

EVALUATION OF ECONOMIC GROWTH TECHNICAL ASSISTANCE

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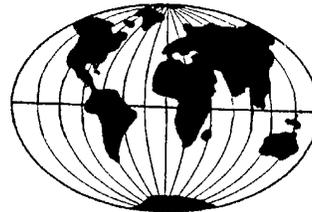
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EXECUTIVE SUMMARY

The economic challenges in the Philippines are to deepen the reform initiatives of the past and to modernize and make transparent government operations that are essential to making and keeping the economy competitive in the 21st century's global market. The EGTA (née AGILE) program was initiated by USAID/Manila in 1998 to deal with these challenges. The program provided a wide range of technical assistance under a single umbrella contract, allowing rapid response to reform opportunities and easy movement of resources across the policy reform spectrum. Equally important, EGTA included a substantial effort to support public policy discussions and advocacy in favor of specific reform objectives. The activity ends in June 2004.

A unique feature of EGTA was that it contracted out the development and design of a portfolio of economic reform activities that heretofore had been done by USAID in-house. USAID, however, retained full policy and technical oversight but was relieved of a substantial procedural burden on mission staff.

EGTA was able to assist a large number of reform efforts by focusing its attention primarily on legislative and regulatory changes. However, many of its interventions also provided institutional development technical assistance, such as its support to the Bureau of Internal Revenue and the Office of the Ombudsman.

The EGTA activity was instrumental in the adoption of major economic reforms in banking, securities, commercial law, judicial process, government procurement, retail trade, maritime, telecommunications, aviation, local government finance, anti-corruption, customs, tax collection, and anti-money laundering. The procurement reform alone paid for the equivalent of the entire program many times over. These reforms, though often narrow in scope, contributed to major improvements in applied economic policy. A substantial, but not quantifiable benefit to Philippine economic performance can reasonably be assumed. Remarkably, these accomplishments were made despite a receding overall economic policy reform tide; i.e., critics held that past reforms were partly responsible for the Asian Financial Crisis and the domestic effects of the world's economic slowdown.

EGTA achieves results through the provision of high quality traditional technical assistance, often combined with high profile, closely targeted advocacy. Traditional technical assistance included a full panoply of activities – training, institutional development, short-term focused technical consultants, limited commodity support, etc. Advocacy often took the form of mobilizing and/or energizing reform constituency groups. EGTA chose counterparts with a strong interest in the desired policy outcome. Program contractor personnel worked with all actors in the policy process – executive branch agencies, congressional committees and staff, independent offices, local governments and private sector groups. EGTA consultants drafted and or assisted in the drafting of reform legislation and/or implementing regulations. EGTA consultants also provided advice, training, manuals, and public informational material pursuant to implementation.

EGTA is particularly unique in the attention it paid to the political dynamics of the reform process; the intensity of its advocacy; the range of its operating area; the speed by which it could respond to emerging policy problems/opportunities; and the sub activity level design authority

entrusted to EGTA staff by USAID. Counterparts praised the flexibility of the program which, almost alone among donor vehicles, could respond promptly and with a minimum of procedural impediments. The program is also unique in its willingness to get involved in sensitive issues (e.g., prosecutorial training) which other donors generally eschewed.

EGTA program personnel combined technical excellence with a thorough knowledge of the Philippines – indeed many were ethnic Filipinos. This allowed them to tailor assistance to the Philippines’ cultural, political, and economic context. Counterparts generally had high praise for the EGTA personnel, and especially liked the use of Philippine consultants with international credentials. The counterparts believe that without EGTA’s help, the major reforms in the areas cited above would not have been possible, been subject to lengthily delays, or would have been diluted to the point where little positive benefit would have been achieved. While there were some counterpart complaints as to specific program actions or lack of action, these are seen as minor.

The success had a negative side as well. The pervasiveness of its activities, the indistinguishability of its consultants from local activists, and its involvement in areas of potential bilateral friction provided an opportunity for demagogic reform opponents. Reform opponents in the Philippine Congress charged that EGTA was a conspiracy to promote US interests. This idea was widely publicized in the press and fed an underlying popular suspicion of an American agenda. The resultant Philippine congressional criticism almost caused USAID to terminate the activity. Instead, more defensible operating guidelines were issued insuring that program personnel and activities were clearly identified as USAID-funded, and that advocacy activities would only be to or through counterparts. To reflect these changes, which altered the character of the program, the activity was renamed Economic Governance Technical Assistance (EGTA). These changes have improved the climate in which the program operates and the controversy has faded. Nonetheless the Philippine body politic remains sensitive to the U.S. agenda issue.

EGTA provides object lessons on many facets of flexible, quick response policy assistance and the advocacy issue. In particular, EGTA advocacy was a powerful tool in the political dynamics of reform. While there are no hard and fast rules it does appear that formal behavior protocols such as those introduced in the latter stage of EGTA are useful. Where there are perceived bilateral issues, careful attention must be given to transparency and non-intrusiveness. Where there is no perceived bilateral issue, greater latitude for advocacy activism may be desirable, particularly where the potential gains are large. Appropriately adapted, the activity is replicable in democratic situation where the political leadership in the recipient country has established the policy direction and an overall political will for reform exists.

In sum, EGTA made a very valuable contribution to the Philippine development effort. The evaluator team and the Philippine counterparts hope that something like it, modified to reflect the EGTA experience, will continue to foster sound policy formation and implementation in the Philippines and be replicated elsewhere. The EGTA model is too innovative and successful to be cast aside for fear of political visibility and controversy.

LIST OF ACRONYMS

ABD	Asian Development Bank
AO	Administrative Order (GOP)
BCP	Biotechnology Coalition of the Philippines
BIR	Bureau of Internal Revenue
BOT	Build – Operate – Transfer
BOC	Bureau of Customs
CAB	Civil Aviation Board
CRC	Center for Research and Communication
CSPM	Coalition for Shipping and Ports Management
DAAD	Development Assistance Approval Document
DAG	Department of Agriculture
DAI	Development Alternatives, Inc.
DBP	Development Bank of the Philippines
DOF	Department of Finance
DPW	Department of Public Works
DTI	Department of Trade and Industry
DS&T	Department of Science and Technology
DSWD	Department of Social Welfare and Development
EGTA	Economic Growth Technical Assistance
EO	Executive Order (GOP)
FFC	Freedom to Fly Coalition
GM	Genetically Modified
GOP	Republic of the Philippines Government
IMF	International Monetary Fund
IPR	Intellectual Property Rights
IR	Intermediate Result (USAID)
IRR	Implementing Rules and Regulations (GOP)
ISAAA	International Services for the Acquisition of Agri-Biotech Applications
LGU	Local Government Units
LOE	Level of Effort
MTPDP	Medium Term Philippine Development Plan
NEDA	National Economic Development Authority
NFA	National Food Authority
NTC	National Telecommunications Commission
PAL	Philippine Air Lines
PLDT	Philippine Long Distance Telephone Company
PPA	Philippine Ports Authority
RA	Republic Act (GOP)
SEC	Securities and Exchange Commission
SO	Strategic Objective (USAID)
WTO	World Trade Organization

EVALUATION OF ECONOMIC GROWTH TECHNICAL ASSISTANCE

CHAPTER 1. INTRODUCTION AND SETTING

THE PURPOSE OF THE EVALUATION

The economic challenges in the Philippines are to deepen the reform initiatives of the past and to modernize and make transparent government operations that are essential to making and keeping the economy competitive in the 21st century's global market. All of this must be done in an environment of emerging democratic institutions.

In the 1990's, a period of significant economic liberalization was followed by the Asia Financial Crisis, leading those affected to be critical of reform and others anxious to recapture their lost privileges. The Government of the Philippines (GOP) was not well equipped to defend and expand past economic reforms. Starved for resources, the authorities had little at their command to confront the oligarchs and power brokers. Corruption and tax avoidance had weakened government institutions and denied essential infrastructure and services to the population at large. This condition prevailed because the government's operations and management practices were out-of-date, obscure to most and easily manipulatable by vested interests. Within the private sector, non-competitive behavior impeded improvements in the economic well-being of the citizenry.

The Economic Growth Technical Assistance (EGTA) program was designed to deal with these challenges. As originally envisioned, EGTA had two broad objectives: to contribute to continuing policy liberalization, and to assist in efforts geared towards increasing the degree of competition in the economy. With these objectives in mind, the resources channeled through EGTA provided essential support in a wide variety of interventions to modernize and clarify government operations and to open to new investors areas where competition had been sorely lacking.

The EGTA program is coming to the end of its six year life in June 2004. In accordance with standard USAID practice, an evaluation is now in order and this report fulfills that requirement. This evaluation is not intended to be merely a summary of accomplishments. Rather, it is an analytical look at a uniquely designed and executed program so that follow-on activity in the Philippines and similar programs elsewhere in USAID benefit from the lessons learned in this pioneering venture. While this evaluation tries to capture and describe significant achievements as well as some dead-end efforts, it is more concerned with illuminating the structure and methods by which assistance was delivered and noting those features that were causal to results.

The program, under its original name – AGILE – is now well known in the structure of power in the Philippines. Part of this fame is due to the breadth and significance of its achievements, its quick responsiveness to critical policy and institutional challenges, its technical competence and the good working relationships forged by EGTA's consultants. However, another part of its fame is due to significant criticism of the program in the Philippine Congress and in the press accusing the consultants, among other things, of being paid agents of a foreign power. Some elements of the press (which, according to some sources, were paid to publish the stories)

painted the project as a shadowy conspiracy abetted by unwitting GOP counterparts who were unaware of the project's "true" American agenda. The program was transformed in a process through which the successful model of providing quick, flexible technical assistance was maintained, but a strong procedural protocol was introduced that insisted that GOP counterparts demonstrate increased ownership and advocacy activities were completely transparent. The project was renamed EGTA. That the negative publicity happened and almost killed the program is a powerful reason to evaluate this assistance approach. Lessons from this experience need to be found so that adjustments can be made for future programming efforts employing the same concepts. The EGTA model is too innovative and successful to be cast aside for fear of political visibility and controversy. Rather, this type of problem needs to be anticipated and controlled for in the design of future assistance.

