



CPBD Trade and Investment FORUM

In Cooperation with AKI/PACT

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Constitutional Debate on Economic Reforms: Implications on Trade and Investments



ANDAYA HALL, HOUSE OF REPRESENTATIVES

Introduction and Overview

Trade and investment are essential determinants in economic growth and instrumental in generating employment opportunities as well as capital to finance development endeavors. However, trade and investment outcomes hinge on a number of factors, including industry competitiveness, policy (as well as the drag of previous policies), the performance of concerned government agencies, private sector participation and support, and the level of economic diplomacy amid the emerging global order.

Hence, the pursuit of a legislative reform agenda on trade and investment is crucial. Legislatures are essential to economic policy-making and are responsible for passing laws in areas that are central to national economic and financial policies such as the budget, taxes, trade, and the financial sector. Likewise, oversight is a key legislative function—monitoring government economic policies, development programs, and budget implementation. In particular, the role of legislation in promoting and/or limiting investments and trade has been documented across countries. Further, reforms need to be benchmarked with global experiences in light of proposals to amend the Constitution.

In view thereof, the Congressional Planning and Budget Department of the House of Representatives is collaborating with the De La Salle University-Angelo King Institute (AKI)/Partnership Advocacy for Competitiveness and Trade Pact (PACT) on a program of activities during fiscal year 2006 geared towards (a) enhancing the understanding of legislators and congressional staff on

issues that relate to trade and investment, (b) bringing together experts and stakeholders to discuss and review current policies and practices in trade and investment, and (c) advocating trade and investment reforms

The forum “Constitutional Debate on Economic Reforms: Implications on Trade and Investments” served as the initial activity. The symposium sought to provide baseline information and cross-country comparison on trade and investment as preliminary inputs in the planned series of fora that could serve as guide for policy-making in the pursuit of a reform agenda. The activity also aimed to surface issues and concerns, and to delve into the implications on trade and investment of proposed constitutional economic reforms.

The total number of participants in the forum reached 105. There were nine (9) resource persons, including two (2) Congressmen. The main resource speakers were Gerardo P. Sicat, Ph.D., *Professor Emeritus* of the UP School of Economics, and Erlinda M. Medalla, Ph.D., Senior Fellow of the Philippine Institute for Development Studies.

The participants included eight (8) Members of Congress, twenty-six (26) Congressional staff, twenty-eight (28) House Secretariat officials and staff, two (2) Senate Economic Planning Office (SEPO) officers, fifteen (15) officers and employees from national government offices (BSP, DA, DFA/FSI, DTI, NEDA, OWWA, PFDA), and nineteen (19) other guests from the media, private sector, non-government organizations, and the academe.

Messages

CPBD Director-General Rodolfo V. Vicerra took note of the struggle of the Philippine economy in trying to understand the requirements of its own development.

While he expressed the obvious concern of business on impediments and factors that affect the profitability, safety, and growth of investments in the country, he likewise paid attention to the plight of the Philippine workforce.

An 8.1% unemployment rate (representing 2.8 million Filipinos) was posted in January 2006. Further, the number of Filipinos going abroad to find better opportunities and



improve their quality of life has grown over the years. According to DG Vicerra, the presence of the Philippine Overseas Employment Administration (POEA) is a *de facto* manifestation of the country’s overseas employment policy. Possibly unique to the Philippines is the role of the POEA in providing assistance to overseas Filipino workers (OFWs). Still, the growing exodus of Filipino workers abroad has mixed gains and drawbacks for the economy, as well as the social fabric of the country.

Enhancing investments in the country is seen as a key solution to the problems of unemployment and migration. This is crucial considering that several studies have shown that the Philippines has not done so well in attracting foreign direct investments. Hence, DG Vicerra considered the forum on Constitutional economic reforms as timely given ongoing developments in the Philippine economy.



Dr. Ponciano S. Intal, Jr., Executive Director of the De La Salle University - Angelo King Institute adverted to the issue of unemployment and the concerns of overseas Filipino workers (OFWs) and reckoned these are but manifestation of failure in attracting investments into the country.

Further, Dr. Intal observed how the political aspect seems to have drowned out discussions on proposed reforms in

the economic provisions of the Constitution, which in the end are fundamental in shaping the future of the country.

The task of delving into constitutional reform is quite difficult. The fundamental law of the land ought to be a living document that must respond to the changing times while embodying the fundamental values and aspirations of the Filipino people.

Dr. Intal underscored the call for more in depth discussion on the economic aspects of Constitutional reform. He stressed that the forum is a learning experience that would foster understanding at least with respect to proposed economic reforms in the Constitution.

