PHILIPPINES

In 1997, the U.S. trade deficit with the Philippines was $3.0 billion, an increase of $970 million from the U.S. trade deficit of $2.0 billion in 1996. U.S. merchandise exports to the Philippines were $7.4 billion, an increase of $1.3 million (21.3 percent) from the level of U.S. exports to the Philippines in 1996. The Philippines was the United States' twentieth largest export market in 1997. U.S. imports from the Philippines were $10.4 billion in 1997, an increase of $2.3 billion (27.8 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in the Philippines in 1996 was $3.3 billion, an increase of 32.3 percent from the level of U.S. FDI in 1995. U.S. FDI in the Philippines is concentrated largely in the manufacturing and banking sectors.

IMPORT POLICIES

Tariffs

The Philippine Government's comprehensive tariff reform proposal, as elaborated in Executive Orders (E.O.) 264 and 288, set out to reduce on a unilateral basis applied tariff rates with the objective of establishing a two-tiered scheme of applied tariffs of 3 percent for raw materials and 10 percent for finished products by January 2003, and a uniform 5 percent tariff rate by January 2004. While the Philippines has indicated that it remains committed to these ultimate tariff levels, in 1997 it reexamined the rate reduction schedule set out in E.O. 264 for the period 1996-2000.

In response to requests from import-sensitive industry sectors (including the petrochemicals, garment and apparel, and wood products, industries) the Philippines recalibrated the rate reduction schedule for a number of product categories. E.O. 465, which became effective on January 21, 1998, modifies E.O. 264 and E.O. 288 and establishes new applied tariff rates for some items. Rates for these specified products will be reduced more gradually than the accelerated schedule set forth by E.O. 264. E.O. 465 also increased the applied duty rates for some tariff lines, including garments, textiles, and unfinished automotive vehicles imported in kit form, but reduces rates on some other items of interest to U.S. exporters, including some agricultural products. For still other tariff lines, E.O. 465 retains 1997 duty rates in 1998, or postpones until 1999/2000 reductions in duties originally envisaged for 1998 under E.O. 264. Rates for product categories not affected by the review will be reduced according to the time frames established in E.O. 264 and E.O. 288.

In late February 1988, the Philippine Tariff Commission began a series of public hearings to examine proposed changes to the rate reduction schedule established under E.O. 264 for the period 1998-2000 for a number of other products not reviewed in 1997, including a range of agricultural products, toys, and certain steel products. The review could result in additional changes to applied MFN rates.

Imports of finished automotive vehicles (completely built-up units) are subject to a 40% tariff as an incentive to promote local assembly under the Philippines' Motor Vehicle Development Program. The duty rate on automotive vehicles is currently the highest duty rate applied to a non-agricultural product, and is not scheduled to be reduced until the year 2000. As part of the Government's decision in 1997 to slow the pace of accelerated tariff reduction, and in some cases raise tariffs, on certain items, E.O. 465 increases tariffs on completely-knocked down (CKD) automotive vehicle imports from 3 percent to 7 percent in 1998 and 10 percent in 1999.

Imports of used automotive vehicles and coal remain subject to government review and approval. Certain items, including firearms, ammunition, narcotics and other dangerous drugs, hazardous wastes, ozone depleting substances, and color photocopying equipment are subject to import regulation for public health, morality, and/or national security reasons.

Agriculture Tariffs and Import Licensing

The Philippines maintains high tariff rates on sensitive agricultural products, including grains, livestock and meat products, sugar, certain vegetables, and coffee. Examples include feed grains, particularly corn (at an in-quota rate of 35 percent, and an 80 percent out-of-quota rate), sorghum (45 percent) and potatoes (in-quota rate of 45 percent, 80 percent out-of-quota).