METHODOLOGY OF THE EVALUATION

The evaluation of EGTA was carried out by a three person Development Associates team in the Philippines during March, 2004. Prior to arrival, two of the team members met with the AID/Washington backstop officer and held a lengthy discussion with key staff at the home office of the prime contractor, Development Alternatives, Inc.*

Upon arrival in Manila, the team was briefed by USAID's Economic Growth office and provided with the basic documents related to the program. After reviewing these documents, team members began their inquiry by each focusing on particular activities of the program. One member reviewed the results under the topics of government transparency and corporate law. Another focused on efforts to increase competition and the third evaluated the policy and economic impact of the achievements.

Interviews were held with EGTA management including those responsible at the activity level. Activity counterparts were then interviewed to understand their perspective on achievements and client satisfaction. International agencies including the World Bank and the Asian Development Bank were also interviewed. Finally, a large sample of documents was reviewed for adherence to their scope and to assess their quality and comprehensiveness. The team worked as a unit to summarize the findings and lessons learned.

THE CONTEMPORARY PHILIPPINES ECONOMY

The Philippines went through a period of rapid and fundamental economic reforms in the 1990s that were accompanied by accelerating economic growth and improved overall economic performance. Underpinning these reforms was the Medium Term Philippine Development Plan (MTPDP) for 1993-1998 of the Ramos administration, built on the twin themes of global competitiveness and people empowerment. In pursuit of the former, market oriented reforms in the country's trade, investment and financial policy framework had been undertaken with the overall effect of liberalizing trade and investment policies, freeing the capital markets including foreign exchange transactions, and increasing domestic competition in key production sectors. These market-friendly reforms coupled with the strong leadership of President Ramos had spurred a rapid growth in both direct and portfolio investments coming into the country.

* Price Waterhouse Coopers, HIID and Cesar Virata and Associates were subcontractors. HIID's involvement was terminated early in the program when the organization ceased to exist.

Improvement in overall macroeconomic management had been manifested in improved fiscal balances (with the achievement of surplus in the government budget by 1994 and the consolidated public sector account by 1996); improving balance of payments (with a surplus of US\$3.3 billion in 1998), improving tax and revenue effort ratios that peaked in 1997 (at 17 percent and 20 percent respectively), a balanced budget by 1996-1997, and an inflation rate that had slowed down to 5.5 percent in 1998, from 19 percent in 1991. Private sector activity had also been strengthened by an infrastructure program that relied heavily on public-private partnerships via Build-Operate-Transfer (BOT) arrangements and similar schemes.

The program was conceived near the end of the Ramos administration, in late 1997, at a time when dynamic growth in the economy had led to a reduction in income poverty incidence to 32.1 percent of families, from 35.5 percent in 1994 and 39.9 percent in 1991. However, this improvement in overall poverty was accompanied by worsening income distribution, with the Gini coefficient rising from 0.451 in 1994 to 0.496 in 1997. While the unemployment rate had declined from 9.3 percent in 1993 to 8.6 percent in 1997, the Asian financial crisis pushed this up to 10.1 percent by 1998.

The Philippines withstood the worst of the crisis much better than most of its neighbors, with only a marginal decline in GDP in 1998 (-0.5 percent) even as GNP continued to grow positively. Nonetheless, the dramatic slowdown had pushed up unemployment and poverty, as the most vulnerable sectors of the economy and society bore the brunt of the ill effects of the crisis. Thus, the imperative was for widening and deepening the reforms undertaken in the previous years, to broaden their benefits and consolidate the gains achieved.

On the other hand, some sectors saw in the financial crisis a reason (or excuse) to argue that the reforms undertaken under the Ramos administration were too drastic and too rapid for the country's own good. Those who were adversely affected by increased competition from the liberalized economic environment were emboldened to lobby for policy reversals, especially with the perception that the Estrada government would be more sympathetic to such. Thus, apart from proceeding with the reform program, government faced the additional challenge of protecting reforms already undertaken. EGTA was in a good position to provide technical assistance needed to respond to such pressures.

Six years into its implementation, EGTA now finds itself operating within an economy where overall output is growing at a respectable 4.5 percent annually, although growth remains relatively narrow-based and dominated by a few sectors especially in services. Prices have been relatively stable relative to traditional experience, with annual inflation rate averaging 3.1 percent for the past two years, but increased inflationary pressures are likely to push this up in 2004. Unemployment remains high at more than 11 percent, as job generation continues to lag behind overall economic growth. But the weakest link in the economy has come to be the government fiscal situation, with the national government deficit having exceeded 5 percent of GDP in 2002, and only slightly improving to 4.7 percent in 2003. Tax effort had continued its slide since 1997 and dropped below 10 percent in 2002. Meanwhile, the public debt has risen to alarming levels such that as of 2004, debt service for both interest and principal amortization takes up 81 percent of government revenues. Revenue generation and overall fiscal management have thus become the most critical short-term priority of the government, a need to which EGTA has been responsive in recent years.

CHAPTER 2. EGTA'S DESIGN AND MODUS OPERANDI

The Development Activity Approval Document (DAAD) states the purpose of [EGTA]^{*} as "...an action oriented activity intended to support economic policy liberalization and enhance competition in the Philippines." Originally a four year activity, later extended to six, EGTA was designed to accommodate a variety of circumstances that had emerged within USAID and the policy reform efforts of the Government of the Philippines (GOP).

Within USAID, there was a need to continue support for economic reform with reduced staff and budget. There was also an increased concern that the program be more action and results oriented, consistent with AID's shift to a results framework based on Strategic Objectives (SO) and Intermediate Results (IR).

Within the GOP's economic reform program, major policy changes had already taken place under the government of President Ramos to liberalize the economy and stimulate growth. However, much work remained to flesh out and more fully implement the higher level policy actions that had been taken. For example, while a policy decision supporting competition in air transport had been codified in an Executive Order (EO – 219) in 1995, competition in international travel remained severely limited by holdover agreements that maintained the dominant role of PAL for international passenger travel. To obtain full benefit from the 1995 policy reform, actions needed to be taken to revise these agreements and make room for the Philippines' second carrier.

In addition to implementing or extending existing reforms, efforts were needed to prevent the reversal of reforms. Interests, which had been protected prior to the reforms, sought to regain their privileges and the Asian financial crisis of 1997 provided a fertile environment for politicians to blame the reform program for the country's economic woes.

The design of EGTA was also influenced by the desire to overcome the time consuming and somewhat rigid structure associated with the traditional project approach. That is, a stand-alone project agreement and implementation contractor or grantee for each assistance activity. This approach, at this stage of the GOP program, would have required a substantial number of design efforts within USAID and an equal number of project review and approval processes within the GOP. Additionally, it would require a large number of independent contracting actions. Finally, if one or more of the activities encountered delays or resistance, the resources committed to these activities would have remained hostage to the activity until a resolution of the problem was achieved. These funds could not be easily shifted to enhance other, stand-alone activities that were making good progress.

THE UMBRELLA APPROACH

The structure that ultimately emerged accommodated the institutional needs and limitations of USAID and the GOP by delegating a portion of what had traditionally been USAID in-house functions to a contractor who was also responsible for the actual provision of multiple technical assistance interventions. Often termed an "umbrella approach", the EGTA program was, in

* The document used the program's original name; "Accelerating Growth, Investment and Liberalization with Equity" (AGILE).

essence, the contracting out of the management functions and portfolio of what would more normally have occupied one or more USAID Divisions within the Office of Economic Growth.

EGTA became responsible for the development and design of a portfolio of activities aimed at the policy, regulatory and institutional impediments to the achievement of USAID's SO 2 "A more stable and competitive economy." On the basis of the guidance provided by the DAAD and the more detailed agenda agreed to by USAID in EGTA's Life of contract and Annual Workplans, EGTA assumed the responsibility to filter technical assistance requests originating from within the GOP and non-government entities and then design, negotiate and implement the assistance packages that were consistent with SO 2 objectives. EGTA was also able to approach potential counterparts with problem solution suggestions when that appeared efficacious in support of SO 2.

This approach provided substantial flexibility in choosing assistance activities. That is, it permitted EGTA to undertake assistance activities that were doable, i.e., had willing counterparts and a supportive constituency, rather than take on activities that, while needing to be done, didn't have a willing counterpart or a supportive constituency.

To accomplish its purpose, EGTA was structured to have a core office and activity units. The core office was the management and administrative headquarters of EGTA. In addition, it contained a unit that was responsible for all of the monitoring related to USAID's SO 2 reporting requirements. The senior staff of the core office managed the policy agenda, the selection and relative budgetary importance of eligible assistance activities, the overseeing of the design of assistance activities carried out by the activity units, and all relations with USAID.

The activity units were constituted to design the specific activities, (grouped thematically into results packages), find the needed consultant experts and oversee the actual implement the specific assistance. A Group Manager headed each activity unit. The direct technical assistance to the counterparts was carried out by a task group headed by a Task Manager, who was the lead technical expert in the area assisted. Most of the task groups were located in satellite offices within the office of their respective counterparts. At the height of the program's activity there were 6 Group Managers, 14 Task Managers and 9 satellite offices.

The Group Managers had substantial discretion in activity design. For most of the time, they did not face tight budget constraints. Rather, the size of their portfolio depended on the importance of the activities underway and the results they were achieving.

USAID provided EGTA with a Task Order that reserved funds against expected costs as described in the annual work plan. To help EGTA's management focus on assistance, the contractor was relieved of the annual burden of preparing a new workplan. Thus, the Second Annual Workplan remained effective for several years until USAID modified its results framework and the workplan became somewhat out of date in terms of the actual assistance packages being implemented. Thus, for most of the time, activities could be completed and new ones added without requiring a change in the operational workplan. The actual commitment of funds was through the approval of specific requests for level of effort (LOE) of EGTA consultants, workshops, conferences, training seminars, subcontracts and procurement. The core staff and the Group Managers were full time EGTA employees while the consultants for specific assistance activities, including Task Managers, were hired on a short term basis to carry out the

specific task approved in the workplan and activity description. In many cases, one activity would lead to a follow-on activity providing the short term consultants with almost full time employment.

This approach to funding meant that results packages' budgets were somewhat soft through most of the program. The actual level of budget provided to a specific results package was determined during the course of implementation on the basis of the perceived progress of the activities in the results package as well as the relative importance of the results package to the overall policy reform support effort. Thus, since many activities were of relatively short duration (one to three months), Group Managers had to frequently demonstrate the relevance of their activities and show progress in order to get additional EGTA resources for follow-on activities. When a major objective was achieved or no progress was perceived, EGTA resources would be refocused on alternative results packages in other sectors of the policy agenda where needs could be justified.