State of Trade and Investment in the Philippines

Dr. Erlinda M. Medalla, Senior Fellow of the Philippine Institute for Development Studies, presented highlights of a paper she co-authored with Jenny D. Balboa on the state of trade and investment in the country:



Trade Situation

- ❑ Total trade value in the Philippines generally increased from 1983 to 2003. In 1999, the country rebounded and gained substantial increase in export earnings and experienced a favorable trade balance after 16 years. From 2001 to 2003, the country again posted negative trade balance.
- ❑ The past 20 years also marked the shift of trade direction from Europe and America to Asia. Sixty percent of exports was headed for Asia while 65% of imports originated from Asia. From 2001-2003, US regained its position as the top trading partner of the Philippines, with exports to the US amounting to \$7.5 billion. The other top trading partners for 2003 were Japan, Hong Kong, Taiwan and Malaysia.
- ❑ Trade growth of the country pales in comparison with other Southeast Asian countries particularly Malaysia, Singapore and Thailand. Vietnam may soon be catching up— with its exports growing from \$2.4 billion in 1990 to \$20.2 billion in 2003.

Investment Situation

- ❑ Foreign direct investment inflows in the past two decades revealed an erratic pattern for the country. Similar unpredictability in FDI inflows is shared by Indonesia. On the other hand, Thailand, Malaysia and Singapore did not encounter negative inflows for the past 24 years.
- ❑ ASEAN FDI figures from 1995 to 2004 showed Vietnam overtaking the Philippines in total FDI inflows. In 2004, the Philippines had \$469 million while Vietnam garnered \$1,610 million.
- ❑ In terms of total approved investments, the US was the top investor in the country followed by Japan and the Netherlands. Investments were mostly channeled to the manufacturing sector, followed by services.

Three general categories of government policies may affect the inflow of FDI (*Banga 2003*).

1. **Overall economic policy** increases locational advantages for FDI by improving economic fundamentals of the host country.
 - ❑ The Philippines has one of the lowest investments in infrastructure and one of the highest electricity rates in Southeast Asia.
 - ❑ Poor waste management facilities, traffic congestion and air pollution are projecting a negative image of the country.
 - ❑ The minimum wage is one of the highest in Asia and labor productivity is one of the lowest.

Foreign Direct Investment in ASEAN In million US \$								
Economy	Category	1980	1990	2000	2001	2002	2003	2004
Vietnam	FDI Inflows	-	180	1289	1300	1200	1450	1610
Philippines	FDI Inflows	-106	550	1345	899	1792	347	469
	FDI outflows	1	22	-108	-160	59	197	412
Singapore	FDI Inflows	1236	5575	16485	14122	5822	9331	16060
	FDI outflows	98	2034	5085	22711	4095	3705	10667
Thailand	FDI Inflows	189	2575	3350	3886	947	1952	1064
	FDI outflows	3	154	-22	346	106	486	362
Indonesia	FDI Inflows	300	1092	-4550	-2978	145	-597	1023
	FDI outflows	6	-11	150	125	182	15	107
Malaysia	FDI Inflows	934	2611	3788	554	3203	2473	4624
	FDI outflows	201	129	2026	267	1905	1369	2061

Source: UNCTAD

2. **National FDI policy** reduces the transaction costs of foreign firms. This involves tariff policies, investment incentives, and removal of restrictions.

- ❑ Tariff rates on 60% of products in the Inclusion List of the CEPT scheme of the ASEAN AFTA has been reduced to zero while the lowering of the tariffs in locally-produced agricultural and industrial products have been delayed.
- ❑ Philippine corporate tax is one of the highest in the ASEAN region. Transparency in tax administration is another concern of foreign companies.
- ❑ Quality, long term investments are not always attracted to short-term inducements such as fiscal incentives.

- ❑ The Constitution has specific restrictions on foreign equity participation that bar entry of investors, even in industries that need huge capitalization and technological requirements.
- ❑ Land ownership is another issue of frustration among foreigners.

3. **International policy** deals with agreements on foreign investments. These may ensure FDI from a particular partner/region under the "most-favoured nation standard" and "national treatment standard".

While gains have been achieved in the past 20 years, the Philippines had been lagging behind in trade and investments compared to other Southeast Asian countries. Economic conditions have been generally volatile except for the brief periods of the late 1990s where satisfactory increase in investments and favorable balance of trade were achieved.

The lackluster economic performance of the Philippines is not just the result of a few impediments to entry and restrictions to access to investors but the sum total of years of policy gap and failure in policy implementation.

Study shows that investors prefer doing business in a country which has no restrictions on entry, ownership and access to industries because these are correlated with more corruption and a larger informal economy.

Economic reform is not merely about having the best package but, more importantly, exercising the political will to implement these economic programs and reforms.

Constitutional Economic Reforms: Implications on Trade, Investment, and Growth

Dr. Gerardo P. Sicat, *Professor Emeritus* of the UP School of Economics, proffered the economic argument for constitutional reform and the concomitant implications on trade, investment, and growth.