Fourteen tariff lines of agricultural commodities (at the 4 digit HS level) are currently subject to minimum access volume (MAV) tariff-rate quotas (TRQs). The Philippines established these TRQs during the Uruguay Round and enacted necessary implementing legislation in July 1995 under Republic Act (R.A.) 8178. Products covered by these TRQs include live animals, fresh and chilled beef, pork, poultry meat, goat meat, potatoes, coffee, corn, and sugar. Administrative Order (A.O.) 9 of 1996, as amended by A.O. 8 of 1997 and A.O. 1 of 1998, established the rules by which these TRQs implemented and import licenses are allocated. The United States was concerned with the specific manner in which the TRQs for pork and poultry meat were administered which allocated to vast majority of import licenses to domestic producers which had no interest in importing.

Due to the questionable WTO-consistency of the manner in which the Philippine TRQ system had been administered, the United States and other WTO members held formal consultations with the Philippines under WTO dispute settlement procedures in April 1997. Following intensive consultations, the Philippines in August 1997 revised aspects of its TRQ regime by issuing A.O. 8. Although A.O. 8 contained some positive reforms, the revised measure did not adequately address U.S. concerns over burdensome and inequitable license procedures. Further WTO consultations were held in November 1997 and, in response, the Philippines further amended its implementing regulations to include penalties for non-use of import licenses. The Governments of United States and the Philippines concluded a Memorandum of Understanding (MOU) in February 1998 which resolved the United States' primary concerns over the Philippine TRQ system. The reforms embodied in the MOU are expected to shift gradually import licenses from licensees not utilizing their licenses to active importers and will be closely monitored by the United States. As a result of the resolution of this dispute, the review of the Philippines' eligibility to continue to receive preferential access to the U.S. market under the Generalized System of Preferences (GSP) was terminated.

Excise Tax on Distilled Spirits

U.S. producers of distilled spirits have complained that current laws have the effect of subjecting imported distilled spirits to a much higher excise tax than that applied to domestic spirits. Distilled spirits produced from indigenously available materials (such as coconut palm, cane, and certain root crops) are subject to a specific tax of 8 pesos ($0.20 at current exchange rates) per proof liter. However, distilled spirits produced from other raw materials (which would apply to most imports) are levied a specific tax ranging from 75 pesos ($1.85) to 300 pesos ($ 7.40) per proof liter (depending on net retail price per 750 ml bottle). Still wines with an alcohol content of 14 percent or less by volume are assessed an excise tax of 12 pesos per liter while still wines with an alcohol content greater than 14 percent but less than 25 percent alcohol content by volume are charged an excise tax of 24 pesos per liter. Fortified wines (over 25 percent alcohol content) are taxed as distilled spirits. Depending on the net retail price per bottle, an excise tax of 100 pesos or 300 pesos per liter is assessed on sparkling wines.

Excise Tax on Automotive Vehicles

The Philippine Government's excise tax regime for automotive vehicles, recently reconfirmed by Bureau of Internal Revenue Regulation 14-97, is based on engine displacement. It serves to discriminate against imports of vehicles with larger engine displacement, which includes many U.S. exports. Current tax rates for motor vehicles with gasoline engines are: 15 percent for engines up to 1600 cubic centimeters (cc); 35 percent for those with engines between 1601-2000cc; 50 percent for those between 2001-2700cc; and 100 percent for those 2701cc and above. For motor vehicles with diesel engines, excise rates are 15 percent for engines of up to 1800cc; 35 percent for those 1801-2300cc; 50 percent for those 2301-3000cc; and 100 percent for those 3001cc and above.

Quantitative Restrictions

The Philippines retains quantitative restrictions on rice. The rice quota is 68,645 metric tons for 1998, although the country is expected to import considerably more. Rice continues to be imported solely by the National Food Authority.

Customs Barriers

Exporters and importers have experienced problems with unwarranted uplifts in valuation, and with an appeal process that lacks transparency. The Bureau of Customs continues to require a preshipment inspection report (“Clean Report of Findings”) issued by the Government’s contracted preshipment inspection entity for all imports valued at over $500. Refrigerated products are exempt. In October 1997, pursuant to E.O. 444, the Government extended this requirement to imports bound for duty-free stores operating in free-trade zones, even though such zones are technically outside the customs territory of the Philippines. As a result, a regional court has issued a restraining order to prevent the Bureau of Customs from implementing the policy.