Starting in 2003, when USAID reduced the expected life-of-project budget, results package budgets became harder and certain activities had to be curtailed.

THE DEMAND DRIVEN AGENDA

EGTA's agenda originates from USAID's SO 2, "A More Stable and Competitive Economy" and its related IR's, which speak to financial institutions, trade, investment and economic governance, among other things. The SO and IR's provided a very broad playing field for assistance activities. The DAAD then translated SO 2's results framework into potential areas of EGTA activity, but this document was not meant to be exclusionary. While this brought greater definition to the likely main agenda, the DAAD retained the breadth of coverage enabled by SO 2. The DAAD also provided USAID's vision for the organization and operation of the technical assistance to be provided by EGTA. With the hiring of the contractor, EGTA's policy agenda was restated and further defined in the Life of contract workplan submitted to and approved by USAID shortly after the contractor mobilized. Again, the Life of contract workplan retained the breadth of interests outlined in the DAAD and the overarching results framework. However, it provided more description of the critical policy issues as seen at the time it was prepared. It further provided a general description of EGTA's proposed technical assistance interventions. On the basis of this approved documentation trail, EGTA was able to hang out its shingle and declare itself "open for business".

There appears to be a common misconception that at the starting point, EGTA's actual activities were developed in response to phone calls or other means of communication initiated by potential government counterparts with problem solution needs. While in some cases this may have happened, giving rise to the term "demand driven", the process of identifying counterparts and designing activities was far more complex. EGTA was a stage in a USAID policy reform assistance continuum and was expected to continue USAID support to several key counterparts such as agriculture and intellectual property rights. In addition, EGTA was seen as a vehicle to reenergize reform efforts in critical areas such as tax collection where there had been a hiatus in USAID assistance. Finally, and perhaps most importantly, EGTA's agenda reflected long sought after policy goals of reformist Filipinos, both in and out of government, bilateral donors, international institutions such as the World Bank, the ADB and the IMF, and the Philippines government own policy statements. What made EGTA different from traditional USAID assistance is that the demand that drove the actual assistance agenda of EGTA was derived from

the demand of these stakeholders. Not only could outside stakeholders influence EGTA's agenda but EGTA itself internalized reformist Filipino stakeholders by hiring them as staff and consultants.

The maritime results package illustrates the complexity of how problems were identified and activities designed. The evaluation team was told by one knowledgeable interlocutor that the SO team leader was outraged by the government's decision to award the management of all ports to a single, non-competitively bid, private contractor. He asked EGTA to work on reversing this policy. A second interlocutor denied that this was the case saying that there was national outrage at this decision, particularly among the maritime industry and "everybody" wanted something done to stop this decision. Included in the definition of "everybody" were members of EGTA consultant staff.

What exactly motivated EGTA to take on the problem will probably never be known. However, the request definitely did not come from the responsible counterpart in the government. The agency of the government responsible for the administration of ports was, if not the instigator of the decision, fully supportive of it. Consequently, EGTA designed its intervention around private sector coalitions and worked with the Export Development Council (a quasi-government council with private and public members) to be its government counterpart.

EGTA had the resources, flexibility and staffing to become not merely a provider of technical assistance on request, but an actual player in the policy reform arena in the Philippines. And this is exactly what it did. Within each of the many sectors assisted, EGTA became part of the network of policy reformers who sought opportunities and allies to further the transformation of the Philippines economy to be competitive in the 21st century's global economy.

EGTA'S MODUS OPERANDI

EGTA's general methodology can be characterized as combining the usual technical assistance activities with an entrepreneurial approach to promote the political acceptance of the needed reform or innovation. In the tradition of donor supported technical assistance, EGTA assessed existing policies, institutions and methods of operations in the various areas that it worked. It then drafted solution options that counterparts could consider. When an option was agreed upon, EGTA then provided the necessary technical input, advice and training to implement this decision. As noted above, the problems being addressed were within its Life of contract policy agenda and broadly consistent with issues noted in the Medium Term National Plan, presidential speeches and other explicit policy statements of the government.

However, EGTA departed from the usual technical assistance model by explicitly considering the political dynamics associated with the problem being addressed. In most donor activities, the contractor's role is to provide a counterpart with sufficient technical skills and solution options to empower the counterpart to successfully manage the political processes of obtaining full government approval of the reform. The contractor generally is not involved in the domestic political debate. However, in the case of EGTA, the contractor worked closely with the counterparts to map out the strategy and it played an active role in its implementation.

In the case of carry-over activities such as assistance to the Bureau of Internal Revenue (BIR), EGTA, to some extent, had its counterpart preselected by virtue of prior assistance activities. In

this case, EGTA worked with the reform minded new BIR Commissioner to formulate the political strategy needed for legislative approval to “corporatize” the Bureau. In other cases, however, EGTA became engaged in a policy problem before an official counterpart was identified. In these cases it prepared its political strategy with help of likeminded reformers within and outside of government. After a comprehensive review of the political interests that surrounded the issue, EGTA was able to determinate first, if the undertaking was doable and second, who would likely be the best official counterpart.

When the natural counterpart was likely to be ineffective – a number were considered captive to the special interest they were suppose to control or had ineffectual leaders – EGTA engaged in counterpart shopping. That is, it found and energized an alternative governmental, quasi-governmental organization or citizens’ coalition that had at least a tangential claim to jurisdiction or interest in the area and had a bureaucratic or constituent interest in the policy outcome EGTA sought to promote. EGTA then would organized or empower these entities to support the political process to codify the reform in law or regulation. EGTA staff often was part of executive and legislative working groups promoting the reform, and acted as secretariat to citizens’ coalitions that were engaged in the public policy debate. On a few occasions, EGTA consultant staff was chosen to fill executive management positions in citizens’ coalitions. EGTA’s group and task managers were given considerable latitude and prided themselves on being entrepreneurial and creative. There is no doubt within the evaluation team that they were.

This model – a careful reading of political dynamics, judicious choice of counterparts, mobilization of the reform constituency, and the provision of technical and logistic support to such groups and counterparts – led to successful policy interventions with respect to aviation policy, port management, road user taxes, money laundering, corruption abatement, the “pre-need” industry, securities regulation, and genetically modified organism policy, among others. These accomplishments were all the more remarkable in that they were done against a receding reform tide. That is, the downturn in the economy was being blamed partly on previous reforms of the Ramos administration and a number of groups sought to reverse them.

FOCUS

A quick overview of all of EGTA’s areas of interest and technical assistance interventions might suggest to a casual observer that the program lacked focus. The reality is quite the contrary. EGTA did engage in many sectors that, under a traditional approach, would have constituted many stand-alone assistance efforts. However, EGTA was actually limited in term of its interests. On the public sector side it was primarily interested in efficiency, transparency and accountability. On the private sector side, it was interested in competition. The essence of EGTA was not the finance of a wholesale reform and modernization of an institution or a sector, a common project objective in more traditional USAID programs. Rather, EGTA sought to change a few key practices, mostly laws, administrative orders or implementing regulations that were out-of-date, obfuscated government operations or inhibited competition. EGTA was premised on the conviction that the opening of government to public scrutiny or the introduction of competition in the market would produce the disequilibria needed in a particular sector to force the existing organizations, whether private oligopolies or government agencies, to undergo the broader institutional change needed to deal with the imperatives of the 21st century’s global economy. Thus, much of its efforts were aimed more at mobilizing the constituencies and alliances to bring about specific changes in well defined targets of opportunity. With a few

exceptions, such as EGTA's assistance to the Bureau of Internal Revenue, the larger and more expensive institutional development activities of past USAID projects were left to other donors or the government's own resources.

COORDINATION AND MANAGEMENT

If viewed from a traditional sectoral approach, an observer might think that the program was beyond what is normally assumed to be the limits of management's span of control. However, because management was decentralized and most of the tasks were well defined and relatively short in duration, the program did not have this problem. The evaluation team found no evidence that program management at USAID or at the core office of the contractor ever lost control of any portions of the program. No activities could be found that were delayed in their approval or implementation because USAID or core office attention was preoccupied by other activities in the program. Seventy percent of all funding requests were approved by USAID within 10 days of submission and over 90 percent were approved within 30 days.

However, it is hard to conclude that a replication of this program in another country would be similarly manageable. In the EGTA case, management at both USAID and the contractor appears to be unusually well matched in terms of a common understanding of the objectives, the approach and their respective roles. This, in combination with the surprising degree of delegation of responsibility, has been an important factor in the success of this program. Despite almost daily contact between USAID and EGTA, USAID management seemed to know when not to second-guess the contractor's proposals and the contractor's personnel seemed to combine just the right mix of zealotry for reform and political sophistication in the complex matrix of domestic political interests.

An additional benefit experienced by EGTA and perhaps not available in other countries was that GOP oversight and coordination was not heavy handed. The program had a Steering Committee, chaired by the Department of Finance (DOF) that included the National Economic Development Authority (NEDA), USAID, a private sector representative and a representative from academia. This structure functioned more as an information forum than a control mechanism. The Steering Committee seems not to have raised any objections to the number of activities or the breadth of program involvement.

CHAPTER 3. EVALUATION OF RESULTS

EGTA's activities fall under two Intermediate Results (IR) objectives within the Strategic Objective (SO) taxonomy of USAID. IR 1, "Institutions, policies and practices made more transparent and accountable", encompasses, budget, tax administration, banking and financial markets, commercial law and court-reform, anti-corruption/transparency and governance, and local government finance. IR 2, "Barriers to competition in infrastructure and trade removed", covers activities in a wide variety of productive sectors such as maritime, aviation, telecommunications, e-commerce and agriculture. For this presentation of achievements, activities have been generally organized by recipient institution or by sector. Time did not permit this evaluation to prepare an encyclopedic documentation of all results. Rather, the discussion that follows highlights representative achievements, or lack thereof, to illuminate the essential features of the EGTA approach in order to better understand those that were successful and those that were not.