Economic provisions limiting land ownership by foreigners, fixing equity ratios between foreign and domestic capital in public utilities and natural resource exploitation, and adopting citizenship by blood have been carried over from the 1935 Constitution into the 1987 Constitution.



The rationale for the said provisions, according to Dr. Sicat, was one of foreign capital being a substitute for Filipino capital such that by placing further economic restrictions on foreign capital, government can promote Filipino enterprise.

"Economic provisions of the 1987 Constitution have now become binding constraints on the way our future can be achieved if we are to become a high growth and productive economy."

Dr. Sicat, however, contended otherwise. He asserted that it created a kind of nationalism in economic matters that was restrictive and excessively protectionist as it fostered take-over by Filipinos of former foreign enterprises rather than accepting their presence as an inducement to make Filipino enterprise more competitive, “world-class”, and economically efficient.

Further, he argued that the aforementioned provisions encouraged a mode of thinking that it was right to enable citizens to acquire new economic endeavors at the expense of foreigners through government protection. It was this thinking that would mislead the nation—that it was right to give Filipino enterprises enormous support through exchange rate regulations, tax incentives, credit incentives, without exposure to competitive challenge, believing that the enterprises would become competitive. Periodic restructuring, refinancing and other kinds of support made it difficult to implement true economic redirection of the Filipino enterprise during the early decades of development.

Thus, Dr. Sicat recommended strategies in amending the economic provisions by retaining the goals of national economic development in the Constitution and deleting specific provisions that delimit actions on the role of capital in certain sectors of the economy, and have the legislature enact the appropriate laws on these issues.

Dr. Sicat then enumerated the benefits of deleting the particular economic provisions.

First, the amendments will increase foreign risk capital inflows; hence more direct investments in the economy. This will not only raise the potential for the expansion of output in the affected sectors but also increase productivity in the economy. Moreover, as the level of competition rises, the unit cost of production in the economy will be reduced. Although new investors may pose a challenge to existing Filipino entrepreneurs, this would improve overall efficiency as enterprises will seek methods to reduce their costs and will find niches of activity that will enable them to thrive and grow.

More importantly, there will be room for growth in new areas since the entry of more foreign capital will result in opening up of complementary activities to domestic enterprises.

Liberalizing land ownership would enhance solvency of landowners and make land as a factor of production more active and productive thereby inducing investments in idle and potentially productive land. This would improve the potential effect on agricultural development and enable local governments to earn more tax revenues from land as property values rise.

Second, there will be an increase in employment and income. Depending on the nature of the firms that may come, they will stimulate the generation of new jobs. Although less manpower is required in capital intensive

industries, these investments will induce the creation of jobs across sectors of the economy because such investments open up new labor-intensive activities in the agricultural, service and trade sectors.

As an example, some of the expansions in economic activity through the entry of FDI have led to havens of vibrant commerce in previously dormant cities. One such example is the influence of the Texas Instruments’ investment in Baguio City in the late 1970s. With the current payroll of about US\$20 million per year – or PHP 110 million – Baguio has been converted from a sleepy tourist city into a thriving all-year place of commerce.



Third, this will create a superior, sustained and effective measure in the fight against poverty. Creating incomes through steady jobs raise the ability of workers to provide for the future of their families. Some of the government programs addressing poverty are direct interventions that depend on government subsidy or foreign aid funding. The programs terminate when government funds run dry or when foreign aid eventually ends. The country must find opportunities to fight poverty at home on terms that are affordable by the nation’s finances. Inability to solve the poverty problem often reduces a capable nation into mendicancy and aid dependence.

Fourth, this will stop the brain drain of highly qualified Filipino professionals. Looking at countries such as Singapore, Hong Kong, Taiwan, South Korea and in Thailand and Malaysia where talent is in demand, the increase in the flow of foreign capital because of friendly policies resulted in a shortage of professional talent. This made them import the professional talents from any place where they could find the supply. Thus, opening up the Philippine economy for more direct investments would increase the opportunities available to the country’s educated professionals who would be able to find jobs in these companies.

Fifth, this will improve macroeconomic fundamentals. It will help reduce the fiscal deficit due to the expansion of the tax base and make fiscal incentives less important. It will also reduce the external debt burden. In the past, the

Philippine government has become involved in the exposure to support the operations of failing domestic firms. In the case of foreign companies, the financial package that is undertaken to support their operations is often through the international capital market. The main amount of equity that is staked in the enterprise supports the collateralized portion of a large debt transaction. In case of debt issues arising from such situations, the liability falls on the company or on parent companies of the investor.

As a result, the country's debt service burden is confined mainly to those related to the government's external debt exposure.

Moreover, the amendment will improve external trade and payments (and stability of the exchange rate) as most of these foreign firms are geared for export. If the investment is profitable and the country's investment climate remains bright, profits could be rechanneled back to the firm. These savings are immediately plowed back as investments to the firm. In this context, the retained earnings are associated with new investments that arise out of the domestic operations of a firm in the country.