The Philippines has taken advantage of provisions allowing developing countries to delay implementation of obligations under the WTO Agreement on Customs Valuation, including use of the "transaction value" method of customs valuation. Republic Act (R.A.) 8181, which abolished use of "home consumption value," and adopted the use of "export value" (also known as the "Brussels definition of value") as an interim measure, and authorized a shift to the use of the WTO-mandated "transaction value" methodology before the year 2000. While this was a significant step toward removal of a valuation system previously identified as an unwarranted market access barrier, practices of the Philippines Customs Bureau under the “export value” scheme are not transparent and may conflict with the WTO Agreement on Customs Valuation.

In other areas, the Bureau of Customs maintains a policy apparently intended to encourage the development of local auto assembly and parts manufacture. Under the policy, requests by automobile manufacturers without assembly operations in the Philippines to operate customs bonded warehouses have been denied, unless they can demonstrate plans for local assembly or other activities that are judged by customs officials to be "in the national interest." A bonded warehouse allows importers to defer payment of duty until items have been withdrawn from the warehouse for domestic sale.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Industrial Goods

Local inspection for standards compliance is required for a range of industrial and consumer products, including cosmetics, medical equipment, lighting fixtures, electrical wires and cables, cement, pneumatic tires, sanitary wares, and household appliances. For other goods, U.S. manufacturers' self-certification of conformance is accepted. Labeling is mandatory for textile fabrics, ready-made garments, household and institutional linens, and garment accessories. Mislabeling, misrepresentation, or misbranding may subject the entire shipment to seizure and disposal. The "Generic Act" of 1988 aims to promote the use of generic drugs by requiring that the generic name of a particular pharmaceutical must appear above its brand name on all packaging.

Agricultural Goods

The Philippine Department of Agriculture has established plant health regulations which allow the import of U.S. apples, grapes, oranges, potatoes, onions, and garlic, provided these products do not originate from Florida or Texas. Protocols are being negotiated for a range of other fruits and vegetables, including Florida citrus, cherries, broccoli, lettuce, and cauliflower. Additional produce items can be negotiated as the need arises.

Further, the Philippine Government's zero tolerance policy for methanol in wine products has posed a concern for exporting alcohol industries. This policy requires that a manufacturer's report on the manufacturing process be submitted to the Philippine Bureau of Food and Drug (BFAD) for evaluation.

GOVERNMENT PROCUREMENT

Contracts for government procurement in the Philippines are awarded by competitive bidding and, in general, do not discriminate against foreign bidders. However, preferential treatment of local suppliers is practiced in government purchases of medicines, rice, corn, and iron/steel materials for use in government projects. Contractors for infrastructure projects that require a public utility franchise (i.e., water and power distribution, telecommunications, and transport systems) must be at least 60 percent Filipino-owned. For other major contracts (such as build-operate-transfer projects) not involving a public utility franchise, a foreign contractor must be duly accredited by its government to undertake construction work. The Philippines is not a signatory of the WTO Government Procurement Agreement (GPA).

Executive Order 120, dated August 19, 1993, mandates a countertrade requirement for procurements by government agencies and government-owned or controlled corporations that entail the payment of at least $1.0 million in foreign currency. Implementing regulations issued by the Department of Trade and Industry set the level of countertrade obligations of the foreign supplier at a minimum of 50 percent of the import price, and provide for penalties for non-performance of countertrade obligations. The implementing agency for countertrade transactions is the Philippine international trading corporation.