ACCOMPLISHMENTS

Bureau of Internal Revenue (BIR) Reform

EGTA's principal fiscal reform effort was a comprehensive attempt to restructure and professionalize the BIR. There was widespread acknowledgement that the BIR was significantly underperforming, resulting in annual revenue shortfalls becoming one of the most serious problems for the government. The idea of a radical restructuring of the BIR was attractive to reform oriented professionals both in and out of government and this group championed a legislative approach to restructure the Bureau. This enthusiasm sustained some initial momentum, though in retrospect the attempt seems a bit quixotic. The activity was known from the start to be difficult with the outcome uncertain. However, even partial success was deemed worth pursuing, given the criticality of raising revenue collection.* With a known reformer moving into the Commissioner's chair, EGTA and USAID could ill afford to be seen as failing to support the reform effort.

EGTA provided strong support to the new BIR Commissioner. An EGTA team, at times numbering more than 12 consultants, opened a satellite office in BIR office space. It included not just tax experts but media consultants and legislative specialists. The team worked with bureau staff to restructure and rationalize procedures, educate bureau staff, and produce the necessary operations manuals. However the more important effort was directed at reengineering. EGTA helped with drafting proposed legislation and with mobilizing a reform constituency to support the "corporatization" objective. The intention was to pull the revenue bureaucracy out of the normal civil service structure with its inadequate pay and weak managerial system. Tax professionals could then be given a living wage within a performance oriented management structure, as is done with the Central Bank of the Philippines

* Tax collection as a percent of GDP has always been low in the Philippines. The Commissioner of the BIR stated his data show that in 1997, during the Ramos reform period the central government's tax performance ratio (taxes to GDP) improved to almost 13%. It then proceeded to fall by a percentage point per year until reaching the 9% level where it stabilized – a value more than 2 percentage points below what local economists considered normal in the regional context.

Much of the BIR staff was considered under qualified, under motivated, and in some cases corrupt. The commissioner – a strong believer in transparency – made no secret of his intention to terminate the existing staff, and rehire only those who were qualified. The staff reacted predictably, petitioned the legislature, sought court orders restraining the commissioner, filed criminal charges against the commissioner, and engaged in a PR campaign against the reforms. Most importantly, revenue collection declined noticeably. The enabling legislation, much of which reflected EGTA consultant input to governmental and legislative working groups, failed to pass. The Commissioner resigned when the reduced tax collection presented a political problem to the President. With a new commissioner installed, reengineering faded into the background, collections normalized at the pre-reform attempt level, and the business of the BIR returned to “usual”. The subsequent Commissioner, assisted less conspicuously by EGTA, is reportedly making some headway on reform issues by proceeding in a more incremental and less confrontational manner. In addition, a senior official at the Ministry of Finance told the evaluation team that, in hindsight, the government should have pursued this reform through an executive approach rather than through a legislative approach. However, at the time, the reformers thought they could start a legislative bandwagon.

One could argue that tax reform progress was made. EGTA consultants provided training and expertise in a number of tax administration areas. Procedures were undoubtedly improved. The spade work was also done for systemic reform if, and when, sufficient political will emerges. Some would argue that success was possible, though far from assured, and the risk/reward ratio made it worth pursuing. The timing simply wasn’t right. Others argue that failure lay with the Commissioner who approached the task too frontally. Perhaps a bit less transparency was called for. All this is arguable in a number of directions, but clearly tax reform remains a largely unmet need.

Highway Taxation

More successful was EGTA’s work in the road taxation area. Specifically, it sought to link vehicle taxation to highway usage and damage, i.e., to use taxation to effect reasonable user charges, and apply the receipts to repair of the road system. Here EGTA was able to apply its formula for success. Although the activity’s prime counterpart was the DOF, which wanted to increase general revenue for the budget, the reform promoted was more in line with the Department of Public Works and Highways (DPWH) agenda to retain the funds for road repair. EGTA helped energize transport groups to support the reform, and the DPWH position prevailed. The road network, never good, benefited, although the victory may have been somewhat offset by a reduction in ordinary budget funding.

Customs Reform

EGTA has supported institutional and policy reform in the Bureau of Customs (BOC) since the start of the program. Perhaps the most significant accomplishment facilitated by EGTA, when fully implemented, was to support a shift in the method of valuing imports from a reference value to an invoice value basis. Associated with this change was the development of the system of Post Entry Audit.

EGTA sponsored a study tour to the US for a group of officials from the BOC to observe the operation of the US’s invoice valuation and Post Entry Audit system. This group became quite

enthusiastic about the method and also became an important advocacy group within the BOC. The group urged Congressional passage of needed legislation and EGTA provided them with experts who fully briefed the senate author of the bill. With the passage of a Republic Act, (RA – 9135), the system was authorized.

EGTA helped draft the Implementing Rules and Regulations (IRR) for RA – 9135 and then assisted the BOC create a Post Entry Audit unit. The proposed organizational structure was adopted through Executive Order (EO – 160).

It has been estimated that the system facilitated by EGTA has reduced customs processing time by one to five days compared to the time required to clear imports that have pre-shipment inspection. In fact, the new system obviates the need for pre-shipment inspection and the GOP's contract with Societe General de Surveillance was ended. This contract had cost approximately \$68 per transaction and was 2.5 times more than the BOC's budget requirement.

As part of the overall institutional development effort for the BOC, EGTA consultants have made assessments, provided recommendations, designed new procedures, produced operations manuals, and conducted training seminars. Their efforts were directed at improving efficiency, reducing opportunity for graft, facilitating international trade, improving revenue collection, and conforming Philippine customs rules to WTO requirements. EGTA consultants also work to design systems to use technology to minimize personal level interface of customs officials with those paying duties, and thus reduce the opportunity for graft or extortion. The consultants have also been very valuable in deflecting employee dissatisfaction from the commissioner. To some extent the consultants were seen as the one's making the distasteful recommendations. The commissioner was then in the position of trying to institute international best practices as presented to him by those villains, the Consultants

Local Governance Fiscal Affairs

Local government finance also received attention from EGTA. Initially there was some difference in perspective between the USAID financed GOLD project, supporting the Local Government Units (LGU), and EGTA that became involved when USAID focused on macroeconomic issues related to the reform of the Local Government Code. EGTA, with its DOF counterpart, was concerned that if a greater actual share of central government revenues were allocated to LGUs it would endanger macroeconomic stability, GOLD, by contrast, sought to ensure adequate funding for LGUs and saw this as essential to the success of the decentralization program and the devolution of responsibility to local government. Both project vehicles came to a cooperative understanding of what made sense. An EGTA consultant provided the basic framework and revised revenue sharing formula that seemed to be generally accepted by all. Both EGTA and GOLD technicians were part of the executive/legislative working group to iron out problems and draft the legislation. However, despite considerable expenditure of effort by technicians from both project entities, reform of the Local Government Code died in the legislature—a victim of the interplay between Senate and House Committees and their disparate senses of timing. The GOLD project ended in 2001.

While the reform of the Local Government Code did not materialize, other results were achieved. Specifically, EGTA developed financial management procedures and reporting for LGUs, provided training and manuals, helped resolve reporting chain issues for LGU controllers and

otherwise improved LGU financial management. EGTA also did considerable work in the area of LGU bond issues, including funding credit ratings for an addition 120 LGUs. It also provided technical assistance for a pilot loan program under which the Bureau of Local Government Finance, under the DOF, could provide policy conditioned loans to LGUs. Only one loan was actually made but the activity can now be regularized if and when funding becomes available. EGTA's work in the LGU area appears to have been very necessary and is well regarded by counterparts, but there was no time in the evaluation process to consult with LGUs.

Banking Regulation

EGTA assistance was instrumental in allowing the Central Bank to implement the Banking Reform Act. Without EGTA assistance, the implementation of the Act and the associated shift from flat bank capitalization standards to risk-based standards (per the Basil Guidelines) would have taken years and perhaps compromised bank regulation in the interim. In essence, risk based standards align capitalization and other regulatory parameters with portfolio risk. The shift is not only technically demanding but requires a shift in regulatory culture and philosophy, and in the mind-set of bank examiners. Extensive education, training, and handholding were required. EGTA provided technical explanations and guidance to senior bank management, held workshops and seminars for bank examiners and other bank staff, drafted procedures and a full range of operations manuals. Integral to the effort was a satellite office in the Central Bank where EGTA staff experts directly interfaced with the Managing Director and bank examiners.

The EGTA banking team was also instrumental in the passage and implementation of the Special Purpose Vehicle Law and the Securitization Act. The former related to disposal of non-performing and/or foreclosed bank assets. EGTA technicians were part (*de facto* if not *de jour*) of the executive working group that crafted the bill to be sent to Congress. They worked closely with Congressional staff and congressional working groups which reworked the bill. Though the bill had several flaws added during the legislative process, it passed. Further, EGTA was a key actor in beating back special interest provisions that several congressmen sought to add. This bill essentially allowed banks to free balance sheets from a serious overhang of non-performing assets accumulated over many years.

The Securitization Law of 2004 clarified and facilitated the bundling of various types of debt instruments. EGTA staff worked closely with the sponsoring senator, held seminars/workshops, and took a legislative group (one senator, three congressmen, and two congressional staffers) on an observation tour to draw insights from the US experience in the field. The group met with Fannie Mae, the Mortgage Guarantee Corporation, and U.S. Banks. The bill passed in 2004 and is having a positive effect on the securities market.

Money Laundering

This area was not initially targeted under the EGTA program. USAID focused the contractor's attention on the issue in December of 2000, noting the impact on the cost of Philippine international banking transactions if the Financial Action Task Force (FATF -- the operative international regulatory group) were to sanction the Philippines. (There was no need to mention the well-known USG interest in this field.) While legislation was passed in 2001, it was inadequate and had to be sent back to the Congress for amendments. EGTA helped the Central Bank draft proposed amendments. EGTA facilitated the Bank's effort to form an inter-agency

task force/working group to deal with issue. It provided consultants and drafting assistance to the task force which became chaired by the Department of Justice and it assisted the task force in reworking the draft legislation. EGTA also mobilized a civil society advocacy group on behalf of the legislation. This was followed up with documents, studies and other support as requested by the cognizant congressional committee staff. In the legislative process the bill was somewhat weakened – it fell just short of the FATF requirements. But the Act that was passed was still a great improvement. Sanctions were avoided – or more precisely, postponed, as additional work is still needed. EGTA then worked through the Central Bank, the Securities and Exchange Commission (SEC), the Insurance Council and others to educate the financial community on how to comply with the law. EGTA’s work caused it serious friction with various congressmen and others interests in preserving bank secrecy. Nonetheless, without EGTA proactive involvement, a bilateral spat with the U.S. (seen as the power behind the FATF) might well have been more serious than the adverse publicity EGTA encountered.