FDIs can also generate a wage bill which is paid to those it employs. The wage bill could be enormous for some companies. In addition to the incomes that go directly to the workers, there is a portion of the wage bill that is paid to the Social Security System (SSS), the Pag-Ibig Fund for housing that enlarges the forced saving of the national economy, the contributions for PhilHealth and other fees that companies are required to pay to match labor employment.

In addition to these arrangements, often the well to do companies encourage their employees to build up their own provident funds that are separate from the government saving schemes and that could accumulate into large savings that are then intermediated within the country's financial system. These would also become part of the total saving of the national economy and would become useful sources of financing for the economy's further development.

Lastly, FDIs can have beneficial effects on the country's capital markets. The presence of foreign companies enlarges the volume of financial transactions in the country. When they make payments of their wage bills, they require a standard related to banking that is often different from the simple arrangements that are adequate for small domestic companies.

The entry of foreign risk capital will increase the access of the country to the international capital markets in greater volume and efficiency without having to increase its exposure in liabilities. The exposure to foreign direct investors links the country to a wider net of international capital markets than would be possible under the old regime of selective promotion and high protection of industry.

As an example, the entry of foreign capital in the banking system and other financial services led to an improvement in the quality of banking services due in part to economic consolidation. Liberalization fostered an increase in efficiency and competitiveness of the overall banking system and contributed to improving the state of affairs of the Philippine banking system, which is healthier and stronger today than in the past.

Proposed Charter Change Provisions on Economic Reforms

Atty. Casiano Flores, Consultant in the Office of Honorable Constantino G. Jaraula, presented certain proposals on the economic provisions of the Constitution that were being discussed and contemplated as possible inputs in Constitutional reform.

Atty. Flores emphasized the major revisions of Article XII on National Patrimony of the Constitution being proposed by Rep. Constatino Jaraula, Chairman of the House Committee on Constitutional Amendments: As provided in section 1, he stressed that foreign ownership of residential and industrial land would be left to be address by the proposed Parliament. Law/s in this regard shall continue to protect the rights and interest of Filipinos.

Amendments in Section 2 provide that the State may undertake the exploration, development, and utilization of natural resources with Filipino citizens or with foreign corporations or associations through co-production, joint venture, or production-sharing agreements.

Amendments proposed for section 3 provide that private corporations or associations may not hold such alienable lands of the public domain except by lease for a period not exceeding fifty years (from 25 years as provided in the Constitution). This is renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. He added that Citizens of the Philippines may lease not more than five hundred hectares by purchase, homestead or grant (from the

hectares, or acquire not more than twenty four (24) twelve (12) hectares allowed in the Constitution).

Atty. Flores explained that as provided in Section 12 of the proposed amendments, citizenship restrictions are lifted relative to ownership and lease of alienable lands of public domain which include agricultural, residential,

commercial and reclaimed lands, development of natural resources, ownership of franchises and of public utilities, mass media, education, insurance and advertising, unless otherwise provided by law. The proposed Parliament shall provide for limited foreign ownership in regard to franchises granted to corporations involving large scale public utilities.

Major Issues on the Proposal to Relax the Economic Provisions of the 1987 Constitution*

**This section is based on the panel discussion and the open forum. The panelists include Rep. Junie E. Cua, Rep. Francis Joseph G. Escudero, Mario B. Lamberte, P.hd., and Maan Gale B. Bustalino (representing Rep. Herminio Teves). The resource persons, the panelists, and participants led by Rep. Loretta Ann P. Rosales, Ponciano S. Intal, Jr. P.hD., Rep. Rodante Marcoleta, Mr. Sonny Africa, Atty. Tanya Lat, Atty. Byron Bocar, Ms. Celia Gonzales, were all actively engaged in the open forum.*

1.0 On the Timeliness of Charter Change

The 1935 Constitution was referred to as the source of the fundamental law of the land that restricts the entry of foreign capital. The economic climate in 1940s was very different from today, it was an era of robust economic growth wherein the economic drivers were essentially controlled by foreigners. Thus, the economic nationalism that prevailed during that time was a response of the people to the colonial regime.

Thus, it was emphasized that now is the right time to change mindsets on constitutional reform toward further economic liberalization, in order to address the weaknesses of the current system—the lack of capital and a straggling economy overtaken by its neighbors.

Concern was expressed that if the Philippines were to continue waiting for the “right time” given the present political tension and for evidence on the impact of the proposed economic reforms, cramming in the future would again leave the economy trailing its neighbors.

If Korea, Singapore, and Taiwan waited for evidence, then they could still have been lagging behind other countries today. In these countries, aside from the leadership factor, the power of the market was evident.

Others, however, expressed reservations on the need, at present, to change the Constitution just to achieve economic reforms.

