137.82

7.13 Malaysia Embassy/ High Commission / Consulate for Philippines

CONTACT DETAILS

Ministry of Foreign Affairs, Malaysia
10th - 11th Floor
The World Center Building
No. 330, Sen. Gil J. Puyat Avenue
1200 Manila
Telephone: (632) 864 0761 To 68
Fax: (632) 8640727 (Ambassador)
(632)8640724(Admin)
Email: malmanila@kln.gov.my
Website : http://www.kln.gov.my/web/phl_manila/home
Work days: Monday - Friday 8.00 am - 4.00 pm and
Public Holidays: Saturday & Sunday.

Consulate General of Malaysia in Davao City, Philippines
3rd Floor, Florantine Building
A. Bonifacio Street
8000 Davao City
Philippines
Phone: (6382) 221 4050 / 221 1368
Fax: (6382) 221 4014
Web Site: http://www.kln.gov.my/perwakilan/davaocity
Email: maldavao@kln.gov.my
Office Hours**:** 8.00 am - 4.00 pm 8 hours and
Public Holidays: Saturday & Sunday

8.0 FINANCE AND BANKING

8.1 The Banking System

The Philippines banking system has undergone a sustained period of transition and reforms towards integration of the local financial system with the rest of the world where banking priorities are driven more directly by market forces. With the liberalization and deregulation initiatives of the capital markets, the Philippines financial system's underlying fundamentals have posted tremendous improvements. The Central Bank of Philippines, Bangkok Sentral ng Philippines (BSP) has initiated moves toward strengthening the supervisory and regulatory framework for banks and provides the further much needed improvement in the banking system.

The banking system's asset base has been expanding steadily, supported by sustained growth in deposits. As of June 2010, the total resources of the banking system stood at 6.5 trillion Philippine pesos. The profitability of the banking system has remained resilient through prudent intervention and restructuring. The banks have remained adequately capitalized at levels above both the BSP regulatory requirement of 10% and the Bank for International Settlements (BIS) standard of 8.0%.

A wide range of banking services is available, including such specialized services as investment and trust services, finance leasing and derivative contracts. Electronic banking is now available and considered a regular service product. The market for specialized banking service is now evolving with the BSP showing willingness to lift restrictions with adequate controls in place to mitigate risks.

Offshore banking services consisting of off shore banking units (OBU) and foreign currency deposits units (FCDU) are also available with the aim of attracting offshore funds. There is a virtual absence of exchange controls by local authorities for purely offshore operations of these units. These units provide tax advantages to would-be investors.

The BSP, the Central Bank Authority of Philippines, derives its powers and functions through the Monetary Board chaired by the BSP Governor. The Monetary Bank has five full-time members from the private sector and one member from the cabinet appointed by the President of the Philippines. The primary objective of the BSP is to maintain price stability conducive to a balanced and sustainable growth of the Philippine economy. It is also charged with promoting and maintaining monetary stability and the convertibility of the peso.

Besides being the sole authority to issue Philippine currency, the BSP is responsible for the supervision of the Banking systems, which includes the authority to issue rules of conduct, standards operation for financial institutions.

8.2 The Banking Market

The commercial banks are further divided into universal and regular commercial banks and are the largest single group of financial institutions in the country, accounting for almost 90% of the combined assets of the banking system. As of March 2010, there were 19 universal banks and 19 commercial banks servicing the Philippines.

8.3 Foreign Banks

A number of foreign banks operate in the Philippines through branches, off shore banking units, representative offices, and equity investments in financial and non-financial enterprises. Foreign banks may acquire up to 60% equity in a Philippine company. Maybank Berhad from Malaysia maintains presence as Maybank Philippines Inc. and operates 50 branches located in key cities of Philippines and with 25 of them located in metropolitan Manila alone.

8.4 International Financial Market and Source of Funds

The Philippines is not an international financial centre, although it has created incentives for branches of foreign banks to establish off shore banking units (OBU) and foreign currency deposits units (FCDU) to facilitate the flow of foreign capital into the Philippines and most notably, OBUs and FCDUs are not subject to tax on income from sources outside the Philippines.