EXPORT SUBSIDIES

Enterprises (including exporters) engaged in certain sectors in the Philippines which the Government has prioritized for economic development may register with the Board of Investment (BOI) to qualify for incentives under the Philippine Omnibus Investment Code. The available incentives include income tax holidays (from 4 to 8 years), income tax reductions for incremental labor expenses, and tax and duty exemptions for the importations of breeding stocks and genetic materials. A number of benefits such as tax credits for imports of raw material or components used in the manufacture of goods for export; exemption from taxes and duties on imported spare parts, and access to bonded customs warehouses, are available only to BOI-registered exporters. Firms in government-designated export processing zones, free trade zones, and other special industrial estates registered with the Philippine Economic Zone Authority (PEZA) enjoy basically the same incentives as BOI-registered firms, as well as exemption from preshipment inspection. PEZA-registered firms and free trade zone enterprises enjoy tax and duty-free importation of capital equipment and raw materials. In lieu of local and national taxes, they are subject to a 5 percent tax on gross income.

Firms that export at least 50 percent of production and are registered with the BOI, PEZA, or other government agencies may register under the Export Development Act of 1994 (EDA) for additional incentives available under that law, including a tax credit for imported inputs and raw materials not readily available locally (through December 31, 1999), and a tax credit on incremental annual export revenue. Two incentives which expired on December 31, 1997 are duty-free importation of capital equipment and, for exporters of non-traditional products, a partial tax credit for locally purchased raw materials, equipment, and spare parts.

LACK OF INTELLECTUAL PROPERTY PROTECTION

While substantial progress has been made in recent years, significant problems remain in ensuring the consistent and effective protection of intellectual property rights (IPR). A new intellectual property code (R.A. 8293), which was signed into law on June 6, 1997 and which took effect January 1, 1998, improves the legal framework for IPR protection in the Philippines. R.A. 8293 provides enhanced copyright and trademark protection, and creates a new Intellectual Property Office (IPO), with original jurisdiction to resolve certain disputes concerning licensing. The law also significantly increases penalties for infringement and counterfeiting. Passage of the law was called for under a 1993 bilateral U.S.-Philippine agreement to strengthen protection of intellectual property rights in the Philippines.

Defects in R.A. 8293 remain a source of serious concern. These included, *inter alia,* a provision permitting the decompilation of software programs as "fair-use," subject to certain restrictions; the lack of clear provisions for ex-parte relief; ambiguous provisions that fail to provide clearly an exclusive right for copyright owners over broadcast, rebroadcast, cable retransmission, or satellite retransmission of their works; and onerous restrictions affecting contracts to license software and other technology. In addition, a December 16, 1997

Administrative Order temporarily suspended the processing of patent and trademark applications under the new law, as well as the ability to file cases involving the original jurisdiction of the IPO and to request exemptions from the provisions affecting licensing agreements. The Philippines asserts that the Administrative Order was issued because needed personnel and regulations to administer R.A. 8293 are not yet in place, and that the suspension will be lifted as soon as possible. The suspension of firms' ability to request exemptions from the provisions affecting licensing agreements was lifted in January 1998, but other suspensions remain in effect.

In spite of governmental efforts, including the creation in February 1993 of the Interagency Committee on Intellectual Property Rights (IACIPR) as an entity charged with recommending and coordinating enforcement oversight and program implementation, serious problems continue to hamper the effective operation of agencies tasked with IPR enforcement. Insufficient government resources is a major problem. The IACIPR has prioritized efforts to eliminate software piracy in government agencies, but has also undertaken regional efforts within the Philippines to increase public awareness of the importance and benefits of IPR protection. Joint efforts between the private sector and the National Bureau of Investigation (NBI), the Philippine equivalent of the FBI, have resulted in a series of successful enforcement actions. The judicial system remains a stumbling block to more aggressive use of the courts to deter effectively IPR violations. The designation of 48 IPR courts to handle IPR violations has done little to speed up the process, since these courts have not received additional resources and continue to handle a heavy non-IPR workload. Because of the lengthy nature of court action, many cases are settled out of court.