It was stressed that there are still many pending measures under the present Constitutional framework that can still improve the economy and hopefully raise the welfare of the disadvantaged. The focus of the legislature, then, should be to urgently pass those pending economic bills crucial to improving the economy before any referendum should take place.

Moreover, constitutional change is not timely enough given the present political tension facing the country. It is also not appropriate to deliberate proposals to amend the Constitution at the moment because of the lack of information and knowledge not only of the public but also of the country’s leaders to truly consider the general welfare in their endeavor.

While it is imperative to revise the Constitution, change should not be done hastily and irresponsibly. Instead, the Constitutional process should be followed. There was disagreement over other peoples’ preference for a constituent assembly, which is deemed as the cheapest and fastest way to amend the Constitution, simply because anything done recklessly and inexpensively could jeopardize the quality of its result.

It was raised that there is a need to reorganize and cleanse the Commission on Elections (COMELEC) before amending the Constitution.

The proposed referendum with regards to amending the Constitution should ensure that all aspects of the Constitutional amendment—political, economic reforms, etc.—must be included and specified, instead of a shotgun approach of asking the public a single question on whether they are agree or disagree to constitutional change.

There were also suggestions that a referendum should coincide with the 2007 elections to assess the real sentiment of the people on Charter change and enable preparation for needed constitutional reform in the future.

2.0 On Prioritizing Non-Economic Concerns vs. Changing the Economic Provisions

It was agreed that there are other important factors that affect economic growth and investment decisions. Factors such as the high cost of doing business, weak infrastructure, political risks, corruption and poor peace and order condition, higher power rates and higher wage rate are always included as major impediments in doing business in the country.



From L to R: Mr. Sonny Africa of IBON Foundation, Dr. Mario B. Lamberte, former PIDS President, Rep. Loretta Ann P. Rosales, and Rep. Francis Joseph G. Escudero.

However, the debate lies on the issue of whether there is a need to amend the economic provisions of the constitution or for government to just address the other important factors that affect the economy to achieve growth.

It was argued that the need to address the issues concerning investor confidence should first be given priority before amending the Constitution. The commitment of the government in addressing these issues is germane to the attainment of the identified economic benefits of liberalizing the entry of foreign investments in the country.

In fact, one major problem that government should first address to attain sustainable growth is the population issue. It was pointed out that the Philippines should have a sound population policy, given its large population to land ratio.

Thailand has been successful in combating the rapid growth of its population, which partly explains why its gross domestic per capita is estimated at \$4,000, while the Philippines has stagnated at the \$1,000 level. It was stressed that population policy is not only a social issue but also a strategic economic concern.

On the other hand, it was emphasized that addressing the other determinants of economic growth (infrastructure, governance, peace and order) is not enough. It should go hand in hand with reforms in the economic provisions of the Constitution because the restrictions in the legal framework really prevent greater FDI inflow.

The proposed reforms in the Constitution do not necessarily mean that other factors affecting the flow of foreign direct investments have not been recognized. However, many of these problems are related to the restrictions that have been placed in our Constitution. For instance, weak infrastructure is simply due to the lack of capital for the provision of critical infrastructure.

Removing the restrictions on foreign participation in the economy should not be construed as being less nationalistic. Rather, the proposals in pursuit of constitutional reforms that could lead to economic expansion manifest love of country. Emotionalism should be set aside because constitutional economic reforms

could usher in socio-economic benefits that may accrue to the Filipino masses.

3.0 On Choosing the Right FDIs

It was emphasized that in choosing FDIs, the resulting economic development should trickle down to Juan dela Cruz and correspond with real poverty reduction in the countryside, affordable prices of commodities and services, availability of jobs, and sufficiency of earnings, among others.

The ability of foreign direct investments to contribute to growth depends on linkages that are created in the economy. The number of jobs created would not be very significant when foreign investors bring capital-intensive technology into a labor-intensive environment like the Philippines. Policies that facilitate the creation of linkages can be created to spur the growth of local industries. This would also improve the quality of workers by upgrading the technological capacity of suppliers and by educating their managers and workers.

Foreign technology may have adverse effects on the environment and the people when a host country has weak or no regulation with regard to protecting the environment. Government must not be blinded with short-term gains at the cost of environmental degradation that may even be harmful to the people.

4.0 On the Identified Benefits and Costs of Relaxing the Economic Provisions of the 1987 Constitution

To aid them in their decision making, the legislators asked if there were existing research studies on the empirical relationship between inflows of foreign direct investments and specific economic provisions in the Constitution such as opening land ownership, foreign participation and control of public utilities, and exploitation of natural resources.