Short term capital is generally readily available through the money market and the banking system. Interest rates on loans from the banking system are based on market forces. Medium term capital is also available. Long-term capital is normally limited to priorities attuned to government's development program and supported by some form of government guarantee, although banks may be prepared to provide such capital for other projects that meet conventional tests of viability, development and ability of the borrower to pay.

8.5 Remittances of Earning's & Repatriation of Capital

Foreign exchange controls in the Philippines have been liberlised.

There are no remittances restrictions if a person already holds foreign currency account (e.g. a foreign currency denominated account in the Philippines) or obtains foreign currency from outside the banking system (e.g. purchase from a non-banking entity). There are some restrictions, however, on the purchase of foreign exchange through the banking system (when Philippine pesos are used to purchase foreign currency through a local bank or branch of a foreign bank) to make payments for capital repatriation, dividends and obligations on foreign currency loans.

Foreign investments registered with the Bangko Sentral ng Pilipinas (BSP) shall be entitled to full and immediate capital repatriation and dividends and profit remittance privileges without prior BSP approval. Authorized Agent Banks (AABs) are authorized to sell and to remit the equivalent foreign exchange at the exchange rate prevailing at the time of actual remittance (representing sales/divestment proceeds or dividends/profit of duly registered foreign investment) upon presentation of the Bangko Sentral Registration Document.(which is issued upon registration of the investment)

Provided that the investment has been properly registered with the Central Bank, it may be immediately repatriated in the foreign currency in which the investment was originally made at the exchange rate prevailing at the time of repatriation. This usually happens if the investor finds that it is no longer feasible to complete the project after his capital has been brought to the Philippines.

In the case of unregistered foreign investments, profit remittance and capital repatriation shall be serviced using foreign exchange sourced from outside the domestic banking system.

The Conditions for registration with Banko Sentral ng Pilipinas are as follows :

1. It has been authorized to enter the Philippines under existing laws; and

2. It has been actually transferred to the Philippines in the form of:

   a. Cash - foreign exchange fully certified by an AAB to have been inwardly remitted and converted into Pesos for the account of the investee; and

   b. In kind - other eligible assets consisting of:
      - machinery and equipment; and
      - raw materials, supplies, spare parts and other items necessary for the operation of investee firm. The value of such eligible assets shall be assessed and appraised by the BSP.

Full details on registration are available at :-

BANGKO SENTRAL NG PILIPINAS

Vito Cruz corner Mabini Street Ermita, Manila

Tel. Nos. (632) 525-1303 / 523-7731 / 523-5888

9.0 LABOUR, LEGISLATION, RELATION AND SUPPLY

9.1 The Environment Overview

Malaysian contractors must have a good understanding of the labour environment in Philippines to succeed in the personnel management their enterprise in the Philippines. It is downright wrong to ensure that working conditions in Philippines are the same as in Malaysia. Philippines laws, culture, tradition, unionism, community relations are factors necessary to be considered for harmonious industrial relations in the country. The Labor Code of the Philippines (Presidential Decree 442) outlines and details the labour laws and social legislation that governs employment. Although employments laws are supposed to be balanced both for labour and management, such is not the case in Philippines. The labour laws and procedures are tilted in favour of the workers under the social justice principle that stipulates that those who have less in life should have more in law. Thus employers must act with caution in hiring, supervision, discipline and firing of workers. Even fringe benefits once granted to employees, may not be eliminated or diminished under the labour laws. The Labour Codes also makes unfair labour practice a criminal offence and provides that the risks of workers and trade unions are not to be repressed.

The State Policy on Labour stipulates that the state shall afford protection to labour, promote full employment , ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self- organisation, collective bargaining, security of tenure, and just and humane conditions of work.

9.2 Availability of Labour

The Philippines has an abundance of English speaking, highly qualified professionals, and technical and managerial talent, as well as skilled and semi-skilled manpower. Though many Filipinos have sought overseas employment, the country still has a surplus of manpower and in 2010, 2.9 million people were unemployed and a further 6.2 million were underemployed.

9.3 Contract, Employment and Termination

Basic employment contracts in Philippines typically stipulate the amount of wages or salary, the basis for any bonuses and profit shares to be paid, entitlements to vacation and sick leave, retirement pay and any other benefits that will be provided. The Department of Labour and Employment adminsters the Labour Code in employment of workers which generally covers all the conditions in employment and termination of workers.