Capital Markets, Commercial Law and court-reform

EGTA was active in most policy aspects of capital market regulatory reform. It’s most important accomplishment appears to be facilitating passage of a comprehensive regulatory regime intended to curb a broad range of stock market abusive practices. It followed an insider trading market manipulation scandal involving more than half the brokers on the Philippines Stock Exchange. Working closely with the SEC, EGTA was active in all aspects of the legislative and regulatory process leading to passage of the Securities Regulation Code (SRC). This included legislative drafting, researching and responding to questions and proposed amendments; briefing and preparing speeches for policymakers, providing assistance in connection with hearings and floor deliberations, and preparing a legislative history. EGTA has since been active in preparing rules and regulations implementing the new code; and in helping to stave off attempts in the legislature to weaken it. These reforms are considered vital to any hope for substantial expansion of the stock market and foreign equity investment in Philippine stocks. The new code and its implementing rules were praised by a joint IBRD/IMF mission as providing a-more-than adequate regulatory and legal structure for the capital markets.

Institutional development of the exchange and its regulatory body was also part of the EGTA agenda. Most notably, the program also played a strong role in the SRC-mandated “demutualization” of the stock exchange – essentially turning an “old boys club” into a modern, more efficiently administered exchange. It provided training and real time technical assistance to the SEC and its personnel. Illustratively, EGTA training in investigative and litigation techniques provided the basis on which the SEC and the Department of Justice moved forward with the long-stalled prosecution of those involved in the 1999 Stock market scandal. The SEC had asked also for assistance with actual investigations and prosecutions. The EGTA team felt that this would be inappropriate, a position which in retrospect is more appreciated by the counterpart.

Working with the consumer affairs division of the Department of Trade and Industry (DTI), EGTA advisors were also instrumental in curbing abuses in the “pre-need” industry (prepaid installment plans for education, pensions, funerals, etc – a major financial product in the Philippines.) This effort earned EGTA a great deal of special interest enmity. The EGTA group manager, for example, was threatened with a lawsuit for economic sabotage. Lastly, EGTA

helped bring about a fixed income securities exchange; and it help install and train SEC staff to operate an ADB-funded “early warning and control system”.

Anti-corruption, Transparency, and Governance

In terms of the pervasiveness of corrupt practices, international NGOs that follow such issues, have consistently rated the Philippines as second only to Indonesia in this part of the world. In the opinion of many economists, corruption is the single most debilitating obstacle to developmental progress in the Philippines. However, a discrete anti-corruption activity was not anticipated under the original EGTA life of contract workplan. Initially, the Philippines’ Ombudsman was not seen as an appropriate counterpart. But with the change of administration in 2002, a new Ombudsman was named. Not only did he have the personal commitment and demonstrated integrity, he also appeared to have the prerequisite bureaucratic skills, and stature to make a substantial impact. The entire donor community was excited, but essentially, only EGTA could provide immediate assistance.* At the USAID’s request EGTA undertook an assessment of the Office of the Ombudsman to identify possible areas of assistance, given the change in management. The findings were dismal – for example it had a conviction rate of only 6% on the few cases it sought to bring to trial. It lacked trained staff, modern equipment, defensible procedures, etc. However, the new Ombudsman embraced the study (he later called the EGTA assessment his “bible”) and asked for and received comprehensive EGTA support – including training**, computers, software and other IT commodities.

EGTA has been largely engaged in training, developing and institutionalizing procedures, and generally improving the technical competence of the Ombudsman’s prosecutors. Because the judicial process is so slow, the courts are still trying cases instituted under his predecessor and the conviction rate is only gradually beginning to rise. However, the Ombudsman proudly notes that in his conversations with judges on the Corruption Court, the justices complemented him on a major improvement in the performance and demeanor of his prosecutorial staff. This he credits almost entirely to EGTA. He expects when the training of his staff is more complete and his own initiated cases come before the courts, the conviction rate will rise sharply and constitute a real deterrence to official corruption.

The existing Interagency Anti-Graft council was largely moribund – it had no dedicated resources or staff. EGTA helped revive it, providing staff resources and equipment and effectively becoming its secretariat. It helped the council with institutionalizing the Integrity Protection Service in the DOF, the equivalent of an inspector general’s office in a USG agency. The council itself was chaired by the Ombudsman and consisted of the heads of the three “constitutional” agencies concerned with anti-government corruption: The Office of the Ombudsman, the Office of Audit, and The Civil Service. There is a fortuitous near coincidence of views among the council members and between them and EGTA.

The Ombudsman’s Office remains small and understaffed – 37 investigators for a 1.5 million person government work force. The Congress apparently likes it that way. They refused to approve additional funding. The President found discretionary funds to more than double the

* There also was a small and narrowly defined UNDP activity available.

** The Ombudsman’s office funded the first seminar, using nearly all its training budget, as the EGTA “scandal” was just breaking. EGTA funded most of the later training. This activity escaped public notice, perhaps because the governance group in EGTA was so new, it was not shown on the DAI website.

investigative staff from 17, but even so the office is woefully understaffed and under funded. In a sense the new Ombudsman is still gearing up. Targeting of senior grafters and high profile targets is likely – and with it could come more attacks on EGTA. But these, if and when they materialize, are best seen as evidence of increasing effectiveness.

EGTA's governance group's anti-corruption work was just getting started as the congressional storm over EGTA broke. Thus the lessons of that problem were incorporated into the operating style of the governance group and its counterparts. The Ombudsman and EGTA personnel fully appreciated the need for counterparts to be out-front and EGTA deep in the background. To some extent, the experience here will test the modified EGTA model -- i.e., with the EGTA staff keeping well out of the limelight. In any case, an energized Office of the Ombudsman with the office mantra "make corruption a high risk, low reward activity" is much to be welcomed and supported.

The Ombudsman had high praise for the EGTA program, its personnel, and USAID. He is of course concerned by the impending termination of EGTA – he badly needs its resources and expertise. Other donors have indicated an interest in supporting his efforts but such programs so far have been late in coming and narrow in scope. Of greatest concern, no one else is prepared to get into the prosecutorial training and enforcement area – his most pressing need.

Government Procurement

EGTA assisted in the drafting and passage of the Procurement Reform Law of 2001, and the related implementing rules and regulations. The Department of Budget and Management (DBM) believes the procurement reform established by the law, reduced procurement costs by 30 percent during the 2nd half of 2001 and the 1st half of 2002, the year following its implementation. More specifically, 30 percent was saved on a central government procurement budget of some 65 billion pesos. The law also applies to local government procurement, and comparable savings on the 45 billion pesos of LGU annual expenditures are also thought to be occurring. In addition, procurement times were reduced from 7 to 12 months to 3 to 4 months. This was accomplished through introducing a competitive open bid system with reasonably efficient procedures and deadlines. Senior officials within the DBM flatly state that this would not have been possible without EGTA's advocacy support on behalf of the DBM's. EGTA's expatriate consultants drafted the legislation based on best practices in the U.S. and elsewhere. EGTA's Filipino consultants adapted this to the Philippine context. EGTA mobilized civil society and interest groups on behalf of the procurement reform effort, and EGTA consultants worked with the congressional committees and their staffs to draft provisions and explain these in the context of best practices around the world. One senior DBM official opined that this success alone would be sufficient to justify the entire EGTA program.

By all reports the EGTA's performance in this area is praiseworthy. Counterparts had great confidence in the technicians and management of EGTA and were prepared to give them wide latitude. The counterpart believes that the program, in this area, was always operating within the Department's agenda and never exceeded its brief. The DBM experience was very positive and the hope is strong that there will be a follow-on activity to EGTA.

Investment Policy

EGTA prepared two important studies related to issues in this area. One was a study of fiscal incentives associated with various investment promotion schemes. The other was a comprehensive study of the GOP's contingent liabilities, largely arising from government corporations and Build – Operate – Transfer (BOT) projects.

The DOF requested the study of fiscal incentives because it feared that investment promotions were too generous and perhaps unnecessary. Ultimately, the DOF sought legislation to restrict the amount of fiscal incentives being offered. However, various business groups such as chambers of commerce resisted the proposed legislation and Congress took no action.

On contingent liabilities, EGTA's study compiled for the first time a comprehensive listing of all potential debt obligations of the GOP. In addition, it helped establish the system that kept the list up to date. Although the information obtained did not lead to further DOF efforts to control the issuance of future contingent liabilities, the DOF remains concerned about the issue and is continuing to improve its information system with World Bank assistance.

It should be noted that EGTA's life of contract workplan contained a good discussion of BOT investments and suggested possible activities in this area. However, little was done as USAID had developed another activity outside of EGTA that supported the BOT concept among other things.

Competition Policy

EGTA's original intent in this area was to assist in the preparation and passage of anti-monopoly legislation. However, after analyzing the issue and the political environment for passage of such legislation, EGTA decided that a better use of its resources was the pursuit of increased competition in specific areas that were dominated by monopolistic or oligopolistic elements. Thus, activities toward this objective are described elsewhere in this report under the topics of maritime, aviation policy and telecommunications.

Maritime

The life of contract workplan only briefly described the maritime sector. It pointed out that lack of competition characterized port handling and low tariffs for berthing and handling set by the Philippine Ports Authority (PPA) discouraged investment. However, energized by a decision to reverse an early policy on port management, EGTA engaged in the sector to stop this policy reversal. The decision of the government (Executive Order 59) that energized EGTA was to award a single contract to a non-competitively selected, private sector firm for the management of all ports in the Philippines.

The government's decision to reverse its earlier policy permitting competition in port management was widely disliked by reformists and those using inland shipping in their businesses. EGTA, through its contacts in the business community facilitated the formation of the Coalition for Shipping and Ports Management (CSPM). This was organized to be an advocacy group to oppose EO 59. The Center for Research and Communication (CRC), a private sector think tank, was enlisted to provide secretariat support to the CSPM. The CRC, in

turn, requested EGTA to provide the technical support needed for their role as secretariat to the CSPM . The CSPM focused its efforts to rally support among the business community through presentations and networking with the Makati Businessmens Association and the Philippine Chamber of Commerce and Industry, among others. In addition, EGTA worked with the Export Development Council (a quasi-government council with private and public members) to establish a constituency within the government for the repeal of EO 59.