4.1 On Allowing Foreign Land Ownership

4.1.1 On the Presence of Other Enabling Laws

It was raised that although the Constitution stipulates that foreigners cannot directly own lands, there are already existing laws that allow non-Filipinos to own land in our

From L to R: Rep. Rodante Marcoleta, Dr. Ponciano S. Intal, Jr., Executive Director of the De La Salle University – Angelo King Institute, Rep. Junie E. Cua, and Atty. Casiano Flores, office of Rep. Constantino G. Jaraula.



country indirectly either for personal use or in the course of their business interests here. The problem of attracting foreign investment may be more of an operational concern than a policy issue. It was perceived that foreign investors were not really as interested in owning land, as much as they are interested in ensuring that critical infrastructure are in place and that red tape, graft and corruption are well addressed.

4.1.2 On Land Prices and Displacement of Filipinos

The most glaring effect of liberalizing foreign landownership would be in driving up the prices of real estate further displacing Filipinos, majority of which are poor, from ever owning a piece of land. A participant argued that Filipinos may experience a fate similar with the locals of New Zealand. New Zealand has a policy, which allows foreign nationals to own land. However, on the downside, ordinary Kiwis were complaining that they could not own land in their own country because foreigners were pricing them out of the market.

Moreover, participants were concerned on how government can ensure that Filipinos would not be disadvantaged. It was cited that the government has failed to enforce agrarian reform effectively unlike countries such as Japan, Taiwan, South Korea, which have distributed wealth and increased the people's productivity. With ample government support, allowing people to have secured land tenure may increase land productivity, provide an impetus for industrialization, and ultimately achieve a more developed economy. It was opined that peace, food security and self sufficiency, among others can be realized when people were given land to cultivate.

It was stressed that the answer may lie not in Charter Change and economic liberalization but in the solutions to the other concerns (mentioned by Dr. Medalla) which include political instability, lack of infrastructure, lack of good governance, among others.

4.1.3 On Land Ownership vs. Job Opportunities

The problem with the present development experience is a "double whammy effect" on the Filipino people. While majority of Filipinos do not own land, proposals are being

made to allow foreigners to own land. Further, the country is slowly losing its most important resource to foreign companies, with the ever increasing number of Filipino workers abroad. In fact, many Filipinos sell or mortgage their properties to have enough money to get employment abroad

It was argued that the present situation where most poor Filipinos have no land at all or are squatters, with no job and no income, is much more dismal than the plight of tenants with income renting places. Promoting nationalism through protectionism is nonsense when people could not even meet the basic standard and decent type of living, when people continue to live in slum and squatter areas, and when people are deprived of opportunities for employment and income. The good thing about foreign direct investment is that, in general, they employ Filipinos.

The fear that when foreigners are allowed to own land in the Philippines will displace Filipinos from owning especially agricultural land is remote because based on statistics, the CARP is almost complete (84% of the 8.6 million hectares targeted for CARP has already been distributed) and the fundamental goal to equitably distribute land to Filipinos is almost achieved. Hence, the issue on land ownership will just revolve on those lands classified as commercial, industrial and residential land and not to agricultural lands debated earlier on.

4.1.4 On Selective Liberalization of Lands for Foreign Ownership

If and when liberalization happens, it was suggested that foreigners can own a piece of land only if it is strictly in the course of its business and should be divested as soon as they stopped doing business in the country. There was a suggestion that there should be distinction on the kind of land that could be opened/restricted to foreigners and those reserved for locals. A national land use policy should precede any attempt to amend the economic provision of the Constitution pertaining to land ownership. Inventory according to classification of lands is important in this regard. And so are clear policies and procedures on land conversion.

4.2 On Removing Foreign Equity Limits and Entry to Critical Industries

4.2.1 On FDI Flows

There would be heightened expectations should further economic liberalization proceed, given historical experience. When the banking system was liberalized, foreign investments poured into the financial sector. The idea for opening up the sector was to raise the capitalization of banks. When the Build-Operate-Transfer (BOT) Law was introduced in the 1990s, foreign investments flowed into public utilities. Further, improving the enabling or regulatory environment would elicit encouraging response from foreign investors.

The experiences in Mongolia, Kazakhstan, and Vietnam where favorable policy on foreign participation have positive impact were also cited. Mongolia's banking system is now controlled by foreign players who provided banking services and microfinance loans to rural folks. Kazakhstan liberalized and privatized ownership of state owned enterprises. With their Constitution as its framework, Kazakhstan's legislature is given flexibility to enact measures that address challenges and opportunities facing the economy, and one of them is on land ownership by foreigners. It was shown that Kazakhstan's per capita income was once just a third of the Philippines but has since surpassed that level. Vietnam also had a restrictive economy. However, it has adopted a more open policy to allow foreign capital to make use of their labor force. The influx of foreign capital resulted in the rapid growth in Vietnam's economy.

4.2.2 On Competition and Efficiency

A question was raised on why a solid job-creating economic base has not emerged after two decades of globalization and openness to foreign trade and investments, and even though the Philippines had a favorable inflow of trade and investments in the 80's and the 90's like other Asian countries as reported by Dr. Medalla.