9.3.1 Termination of Employment

a. In Philippines, an employee once hired enjoys security of tenure. Practices universally accepted for hiring and firing may not be acceptable under Philippine law. An employee can be dismissed from service if there is (a) just cause and (b) after observance of due process by the employer. The Labour Code list (i) just causes and (ii) authorized causes for dismissing an employee.

   Just causes are

   (1) gross and habitual neglect of duties;

   (2) committing a crime against the employer, an immediate member of the employer's family or the employer's duly authorised representative;

(3) serious misconduct or willful disobedience of the employer’s lawful order in connection with the employer’s work

(4) fraud or willful breach of trust reposed in the worker by the employer.

Authorised causes are

(1) installation of labour-saving devices, redundancy or retrenchment to prevent losses or cessation of operations

(2) grounds of chronic diseases

b. The employer may terminate the services of an employer for just or authorised causes after following the procedures laid down by law, including one month’s notification of the termination of employee services to the Department of Labour and Employment (DOLE), but the employer has the burden of proving the lawfulness of the employee’s dismissal in the proper forum. A worker who is retrenched is entitled to receive a separation pay equal to half a month’s pay for every year of service or one month’s pay, whichever is higher.

c. The employee, on the other hand may terminate the employer-employee relationship even without a just cause by serving a 30-day written notice to the employer. The employee need not serve the 30-day notice in case of just causes for resignation provided as

(1) serious insult to the honour and person of the employee;

(2) inhuman and unbearable treatment;

(3) crime committed against the person of the employee or any of the immediate members of the employee’s family; and

(4) Other analogous causes.

d. Workers hired on a temporary basis, that is, for a “term” or “fixed period” are not regular employees, but are “contractual employees”. Consequently, there is no illegal dismissal when their services are terminated by reason of the expiration of their contracts. Lack of notice of termination is of no consequences, because a contract for employment for a definite period terminates by its own terms at the end of such period.

e. Probationary employment is not necessarily a category of employment but it should not exceed a period of six months and an employee is deemed to be a regular employee if he is allowed to work after the probationary period. An employee under probation is entitled to severance pay if he is not considered for regular employment.

9.3.2 Working Hours

a. The normal work week in manufacturing and in allied-industries is 44-48 hours. A 40-hour week is observed in other sectors including the public sector. Workers are entitled to one day of rest every seven consecutive days. The employer may compress the work days from six days to five days or even four days a week. DOLE allows Compressed Work Week Schemes, wherein work beyond eight hours will not be compensable by overtime premium provided the number of hours worked per day shall not exceed 12 hours. Female employees, however, are discouraged from being employed between 10pm and 6am although companies can apply for an exemption from this restriction.

b. The minimum overtime rate is 25% over the hourly rate. Persons working on a rest day or legal holiday must be paid a 50% premium for the first 8 hours and a 60% premium after that.

9.3.3 Wages and Benefits

a. The Wages Rationalization Act (RA) 6727 provides for the Regional Wage Boards to determine and fix the minimum wage rates on the regional, provincial and industrial levels, inclusive of skills and experience. Skilled and semi-skilled workers may be paid on hourly, daily or weekly basis, but must be paid at least the statutory minimum wage. The minimum daily wage is PHP 404 for nonagricultural workers and PHP 367 for agricultural workers in Metro Manila as of July 2010. The rate includes the basic pay and a cost-of-living allowance. Outside Metro Manila, the minimum daily wage rates for nonagricultural workers range from PHP 200 (in the Autonomous Region for Muslim Mindanao) to PHP 320 (in Central Luzon).
b. The Labor Code of Philippines also mandates the following benefits to be accorded to employees.
    i. An annual payment by way of bonuses of a 13th month salary to "rank and file" employees not later than 31st December each year. (The bonuses are usually split into 2 payments one in May to coincide with the school enrolment and the other for Christmas)
    ii. The minimum retirement pay for every private-sector employee that should be equivalent to at least one half of the last drawn monthly pay multiplied by every year of service. Retiring employees are also entitled to a portion of the 13th month pay, plus the equivalent of not more than five days of service incentive leave.

iii. The payment of service incentive leaves of at least five days for an employee with at least one year of service. However, the prevailing practice is to provide two weeks paid vacation leave and two weeks paid medical leave per year. Most labour agreement contain provision for the accumulation of paid vacation and the exchange of comparable pay for vacations not utilised.