The Philippine Government is a party to the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty; it is also a member of the World Intellectual Property Organization and the World Trade Organization.

Patents

R.A. 8293 moves the Philippines to a first-to-file system, increases the term of patents from 17 to 20 years, and provides for the patent ability of micro-organisms and non-biological and microbiological processes. The holder of a patent is guaranteed an additional right of exclusive importation of his invention. A compulsory license may be granted in some circumstances, including if the patented invention is not being worked in the Philippines without satisfactory reason, although importation of the patented article constitutes working or using the patent. Legislation is pending to include plant varieties within the definition of patentable inventions, and to provide IPR protection to layout-designs of integrated circuits.

Trademarks

R.A. 8293 no longer requires prior use of trademarks in the Philippines as a requirement for filing a trademark application. Also eliminated was the requirement that well-known marks be in actual use Philippine commerce or registered with the Bureau of Patents, Trademarks, and Technology Transfer. Trademark counterfeiting remains widespread in the Philippines, although some U.S. firms have had success in curbing trademark infringement in cooperation with Philippine enforcement agencies, particularly the NBI.

Copyrights

R.A. 9293 expands IPR protection by clarifying protection of computer software as a literary work (although it includes a fair-use provision on decompilation of software), establishing exclusive rental rights in several categories of works and sound recordings, and providing terms of protection for sound recordings, audiovisual works, and newspapers and periodicals that are compatible with the WTO Agreement on trade-related intellectual property rights. However, as noted above, significant gaps remain, including the fair-use provision on software decompilation; a lack of clear provisions for ex-parte relief; and ambiguities concerning exclusive rights for copyright owners over broadcast and retransmission. Ratification by the Philippines of the Berne Convention (Paris Act) in June 1997 effectively ended the longstanding government practice of authorizing local publishers to reprint foreign textbooks without permission of the foreign copyright holder.

Piracy of computer software and motion pictures continues to be a serious problem, leading software owners to organize to protect their rights more effectively. The Philippine Government has committed to eliminate the use of pirated software within government agencies, ostensibly as a first step before undertaking more aggressive efforts outside government. Despite generally positive cooperation with the government's Videogram Regulatory Board (VRB) and actions by the NBI, local representatives and distributors of U.S. and domestically-produced motion pictures report that video and cable piracy continues to be widespread. Philippine courts have been reluctant to impose substantial penalties, which serve as a deterrent for infringement; often, penalties consist only of the seizure and confiscation of the video cassettes used in the unauthorized cable broadcast. It remains to be seen whether the tougher penalties contained in R.A. 8293 will enhance enforcement. Legislation to expand the VRB's enforcement powers and increase penalties was introduced in 1995 and is still pending before the Philippine Congress.

The United States remains concerned over the high level of unauthorized retail sales and distribution of audio and visual material and unauthorized transmissions of motion pictures on cable systems. In addition, significant quantities of infringing audio and video discs continue to be distributed throughout the Philippines. It is unclear whether the majority of these digital technologies are produced within the Philippines or are imported. It is estimated that the annual losses to the U.S. motion picture industry due to audiovisual piracy in the Philippines in 1997 amounted to $18 million.

Licensing of Technology

Through its Intellectual Property Office, the Philippines requires that all technology transfer arrangements (defined as contracts involving the transfer of Systematic knowledge for the manufacture of a product, the application of a process, or rendering of a service including management contracts, and the transfer, assignment or licensing of all forms of intellectual property rights, including computer software except for software developed for mass market) comply with provisions outlined in R.A. 8293, including the prohibition of the use of certain clauses in such arrangements. The scope of these provisions is extremely broad and serves to obstruct the normal contracting process between unrelated parties or as part of intracompany business.