It was clarified that while there have been waves of foreign trade and investment inflows in Asia, the Philippines failed to tap them unlike, for example, Malaysia where FDI is among its growth drivers. The Philippines is not faring as badly partly because the

country is benefiting from the economic reforms pursued in the past. The Philippines is now gaining from the corrective measures it has done in the banking sector, trade and investments, among others.

It was pointed out that the Philippines actually experienced a dramatic drop in foreign direct

investments from 1998 to 2003, which could be the reason for the slow economic growth in the succeeding years. Much of this is linked to political instability and macroeconomic uncertainty. It was added that the sectors that have a robust growth in labor productivity are in electronics, metal, and automotive industries. While in garments, textiles, and footwear where labor productivity has exhibited declines, investments were likewise low.

Moreover, it was clarified that it is manufacturing and not Philippine agriculture that was liberalized. It was stressed that the reasons for high unemployment and poverty was that manufacturing did not deliver with respect to employment. From 1991 to 2000, the sector not only contributed 5% of the total increase in employment vis-à-vis the historical share of 10%. In other countries in the region, manufacturing is the major source of employment. Manufacturing failed mainly due to the unfavorable investment climate in the Philippines. Many Filipino capitalists in the sector became traders indicating there is amiss in the incentive structure—signals provided to investors did not induce risk-taking and the requisite upgrading to become competitive.

Thus, it was reiterated that the inability of domestic industries to face and deal with competition accounts for relatively weak industrial growth in the country. Investors found out that they could manufacture more cheaply in Korea, Thailand, Indonesia compared to the Philippines. With globalization becoming more intense, structural problems related to the country's very advanced labor laws, even far ahead neighboring countries, hampered the ability of industry to be more competitive.

It was suggested, however, that if and when liberalization would proceed, it should be undertaken on a piecemeal basis. Sequencing liberalization of certain industries would help direct foreign capital to sectors that are really in need of capital. This would provide the opportunity to weigh the impact of foreign participation in the economy and whether benefits do indeed redound to Filipinos, especially to the poor and underprivileged.

4.2.3 On Public Utilities

Enhancing private and foreign participation in infrastructure and public utilities would foster competition and efficiency. Interestingly, most of the country's politically powerful and capitalist families have control over public utilities. Hence, reducing foreign equity restrictions could lead to competitive and efficient public utilities and, in turn, may enhance global competitiveness of industries.

It was argued, however, that it is possible for large foreign companies to effect politics and the creation and implementation of policies when they become influential. This may be particularly true for investments in public utilities where foreigners can have control over the

provision of vital services such as water, electricity or transportation facilities.

As an example, it was alleged that foreign investors currently engaged in the construction and operation of public utilities are raking in huge profits and government is powerless in controlling and regulating toll fees, to the detriment of public interest. Giving these investors too much leeway in conducting their businesses might only backfire as the government is powerless in actually determining the true income of these companies.

It was recommended that to attract FDIs, it is better for legislators to focus on labor laws. It was also argued that the country's labor unions are powerful enough to cripple a company if their demands for higher benefits are not given.

4.2.4 On the Support for SMEs

Concern was raised on the proposal to further open up the economy to foreign nationals when ample attention and support have not been given to local entrepreneurs. The fact was raised that 99% of companies in the Philippines are small and medium enterprises (SMEs), which are not getting due recognition. It was argued that based on investment laws, there seems to be an implicit bias towards foreign investors in terms of incentives compared to the SMEs. It would seem that resources are being focused on attracting foreign investors, who may not even want to stay in the Philippines owing to structural and regulatory concerns rather than land ownership restrictions.

4.2.5 On Incomes

It was posited that increased incomes for workers could not be realized since MNCs had been relocating to third world countries precisely to take advantage of low wages. This is further aggravated by the existence of legislated wages that pegged them at low levels triggering the brain drain phenomenon.

4.2.6 On Fiscal Problems

It was argued that foreign capitalists should not be accorded special treatment and privileges through fiscal incentives with regards to their investment in the country more than our local companies. While other countries also offer fiscal incentives, there are stricter and restrictive provisions and requirements before foreign companies can avail of those fiscal incentives—which are performance based. It was suggested that the legislature address first the restructuring of the country's fiscal incentives before changing the Constitution.

Moreover, increased FDIs do not necessarily solve the fiscal problem because of the inefficiency of government in tax collection and administration.

4.3 On Citizenship by Birth

It was pointed out there is no need to amend the Constitution since Republic Act 9225 was recently passed allowing former Filipino citizens to regain their Filipino citizenship, so that in effect they become dual citizens without renouncing their foreign nationality. They would be able to invest in the Philippines and engage in economic activities and in industries, which are limited only to Filipino nationals. This is an important consideration because instead of looking up to foreigners to fully own land and critical industries in the country, dual citizens and OFWs may be tapped for investments in SMEs.