9.3.4 Social Security System

9.3.4.1The Philippines social security system consists of the following entities:-

1. <u>Social Security System (SSS)</u>
   The SSS was created to provide private employees and their families with protection against disability, sickness, old age and death. The Government Service Insurance System (GSIS) is an equivalent system for government employees.

2. <u>Home Development Mutual Fund (HDMF)</u>
   The HDMF is a provident savings system providing housing loans to private and government employees, and to self-employed persons who elect to join the fund.

3. <u>The Philippine Health Insurance Corporation (PhilHealth)</u>
   PhilHealth administers the Philippine National Health Insurance Program, which is designed to provide employees with a practical means of paying for adequate medical care.

4. Employee’s Compensation Program

   The Labour Code mandates that all employees must be covered by the Employee’s Compensation Program which is administered through the Social Security System. The program grants medical and rehabilitation services and disability and death benefits to employees. Premiums are collected from employers and paid to a State Insurance Fund administered by the Employee’s Compensation Commission.

9.3.4.2 Contributions

Employee contributions for social security are deducted from employee’s salary payments. For 2010, the maximum monthly deduction is PHP 500 for SSS, PHP 100 for HDMF and PHP 375 for Phil Health. Employers are required to make roughly 200% (subject to a maximum of PHP 1060) of the employee contributions per month for the SSS. Employer’s contribution for HDMF and PhilHealth are generally of the same amount as the employee contributions.

9.3.5 Labor Management Relations and Unions

The Constitution and the Labour Code generally grant workers and employees the right to form or join a labor organisation or union of their choice for the purpose of collective bargaining. Managerial employees are not eligible to join, assist or form any labor, organization.

The Philippines trade union movements is composed of several unions and federations with different ideological leanings. The strategies adopted by the National Conciliation and Mediation Board of the Department of Labour and Employment (DOLE) for preventing and resolving labour disputes have proven fairly effective in preserving industrial peace.

9.3.6 Employment of Foreign Workers

The government has liberalized visa requirements for certain category of workers. Usually foreign workers, other than representatives of investors, would be admitted only if the skills they posses are not available in the country. Generally, foreign personnel are required to secure an Alien Employment Permit (AEP) from the DOLE and working visa from the Bureau of Immigration (BI) before they can legally start working. The working visa is issued only after the AEP has been secured. AEP and working visa are valid from one to five years and renewals should be sought before the expiry date.

As part of its incentive program, the government has adopted a more liberal approach to work permits and working visa requirements of personnel employed by enterprises registered with the Board of Investment (BOI), and similar agencies, and for foreign personnel employed by regional or area headquarters of multinational companies. Malaysian firms engaged in Private-Public participation projects will normally be entitled to such privileges.

10.0 TAXATION

10.1 Overview

Philippines taxes are imposed at two levels - at the national level and the local government level. Taxes at the national level are collected under the National Inland Revenue Code (NIRC), the Tariff and Customs Code (TCC), and under special laws. The NIRC is administered by the Bureau of Internal Revenue (BIR), while TCC is administered by the Bureau of Customs (BOC).

Both bureaus are under the administration of the Department of Finance. Local government taxes are governed by the Local Government Code and are administered by local authorities concerned.

Companies doing business in the Philippines are subject:-

i. Corporate income tax
ii. Withholding taxes
iii. Value Added Tax
iv. Transaction tax
v. Stamp tax
vi. Property tax and
vii. Personal tax

The country's main income tax legislation is the Tax Region Act 1997, as amended.

10.2 Corporate Taxation

10.2.1 Domestic Corporations

Domestic corporations (organized under the laws of Philippines) are taxed on net income derived from sources within and outside the Philippines. The regular income tax rate is 30 percent. The corporations may reduce its taxable income by deductions allowed under the NIRC or by the standard deduction of 40 percent of its gross income.

Domestic corporations are liable for a 2 percent Minimum Corporate Income Tax (MC17) on its gross income beginning on the fourth year upon commence of business operations. A corporation investing in the Philippines may avail of tax breaks and incentives by registering with the Board of Investment (BOI) and full details are available at the website: - www.boi.gov.ph.