SERVICES BARRIERS

Basic Telecommunications

The Philippine Constitution (Section 11 of Article XII) limits foreign ownership of telecommunications firms to 40 percent. During the WTO negotiations on basic telecommunications services, the Philippines made commitments on most basic telecommunications services and adopted some pro-competitive regulatory principles. The Philippines did not provide market access or national treatment for satellite services, and made no commitment regarding resale of leased circuits/closed user groups. However, the Philippines is overdue in providing to the World Trade Organization an acceptance of the Fourth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on basic telecommunications services into effect. The WTO Council on Trade in Services has extended the deadline for submission of the acceptance until July 31, 1998.

Insurance

Although current practice permits up to 100 percent foreign ownership in the insurance sector, during the recently-concluded WTO financial services negotiations, the Philippines committed to provide a maximum level of equity participation at 51 percent in the insurance sector. However, the GOP did make a binding commitment to guarantee, or grandfather, the status of existing insurers with more than 51 percent foreign equity. As a general rule, only the state-owned government service insurance system may provide coverage for government-funded projects. A 1994 administrative order extended this policy to Build-Operate-Transfer (BOT) projects. Private insurance firms, both domestic and foreign, regard this as an important trade barrier. Current regulations require all insurance/professional reinsurance companies operating in the Philippines to cede to the industry-owned National Reinsurance Corporation of the Philippines (NRCP) at least 10 percent of outward reinsurance placements.

Banking

A law signed in May 1994 relaxed banking restrictions in place since 1948. The 1994 law permitted 10 foreign banks (out of 25 applicants) to open full-service branches in the Philippines. Presently, foreign entry is limited to 60 percent ownership for the establishment of either a new local subsidiary or a joint venture with an existing local bank, although again the GOP only bound shareholding at 51% in its WTO financial services offer. Foreign branch banks are limited to six branches each. Four foreign-owned banks are limited to six branches each. Four foreign-owned banks that had been operating in the Philippines before 1948 were allowed to open an additional six branches each. Current regulations also provide that majority Filipino-owned domestic banks should, at all times, control at least 70 percent of total banking system assets. The revised banking law now allows a foreign branch bank to obtain a "universal banking" license which was previously limited to Philippine-controlled commercial banks. This will allow a foreign branch bank to engage in the activities of an investment house (primarily securities underwriting for the domestic market), in addition to regular commercial banking functions.

Securities and Other Financial Services

Existing law limits foreign equity in mutual fund and trust management firms to 40 percent, and in securities underwriting companies to 60 percent. Securities underwriting companies not established under Philippine law may underwrite Philippine issues for foreign markets, but not for the domestic market. A law signed in February 1998 raises the limit on foreign ownership of financing companies to 60 percent. Although there are no foreign ownership restrictions governing acquisition of shares of mutual funds, current law restricts membership in the board of directors to Philippine citizens. Membership in the Philippine Stock Exchange (PSE) is open to any company (foreign or domestic) incorporated in the Philippines.

The Philippines took an MFN exemption on foreign equity participation in securities firms, stating that

Philippine regulators would approve applications for foreign equity only if Philippine companies enjoy similar rights in the foreign investor's country of origin.

Advertising

The Philippine Constitution (Section 11 of Article XVI) limits foreign ownership of advertising agencies to 30 percent. All executive and managing officers of advertising agencies must be Philippine citizens.

Public Utilities

The Philippine Constitution (Section 11 of Article XII) specifically limits the operation of public utilities (i.e., water and sewage, electricity, telecommunications) to firms with at least 60 percent ownership by Philippine citizens. All executive and managing officers of such enterprises must be Philippine citizens.

Practice of Professions

As a general rule, the Philippine Constitution (Section 14 of Article XII) reserves the practice of licensed professions (e.g., law, medicine, nursing, accountancy, engineering, architecture, customs brokerage, etc.) to Philippine citizens. Philippine law (R.A. 8182) required that preference be given to Philippine citizens in the hiring of consultants and other professionals necessary for the implementation of projects funded by foreign assistance. Legislation signed in February 1998 (R.A. 8555) gives the President of the Philippines the authority to waive this and other preferences applicable to the procurement of goods and services funded by foreign assistance.