However, it was argued that a more liberal interpretation of the rules on citizenship would lessen the burden of foreign investors entering Philippine market. A lot of subcontracting is bound to occur with the entry of greater foreign investments, thereby transferring wealth to Filipino companies,

Synthesis

Mr. Manuel P. Aquino, CPBD Acting Executive Director, reiterated that trade and investment are crucial to economic growth. In view of calls made during the discussion, he adverted to certain empirical studies on the relationship of investment and economic growth:

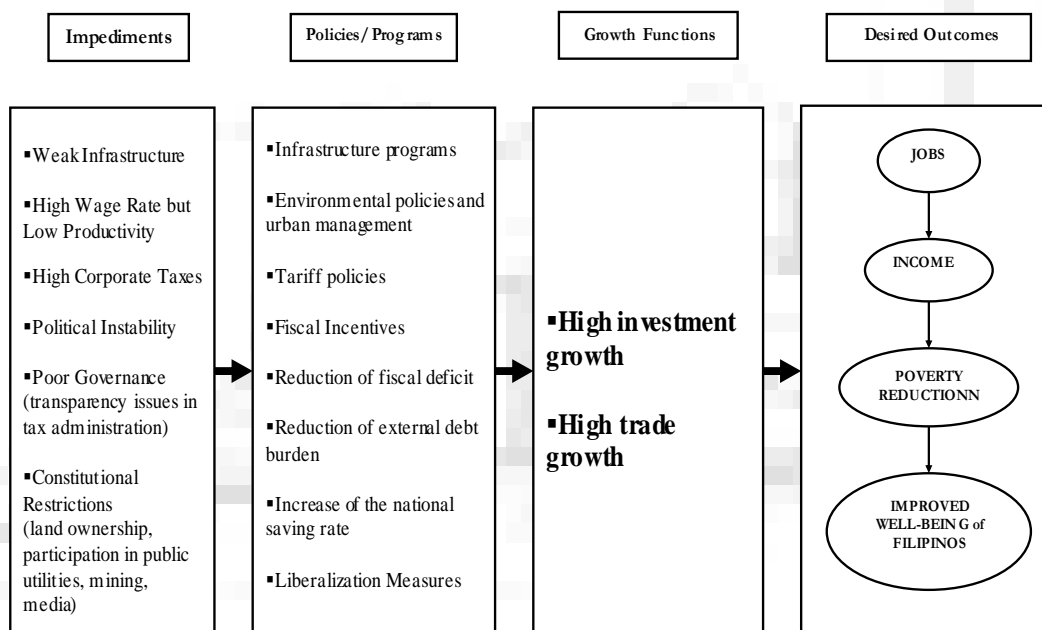


Each percentage point increase in the FDI-GDP ratio increases the rate of growth per capita real GDP of the host economy by 0.8 percentage point (*Borenztein et al 1994*). The authors of the study done on 69 economies, however, pointed to the caveat that results may vary depending on the absorptive capacity of the individual economy.

Each percent of GDP investment in equipment is linked with a 0.33 percentage point increase in growth annually (*De Long 1990*).

FDI prefer investing in a country which has no restrictions on entry, ownership, and access to industries. (*Banga 2003*).

Mr. Aquino recapitulated the necessity of constitutional economic reforms in order to realize the country's economic potentials in enhancing employment, productivity, trade, and growth. Nonetheless, he recalled Dr. Medalla's exhortation that "trade and investment



outcomes are determined not by one set of factors but a gamut of policies involving different sectors and areas at the international, national, and local levels”.

Using a framework, Mr. Aquino noted what has been said earlier that impediments to trade and investment flows include weak infrastructure, high wage rate (but low productivity), high corporate taxes, political instability, poor governance, and the focus of the forum which are the constitutional restrictions levied on foreign investments (particularly on land ownership and participation in public utilities, mining, media).

To address these problems, the government should pursue relevant policies and programs on infrastructure, environment, urban management, tariffs, fiscal incentives, deficit and debt management, saving/resource mobilization, and further economic liberalization.

Specific policies and programs could individually and altogether impact on trade and investment growth. As

pointed out in the discussion, empirical studies could help assess the factors or determinants impinging on the growth of trade and investment and support the drawing up and prioritization of appropriate policy responses. Likewise, the country could learn lessons from its own historical experience as well as from global success stories and best practices.

In the end, a decision has to be made on such fundamental matter as constitutional economic reform. It is critical that an informed judgment be done. When the time comes, the decision-makers should not tarry, or the economy could face the dire prospect of straggling again.

Ultimately, with the proper policies and programs that enhance trade and investment, in conjunction with a strategic development framework, the ideal outcomes of job generation, improvement in incomes, poverty reduction, and the uplifting of the well-being of Filipinos could someday (within a plan period) be realized.

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