10.2.2 Foreign Corporations

Resident foreign corporations (not registered under the laws of Philippines) are taxed on their net income derived from sources within the Philippines at the rate of 30 percent. The resident foreign corporation may reduce its taxable income by deductions allowed by NRIC or by the optional standard deduction of 40 percent of its gross income. The Minimum Corporate Income Tax (MCIT) of 2% of gross annual income is also imposed on resident foreign corporations beginning with the fourth taxable year of operations. THE MCIT is imposed when a company has zero or negative taxable income or when the amount of the MCIT is greater than the corporation normal income tax liability. Any excess of MCIT over the normal income tax may be carried forward and credited against the normal income tax for the subsequent three taxable years.

Resident corporations (domestic and foreign) are also liable for a 30% tax on the grossed-up monetary value of fringe benefits to non-rank-and-file employees unless there are provisions for such allowance by law. After-tax profits remitted by branches to their head offices are subjected to a 15 percent branch profits remittances.

10.3 Withholding Tax

10.3.1 Dividends

Dividends paid by Philippine corporations to non-resident Corporation are subject to a 15 percent withholding tax provided the other country grants a tax credit of 15 percent. Otherwise the dividends are taxed at 30 percent. The rate is reduced for Malaysia as there is an applicable bilateral tax treaty.

10.3.2 Interest

Interest paid to non-resident corporations is subject to a withholding tax of 20 percent on interest for foreign loans and 32 percent on other interest and a reduction to 15 percent is applicable for Malaysians.

10.3.3 Royalties

Royalties paid to non-resident corporations are subject to a withholding tax of 30 percent which is reduced to 15 percent under the provisions of the bilateral treaty for Malaysian.

10.4 Capital Gains Taxation

Capital gains are generally taxed as ordinary income, except for gains derived from share transaction. Capital gains from the sale of shares of domestic corporations not traded on the stock exchange are taxed at 5 percent for PHP100, 000 or less and 10 percent for any amount exceeding PHP100, 000.

No capital gains tax is assessed on the sale of shares traded on a local stock exchange, but a transaction tax calculated 0.5 percent of the gross sale price is imposed.

A final tax of 6 percent is imposed on the gains presumed to have been realized on the sale, exchange or disposition of land and/or buildings that are not actually used in the business of a corporation and that are treated as capital assets, based on the gross selling price or fair market value, whichever is higher. The gain is defined as the amount received (excluding interest on installments) or the fair market value of the property in excess of the losses incurred on the sale of the property.

10.5 Value Added Tax (VAT)

A standard VAT rate of 12 percent applies to the sale of goods and property, the provision of services and the import of goods into the Philippines. A number of transactions are exempt. A zero rate applies to the export of goods and services related to processing, manufacturing or repackaging goods for export. As such zero rating applies to sales of raw material and services rendered by contractors and subcontractors to export firms registered with Board of Investment (BOI).

10.6 Stamp Tax

A documentary stamp tax is imposed on instruments such as bonds and certificates of indebtedness, share certificates, sales agreements, bank drafts, bills of exchange, letters of credit, insurance policies, bills of lading, lease agreements, mortgages, charter parties and warehouse receipts. The rate of the stamp tax is either fixed or based on the value of the document.

10.7 Property, Estate and Donor's Tax

A property tax is imposed on real property at a rate that depends on the location of the property. The tax should not exceed 3 percent of the assessed value per the tax declaration.

Gratuitous transfers of property are subject to a donor's tax at graduated rates ranging from 2 percent to 15 percent or 30 percent of the fair market value of the property at the time of the donation. A local transfer tax on real property is levied at a rate of 50 percent of 1 percent of the gross sales price or fair market value of the property.

10.8 Personal Taxation

Philippine citizens, resident aliens and non resident aliens engaged in trade or business in the Philippines are generally taxed under a progressive scale between 5 percent to 32 percent after the application of deductions and exemptions allowed by the NRIC. In determining their taxable income, individual taxpayers who are not purely compensation earners, except non resident aliens may reduce their gross income by optional standard deduction of 40 percent of their gross income.

Aliens employed by regional or area headquarters and regional operating headquarters of multinational companies, or by service contractors and subcontractors engaged in petroleum operations are entitled to a preferential tax of 15 percent.

Acknowledgement and Sources

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