The result of EGTA's efforts was the repeal of EO 59, the limiting of current contracting of port management to North Harbor, and the use of competitive bidding to select the contractor. Unresolved, but still being pressed, is CSPM's desire to require two contractors to manage North Harbor. EGTA's involvement in this activity, however, essentially stopped when the first three objectives were achieved.

In the process of reversing EO 59, an EGTA consultant was asked by the Philippine Chamber of Commerce and Industry to represent it on a new National Ports Advisory Council established by the President to recommend port handling tariffs reform. In analyzing this issue, ETGA resurrected a ten year old USAID financed study on the cost savings associated with Roll-On-Roll-Off (RoRo) technology. This study noted that the problem was not so much in the tariffs, but rather in the relatively higher cost method of loading and unloading inter-island ships. A full 46 percent of the cost of inter-island freight was due to the Load-On-Load-Off (LoLo) technology.

In EGTA's assessment, the promotion of RoRo would resolve the issue of tariffs by introducing competition in the method of shipping. The outcome would be a cost savings to those who firms that relied on inter-island shipping for their raw materials and products. EGTA then facilitated the formation of an advocacy group in Mindanao called the Mindanao Shippers Confederation. EGTA also knew that the National Economic Development Authority (NEDA) was interested in improved efficiency in inter-island shipping and the Development Bank of the Philippines (DBP) was anxious to make several loans for port handling. With full support of the NEDA and DBP, several new investors were attracted to start RoRo services. As soon as they become operational, shippers who used their services realized an immediate 25 percent reduction in handling costs. In addition, there was a significant improvement in the movement of people as inter-island busses no longer had to off-load their passengers at each island crossing. This development was particularly welcomed by the Department of Tourism.

Despite the full support of the President, RoRo is estimated to carry only 5 to 10 percent of inland cargo. One reason is that, at first, trucks were only licensed for operation on one island since no one had envisioned the RoRo technology when the licensing concept was introduced. Second, at existing ports, labor has pressured RoRo shippers to pay the LoLo fees even though there are no workers involved. An Executive Order has been issued to stop this practice but it has not as yet been implemented. Thus, the effort is now to promote RoRo investment in new facilities outside existing ports. However, few if any new RoRo investors have appeared although USAID activity in Mindanao is supporting investments in RoRo ports.

Telecommunications

Problems in the telecommunications sector figured prominently in EGTA's Life of contract workplan. In particular, the frequently difficult interconnection of phone calls through the

Philippine Long Distance Telephone Company (PLDT) facilities was highlighted as an important policy interest of EGTA. The local carriers felt that the PLDT was under investing in interconnection facilities because many calls were not getting through. This meant that phones were not always reliable with consequent negative costs to business development as well as an aggravation for private users. At the request of several members of the National Telecommunications Commission (NTC), EGTA investigated the problem and found that PLDT had been engaging in discriminatory practices that were more responsible for the interconnection problem than the dearth of facilities. In addition, at the request of the NTC, EGTA prepared a study of the issue of universal access, a proposal for cost based pricing of interconnection charges, and a proposal for the automatic frequency allocation system needed for expanding the mobile phone system.

In the interconnection issue, the NTC requested each of the phone companies to submit a paper describing their problems and proposed solution. EGTA then analyzed these papers and submitted its recommendations to the NTC. The NTC, however, is not a strong regulatory agency and had to forge a consensus among the phone companies in order to issue binding regulation. Before the NTC could reach a consensus, President Estrada stepped in and demanded that the phone companies reach a solution as he, himself, was experiencing connection problems. With this degree of political support and with EGTA's technical input, agreement was reached among the larger companies that have eliminated the problem. Some work remains to resolve the problem for smaller, rural based companies.

The resolution of this problem, coincident with the dramatic drop in international telephone rates, has led to the development of the telephone call center industry, which is estimated to now employ 40,000 people.

Meanwhile, the NTC is pursuing revising rates based on a cost based methodology and activating a system of automatic frequency allocation. However, the evaluation team was told by a knowledgeable interlocutor that there is substantial opposition outside the NTC to the cost based pricing system and it has not been agreed to as yet. Also, within the Commission, there is opposition to the automatic frequency allocation system and no agreement has been reached there either.

Aviation

The life of contract workplan contained a one sentence reference to aviation, noting that competition had been introduced in domestic passenger services under President Ramos. However, international aviation services remained dominated by a single carrier. EGTA task management was well connected to aviation reformers and they began to direct their attention to this area early in the program. Initially, EGTA's activity focused on implementation of President Ramos's EO – 219, which legally liberalized air transportation. Later, EGTA worked to achieve a "pocket open skies" EO for Clark and Subic airports.

Taking advantage of public criticism by a Mindanao local government representative of the oligopolistic behavior of the Civil Aviation Board (CAB), EGTA helped organize an advocacy group called the Freedom to Fly Coalition (FFC). Its membership included public and private sector aviation reformers. EGTA consultants served as officers at various times of this organization. In addition, EGTA engaged a supportive government counterpart, the

Department of Tourism, to press the reform agenda within the government. Through various fora and publicity, this advocacy group was able to move the GOP to form a more representative CAB. Today, representatives of the localities that have international airports participate in the CAB and in its international air service agreements negotiations. The benefits of this reform are that the second Philippines international air carrier has been able to expand its services and real competition in the industry now exists. This has resulted in a dramatic lowering of airfares to other countries in the region and a rise in tourism. On average, each new tourist provides the resources to bring one additional Filipino into the paid workforce.

In the case of Clark and Subic airports, the GOP created development corporations to promote their use for cargo. Both UPS and FedEx signed agreements with Clark and Subic respectively to use these facilities as regional hubs. U.S. cargo air carriers had unlimited air service rights to the Philippines as a result of a 1982 U.S./Philippines bilateral agreement. However, certain Philippine interests challenged the right of these carriers to provide onward cargo services to the other countries in the region (so called Seventh Freedom rights). While the carriers adamantly maintained that they were operating within the law because all of their onward flights connected to the U.S., the public debate introduced an unnecessary risk for their investment and expansion plans. This condition therefore constrained the full development of Clark and Subic airports.

Again, through a focused EGTA program of information and advocacy, the GOP was persuaded to issue an EO in 2003 that specifically granted “open skies” status to Clark and Subic airports. This provided full legal assurance that the investment and expansion plans of the cargo carriers using these airports was secure.

This reform is making the Philippines a major air cargo hub and is generating thousands of jobs at Clark and Subic airports. This is particularly meaningful, given the depressed economies of these areas following the closure of the US military facilities.

Agro-business

EGTA’s life of contract workplan includes a number of agro-business topics on its policy agenda; protection of intellectual property rights for plant varieties, tariff reduction on imports, and WTO-consistent sanitary and phytosanitary regulations. In the area of agro-business, EGTA was essentially continuing activities started under previous USAID assistance, although a number of new initiatives were undertaken.

The most important effort of EGTA was its support for the issuance of Administrative Order (AR) – 8, in April 2002, which provided guidelines for the release of genetically modified (GM) material into the environment. This Order provides for science based testing of GM plant and plant material to be imported, field tested, propagated or used in direct consumption in the Philippines. EGTA experts essentially drafted these guidelines and assisted in their implementation after issuance. In addition, because the issue was intensely debated publicly, EGTA provided a grant to the International Services for the Acquisition of Agri-Biotech Applications (ISAAA), a recognized international advocacy group to develop a local advocacy organization called Biotechnology Coalition of the Philippines (BCP). An EGTA consultant became its executive director. This local advocacy group engaged in the public debate and provide scientifically based popular information to counter the criticism of the opponents. The

guidelines are considered a model in the region and were approved by the Secretary of Department of Agriculture (DAg) who had earlier disapproved of GM materials.

A second important activity was EGTA's support for the development and enactment of a Plant Variety Protection law (RA – 9168), passed in June 2002, and assistance in the preparation of its related IRR's. While the law was needed as part of the GOP's efforts to become more fully compliant with WTO requirements, the most important reason for the law was to provide legal protection of proprietary plant varieties. This protection was needed to stimulate new investment in agriculture and agro-industries. Drafts of the law had been under discussion in the Congress for some time, but opposition interests were threatening to vote in a non-compliant law to assert Philippines sovereignty and to respond to certain domestic interest groups.

The DAg, which was promoting the passage of a WTO-compliant law, requested EGTA to assist its advocacy efforts with the Congress by helping them provide expert technical briefings of Congressmen and their staff. EGTA agreed and provided briefings to DAg staff and accompanied DAg personnel when they went to Congress to answer questions or provide information. After passage of the Act, EGTA organizing a two day conference of DAg staff and EGTA experts to draft the IRR's for implementing the law. These IRR's have been approved and are now operational.

EGTA has continued its work in the biotech area by drafting the guidelines needed by small farmers to inhibit the development of Bt immune insects. These guidelines have also been approved and issued by the DAg.

Finally, EGTA engaged in the issue of labeling of products that contain GM crops. Anti-biotech organizations were expected to demand that each of these products state all of the GM components in the product, consistent with Philippine law on food labeling. EGTA proposed a voluntary negative labeling that permits any producer who does not use GM components to state "this product does not contain any GM materials" on the label. This approach has satisfied the various interest groups and its issuance is expected shortly.

It should be noted that EGTA also carried out a variety of smaller activities. One example was the training of judges dealing with biotech issues in which local law conflicts with national law. This training may have improved the adjudication process but did not lead to eliminating the conflicts between the two sets of laws. Also, EGTA was asked by the Department of Science and Technology to help it commercialize local biotech products. This activity was terminated early due to lack of progress.

Food Security

Food security, as a discrete topic, did not appear in EGTA's life of contract workplan. However, it was an area that had received USAID assistance under a prior agriculture activity and it did fit within two themes that were important to the EGTA policy agenda. These themes were increased competition in markets and understanding the GOP's contingent liabilities.

The problems in the food security area related to the rice import monopoly held by the GOP's National Food Authority (NFA), the lack of transparency of NFA's domestic rice procurement program, and the fact that the NFA had accumulated a substantial contingent liability (20 billion

Pesos) for the GOP by borrowing the funds needed for the rice subsidy rather than receiving the funds from the budget. The NFA asked EGTA to review its financial situation and propose options for resolving its financial problems. The request was limited to financial issues and was not supposed to review the Authority's charter.