INVESTMENT BARRIERS

The 1991 Foreign Investment Act (FIA) allows up to 100 percent foreign equity in enterprises not seeking investment incentives, provided the company does not engage in an activity that appears on the two-part "negative" list. The "A" list either restricts or bans foreign investment in certain activities or sectors because of Constitutional or other legal constraints. These include investments in, the practice of licensed professions, retail trade, the processing of rice and corn, and private security agencies, all of which are reserved exclusively for Philippine citizens. In addition to land ownership (where a 40 percent foreign equity ceiling applies), varying foreign ownership limitations are imposed on, *inter alia*, companies engaged in advertising (30 percent), employee recruitment (25 percent), private construction (40 percent), financing (60 percent), public utilities (40 percent), education (40 percent), and the exploration and development of natural resources (40 percent).

Following a Philippine Department of Justice opinion, the Government's interagency committee on infrastructure issues in January 1998 proposed elimination of private construction from the negative list and removal of the 40 percent cap on foreign ownership. These proposals require cabinet and presidential approval.

The "B" list is composed of activities regulated for reasons of security, defense, health, and moral concerns, and to protect small and medium-scale enterprises. The FIA requires a minimum paid-up capital of $200,000 for an enterprise to be more than 40 percent foreign-owned. A third category, the FIA's "C" list pertaining to activities deemed "adequately served" by existing enterprises, was abolished following March 1996 amendments to the FIA. The FIA investment restrictions stem from a Constitutional provision, section 10 of article VII, which permits the Philippine Congress to reserve to Philippine citizens certain areas of investment.

In addition to the restrictions detailed above, the Philippines generally imposes a foreign ownership ceiling of 40 percent on firms seeking incentives with the Board of Investments (BOI) under the annual investment priorities plan. While there are exceptions to the ceiling, divestment to reach the 40 percent level is required within 30 years. The BOI imposes industry-wide local content requirements under its Motor Vehicle Development program, and requires participants to generate, via exports, a certain percentage of the foreign exchange needed for import requirements. The Philippines has stated its intention to phase-out these trade-related investment measures by the year 2000, in line with WTO obligations.

As a general policy, the Philppine Department of Labor allows the employment of foreigners provided that are no qualified Philippine citizens that can fill the position. However, the employer must train Filipino understudies and report on such training periodically. Employees of foreign-owned firms registered with the BOI may retain the positions of president, treasurer, and general manager, or their equivalents.

Trade-Related Investment Measures

The Philippines has notified to the WTO certain measures that are inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMs). The measures deal with local content and foreign exchange balancing requirements in the automotive and chemicals. Proper notification allows developing-county WTO Members to maintain such measures for a five-year transitional period after entry into force of the WTO. The Philippines therefore must eliminate these measures before January 1, 2000. The United States is working in the WTO Committee on TRIMs to ensure that WTO Members meet these obligations.

OTHER BARRIERS

The Revised Penal Code, Anti-Graft and Corrupt Practices Act, and Code of Ethical Conduct for public officials are in place and are intended to combat suspected corruption and related anti-competitive business practices. The Office of the Ombudsman investigates cases of alleged graft and corruption involving public officials. The “Sandiganbayan” (anti-graft court) prosecutes and adjudicates cases filed by the Ombudsman. There is also a Presidential Commission Against Graft and Corruption.

In spite of these government mechanisms directed at combating suspected corruption, widespread anecdotal evidence suggests that graft remains a problem at many levels in all branches of the Philippine Government. In the 1997 survey of public perceptions of corruption in 52 countries, undertaken by the non-governmental organization Transparency International, the Philippines was ranked thirteenth in terms of the perceived level of corruption. The U.S. Embassy and the American Chamber of Commerce in Manila have in the past successfully represented U.S. business interests in cases where U.S. firms seemed disadvantaged because of reportedly questionable bid/award or other government proceedings.