EGTA agreed to study the matter but informed the NFA that its findings would be reported to the NEDA and the DA_g. The NFA agreed to proceed but did not want the results sent to the NEDA or DA_g since these offices were looking for reasons to restructure the NFA. When EGTA completed the study and presented options, the NFA refused to comment because EGTA had reviewed its charter and recommended, among other things, that NFA's import monopoly be ended. However, NEDA and DA_g liked the plan and were able to bring sufficient pressure to obtain a partial relaxation of NFA's import monopoly. This took the form of NFA agreeing to authorize farmer groups to import rice upon application to the NFA for permission.

A second issue was raising the base domestic procurement price paid by NFA. With inadequate funds, NFA could not ensure the floor price and with subsidized retail sales keeping the price low, private traders were able to pay farmers less than NFA's base procurement price. The solution here was to extract the NFA from its dominant role in the rice market by either eliminating the Authority or restricting its mandate to emergency food security matters. Import and retail sales would be open to all and the poor would receive subsidized rice through a targeted program managed by the Department of Social Welfare and Development (DSWD)

EGTA's assistance on these topics stopped in early 2001 when the ADB provided technical assistance to strengthen these areas. However, after 18 months, the ADB assistance had not achieved its goals and EGTA re-engaged to pursue the issues.

At this time, there is still no legislation to restructure the NFA and the subsidized rice program has not been transferred to the DSWD. Farmer groups are allowed to obtain permission from NFA to import, but none have done so. While this represents a potential avenue for ending NFA's import monopoly, it also provides the NFA with an opportunity for rent seeking behavior.

Trade

In this sector, EGTA started with the provision of technical assistance on trade policy with the Tariff Commission and the Department of Trade and Industry (DTI) and institutional development support for the Bureau of Customs (BOC), discussed more fully above. Assistance to the DTI supported the GOP's commitment to a uniform 5 percent tariff, consistent with WTO requirements. EGTA prepared a study of the effective rate of protection and was prepared to provide other support when it sensed that the political environment was not appropriate for the effective use of its services. Specifically, the GOP saw the policy issues as sovereignty issues and the counterparts began to show a reluctance to rely on advice from USAID financed consultants. Consequently, EGTA's assistance to the Tariff Commission and the DTI effectively ended in 2000 with its support for EO – 133, which reduced tariffs on key agricultural and fishing inputs to zero.

Intellectual Property Rights

EGTA's involvement in this sector represented, to some extent, follow-on activity from prior USAID assistance. As in most areas, EGTA initiated its involvement with a diagnostic study. The study found that there was a 40 percent piracy rate for video, a 60 percent rate for audio and an 80 percent rate for business software. This pointed to the need for strengthening the powers of the regulatory body and increasing border surveillance to stop the import of pirated materials from other parts of Asia.

As in other sectors, EGTA supported the passage of legislation to strengthen copyright protection. The legislation under discussion was to create an Optical Media Board. EGTA organized an advocacy group composed of supportive individuals including artists and entertainers who had been victimized by piracy. Known as the Intellectual Property Coalition, an EGTA consultant was invited to join but recused himself because he was involved in an advocacy coalition that was dealing with legislation in another sector. Nevertheless, without EGTA's involvement in the management of the group, their interest in the legislation and their willingness to devote time resulted in the passage of the bill into law in February 2004. EGTA subsequently provided some assistance to help develop the operations of the Board.

Related to this activity, EGTA helped the Bureau of Customs develop an Intellectual Property Rights enforcement unit, suggesting the structure for the unit and providing training. EGTA also provided software which helps the unit profile the risks that particular imports may contain pirated materials.

E – Commerce

Activity in this area began early on in the program. Inspired by the boom in the dotcom industry and the widespread use of the Internet, EGTA and its counterparts in the Department of Transportation and Communications were anxious to support its growth in the Philippines. Legislation was needed as was an official group to promote and regulate activities in e-commerce. In 1999 an appropriate bill was under review in the Congress and EGTA consultants provided briefing on the issues to Congressional staff. The legislation was passed containing a number of important elements such as the creation the Information Technology and E – Commerce Council (ITECC), authorizing the use of digital signatures, and establishing documents transferred through the Internet as legal and binding.

EGTA provided assistance to the newly formed ITECC to develop its vision, operating procedures and overall workplan (The director termed it "ITECC's Roadmap). This provided a clear statement of the activities ITECC planned to undertake or support in the future. The counterpart felt that EGTA was chiefly responsible for this product and it was its most important contribution. EGTA, however, while seeing value in the Roadmap, felt that its most important contribution was the digital signature component of the law. This, they felt, would open significant new efficiencies in the movement of official business documents and financial assets.

However, while enabled, there does not yet seem to be significant demand to use the Internet for the transfer of official documents or funds among business and banks. In addition, e – shopping is still in its infancy in the Philippines.

CHAPTER 4. POLICY AND INSTITUTIONAL RELEVANCE

As originally envisioned, EGTA had two broad objectives: to contribute to continuing policy liberalization in the Philippines, and to assist in efforts geared towards increasing the degree of competition in the Philippine economy. The latter was particularly important to address the growing inequity in the distribution of benefits from the recent dynamic (albeit interrupted) growth of the economy.

The MTPDP 1999-2004 promulgated by the Estrada administration espoused a vision of sustainable development and growth with social equity. Its priority thrusts were the following:

1. Acceleration of rural development
2. Delivery of basic social development services
3. Strengthening competitiveness
4. Sustained development of infrastructure
5. Ensuring macroeconomic stability, and
6. Reforming governance

EGTA sought to support these thrusts of the Philippine government by initially identifying the following as the areas of policy interventions with which it would assist the Estrada Administration:

- Strengthening the financial system
- Securing macroeconomic stability
- Improving the tax and public expenditure systems, and
- Enhancing the degree of competition in the Philippine economy

In so doing, the EGTA policy agenda in effect addressed thrusts 3, 5 and indirectly 1 and 6 of the MTPDP 1999-2004.

In strengthening the financial system, EGTA chose to focus on imperatives in three areas. First was the need to continue providing for sound regulatory and supervisory systems. Second was the need to sustain and accelerate the momentum for capital market policy reforms in order to improve the depth and breadth of the financial system. Third was the need for capacity building for financial institutions to improve the financial intermediation process and contribute to capital markets development.

In promoting macroeconomic stability, EGTA noted and sought to support the expressed objectives of the Estrada administration systematically to reduce the government deficit, continue and enhance strict bank supervision, manage the foreign exchange markets to reduce volatility and maintain competitiveness of the export sector, and implement prudent monetary policies to reduce pressures on domestic prices.

On the improvement of tax and expenditure systems, EGTA sought to assist in the implementation of recently enacted tax laws, including the Comprehensive Tax Reform Program (CTRP), for which implementing rules and regulations (IRRs) needed to be formulated. It also directed efforts at improving tax compliance, capacity building in tax revenue estimation and rationalization of fiscal incentives.

In enhancing the degree of competition in the Philippine economy, the two main objectives addressed were trade liberalization and facilitation through the removal of trader and other non-trade barriers, and investment liberalization and facilitation through the elimination or lowering of the barriers to entry to domestic ventures. It is in these areas where resistance from certain sectors of the economy made the work more challenging, and required stronger efforts at advocacy from the very start.

The ouster of President Estrada in early 2001 led to a reformulation of the MTPDP to one reflective of the redefined priorities under the leadership of President Gloria Macapagal Arroyo. The revised MTPDP 2001-2004 identified four major thrusts:

1. Macroeconomic stability with equitable growth based on free enterprise
2. Agriculture and fisheries modernization with social equity
3. Comprehensive human development and protecting the vulnerable, and
4. Good governance and the rule of law

By then, governance had assumed center stage in the focus of the development strategy, given the widely perceived weaknesses in governance of the overthrown administration. Apart from graft and corruption, inconsistency in government policies and actions and weak implementation and enforcement had increasingly become deterrents to greater investment and began to bear on the country's economic performance. But in spite of wide initial expectations to the contrary, the situation was not perceived to have changed significantly under the new leadership of President Gloria Macapagal Arroyo, as policy reversals continued to plague the economic landscape. Worse, key judicial decisions cast doubt on the finality of policies and of contracts, serving to further dampen overall confidence in the country's business climate and the economic prospects. It is in this context that EGTA faced new challenges, including one that was to thrust it into wide public attention and force it into a defensive mode.

The responsiveness of EGTA to actual government priorities and requirements is a function of the degree of the country's ownership of the program's work plan. EGTA has tried to ensure such ownership by formulating its work plan in close consultation with appropriate counterparts primarily in government, but also with those in the private business sector and in civil society, especially academic and the non-government organizations (NGOs). The logical starting point was the MTPDP, initially the Estrada plan and subsequently the revised MTPDP 2001-2004 of President Gloria Macapagal-Arroyo. The first State of the Nation Address (SONA) of President Macapagal-Arroyo in January 2001 also set the tone for the reform priorities from that year onwards. It is worth noting that the substance of this SONA itself and later ones had also benefited from EGTA research and advocacy work.

But what sharpened the focus of the EGTA work plan was direct eliciting of sectoral priorities from specific departments and agencies themselves. At the department or agency level, EGTA focal persons assigned to the client departments/agencies were tasked to meet with the respective department/agency heads in order to determine their perceived sectoral priorities, in order to guide more detailed work plan formulation. These meetings between department/agency heads and the respective EGTA agency focal persons were occasions for eliciting the former's perceptions on sectoral priorities and requirements, as well as for validating the latter's own preliminary ideas and proposals on the same.

This consultative process helped identify remaining sectoral reform gaps, like issues in inter-island shipping, international civil aviation, the energy sector, retail trade, banking and finance (e.g. bank secrecy), and so on (i.e. the first bullet above). These consultations likewise led to identification of the institutional and operational constraints that needed to be addressed in order to enforce or implement policy reforms already in place, e.g. BIR incentive structures, budget information systems, establishment of an open debt market, government procurement system, competition policy (i.e. the second bullet). Indeed, the bulk of the EGTA work plan proved to be in the nature of such institutional and operational interventions to achieve effective implementation of policy, given that much of the macro-level reforms were already in place by then.

This process led to a listing of specific concerns and activities requiring technical support and resource interventions, ranging from policy analysis research, to institutional capacity-building initiatives, to policy advocacy activities especially in the legislative front. In each case, EGTA support accomplished any of the following: (1) addressed remaining sectoral gaps in policy reforms and/or expand their coverage, (2) undertook policy analysis research to provide empirical support for reforms and strengthen advocacy for greater public awareness and to facilitate policy discussions in Congress, and/or (3) addressed the need to strengthen institutional capability to implement and sustain reform.

RESISTANCE TO POLICY REVERSALS

Of a somewhat more “fire-fighting” nature was the category of activities consisting of initiatives to respond to or resist measures that would either reverse or modify prior policy directions. A good example was Executive Order No. 59 issued early in the Estrada presidency, which would have provided for a single entity to provide port handling services all over the country. Being in clear contravention of the policy against monopolies and cartels pursued vigorously under the previous administration, the EO raised a strong adverse reaction from the private sector and academic circles. EGTA came in and supported advocacy activities aimed to reverse issuance of the EO, which met with success, albeit partial, with the subsequent revision of the EO to cover only Manila’s North Harbor.

On the other hand, EGTA was conspicuously absent from the efforts to resist the reversion of tariff reforms undertaken in the 1990s that phased down import tariffs with the intention of achieving a uniform rate of 5 percent by 2004. However, this absence was reportedly not so much the product of neglect as of prudence. The decision for EGTA to withdraw itself from the tariff reversal discussions was deliberate, and was reportedly reached in agreement with government counterparts. This was based on the judgment that EGTA’s involvement in the issue could have become a more of a liability than an asset to the campaign to resist the policy reversals, given the likelihood of being linked to US bilateral interests.

SIGNIFICANCE OF AGILE-SUPPORTED REFORMS

Without necessarily claiming primary credit, EGTA reports having provided support towards the eventual passage of some 18 Republic Acts, 8 Executive Orders, and numerous department orders and memorandum circulars defining sectoral rules and regulations, and implementing

various improvements in government processes.* It is difficult to provide a definitive list of the most critical or most important reforms as those involved in different aspects of the economy would naturally hold different views on which reforms were most needed or beneficial to them. In addition, some of the reforms have not yet elicited the economic response expected because of other factors in the Philippine's economy or due to the worldwide economic slow down. Nevertheless, reforms that appear to have provided the most immediate economic benefit include the following:

- RA 9184 Government Procurement Reform Act (and its IRR's).
- RA 8799 Securities Regulation Code (and its IRR's).
- RA 9135 Customs Valuation Law (and its IRR's).
- RA 9168 Plant Variety Protection Act (and its IRR's).
- RA 9230 Legislation Creating the Optical Media Board.
- RA 9160 and RA 9194 Anti-Money Laundering Law and Amendments (and their IRR's).
- AO 8 Rules and Regulations for the Importation and Release into the Environment of Plant Products Derived from the Use of Modern Biotechnology.
- EO 133 Reduces tariffs on key agriculture and fisheries inputs to zero.
- CAO No. 6-2002 Rules and Regulations Implementing RA 8293, also known as the Intellectual Property Code of the Philippines.
- EO 308 (repealing EO 59) on privatization of port operations.
- IRR's for EO 219 liberalizing domestic and international civil aviation.
- MC No. 01 Rules on Telephone Interconnection.

In the longer term, the following should also provide substantial benefits to the Philippines economy:

- RA 8762 Retail Trade Liberalization Act of 2000.
- RA 9182 Special Purpose Vehicle Law (and its IRR's).
- RA 8792 Electronic Commerce Act.

* A complete list is found in Appendix 2.

CHAPTER 5. SATISFACTION OF CLIENTS AND STAKEHOLDERS

Overall, the government and private sector counterparts interviewed by the evaluation team held EGTA in high regard professionally and interpersonally. There were strong expressions of satisfaction with EGTA technical products as well as their responsiveness to requests for assistance. They felt that EGTA consultants were knowledgeable, creative, enthusiastic and hardworking. The evaluation team was often told that the heavy reliance on Filipino experts, rather than expatriates, was particularly helpful since these consultants had a better understanding of the culture and processes of the GOP counterparts. In general, there appeared to be excellent working relationships between the counterparts and EGTA consultants.

Counterparts were particularly pleased with EGTA's ability to respond quickly not only to their larger agenda needs, but to small requests that were urgently needed by the counterpart in day-to-day matters. In one occasion, EGTA quickly, but comprehensively, briefed a new government appointee just before she was to have a press conference at the time she was sworn in. As a relative newcomer to the topic, she was extremely pleased that EGTA had provided her with the ability to answer the press's questions and project a sense of leadership authority in her new job. In another case, EGTA provided a technical review of an article being prepared for publication by a counterpart. Several counterparts noted that in addition to the consultants' particular expertise, they provided a sort of "back-up" staff who could be quickly called upon to double check their own staff's work. Virtually all counterparts noted that they knew of no other source of help in these matters from any other donor program.

Counterparts gave EGTA high marks for responsiveness when compared to other donors' programs and the internal procedures of the GOP itself. They said it was much faster and covered more contingencies than any other donor vehicle. Moreover, they assert that it was far faster in both decision-making and procurement than the GOP in those rare instances where government funding was available to meet a technical assistance need. Greater flexibility in providing urgently needed hardware on an ad hoc basis was also noted.

The counterparts felt that the GOP as a whole badly needs a fast response capability from the donor community – and only EGTA had it. For example, at the time of his appointment, there was a collective donor interest in assisting the new Ombudsman's agenda. As it turned out, only EGTA could provide the immediate assistance needed. Without that assistance, there would not have been any early momentum built up and a good opportunity would have been lost. Last, the very flexibility of the EGTA instrument allowed AID to back off when another donor's funding or interest became available for an area in which EGTA was involved, freeing program funds for another need.

However, professional and interpersonal relations always have their ups and downs. EGTA is no exception. Interspersed with praise for the program and its staff, counterparts offered their opinions on experiences that should guide future design efforts of similar programs. In addition, EGTA staff was forthcoming in noting areas where experience taught them to adjust their approach. For example, in one area, the counterpart felt that the EGTA consultant was getting ahead of the counterpart's agenda and seemed to be operating as a member of the counterpart's management team. The counterpart noted, however, that as soon as the problem was brought to the attention of EGTA management, the consultant was immediately replaced. The counterpart felt that the working level consultants, particularly the locally hired consultants who had worked

in the GOP before, should be briefed ahead of time to be sensitive to their role as an advisor to the counterpart's staff rather than a member of the counterpart's staff.

On two occasions, friction developed between the counterparts and EGTA over policy differences. In the case of temporary safeguards related to agricultural imports, the DAG felt it had a right to use quantity restrictions under WTO guidelines for developing countries. EGTA disagreed with this interpretation, citing WTO legal opinions. At one point, the Secretary considered asking EGTA to close its satellite office but changed his mind after considering the other technical support he was receiving from EGTA. In the case of food security, the NFA requested a financial analysis of its debt problem but EGTA's study included a review of the NFA's charter. The counterpart had not wanted this aspect of the inquiry because he felt it could be used against his agency by other elements of the government. In fact, this is what happened. The NFA then refused to provide its official comments to EGTA on the report and assistance to the NFA was terminated.

On occasion, counterparts were upset by what they saw as counterpart "shopping" by EGTA. In the case of the NFA and in a second case, this tactic was seen as a way for EGTA to carry out its own agenda rather than that of the counterpart. Indeed, in the second case, an alternative sponsor was found for a study the primary counterpart actively sought to block.

Most of the counterparts volunteered their views on why EGTA became so publicly criticized by the Congress and in the press. The most often cited reason was that EGTA consultants on a few occasions became too visible relative to their counterparts. In doing so, they projected the sense that EGTA was formulating and leading those particular reform agendas rather than operating just as advisors on the counterpart's agenda. In two cases, counterparts pointed out that besides evoking criticism of EGTA, this behavior leaves the counterpart with no sense of ownership of the proposed reforms.

However, the criticism of EGTA was not publicly challenged by most of the counterparts even though they had high praise for the assistance they had received. When counterparts were asked why, their response was "we were never asked." With the exception of the Central Bank Governor, no counterpart felt compelled to speak out in defense of EGTA. While this could reflect risk-avoidance behavior often found in senior government administrators, it is equally likely that the counterparts believed some portion of the EGTA or American conspiracy theory. Most counterparts had no real idea about the breadth and extent of EGTA's involvement in government and advocacy institutions. When this was made public, it came as a surprise to them. The evaluation team sensed that most counterparts were inclined to believe that there was some truth to the charge somewhere else in the program even though they firmly believed there was no truth to the criticism in the specific support they got from EGTA. Fearing they could face career difficulties if they defended a possibly guilty program, they chose silence.

CHAPTER 6. THE ISSUE OF ADVOCACY

Advocacy is a powerful tool, but one with substantial political risk as well potential gain. The potential gain and, to some degree, the power of the tool relates to the extent and intensity of the effort. Success creates losers as well as winners, and too visible or pervasive advocacy, funded by the USG, can provide a demagogic handle for reform opponents and a bridge linking them to those innately suspicious of American interests. There is, or needs to be, a risk-reward calculation as to what degree of advocacy is warranted in support of reform activities. Questions need to be raised and consensus reached with counterparts on topics such as: When is it appropriate for USAID-funded consultants to move into a public advocacy role as oppose to merely supporting counterparts and partners in structuring public debate? To what extent is it appropriate for USAID-funded personnel directly to mobilize domestic political constituencies in support of reform? What is the range of activities that can be undertaken without generating suspicion of some underlying widespread conspiracy? What role should local consultants play on politically charged issues? What can be done to control political risk? These are all important and timely questions, especially so as the development community increasing believes that proactive policy promotion, beyond the counterpart level, is essential to build and sustain reform momentum. The EGTA program provides case studies and object lessons on every aspect of these issues, and as such deserves careful analysis.

The boundary line as to what is acceptable foreign-funded economic policy advocacy is contextual. It will vary by country and it will vary among individuals. This assistance context counts for a great deal. In the case of the Philippines, advocacy on issues for which there was no perceived U.S. interest encountered no real opposition, even when quite intensive. Local governance is a case in point. The same is true with respect to issues where all agree and there is a coincidence of interest with the U.S. Corruption, at least as it relates to the Ombudsman's office and to government procurement, is an example here. By contrast, when a strong unilateral U.S. interest is perceived – e.g., regulation of genetically modified crops or money laundering – the handle is there for conspiracy theorists. Institutions that are operations driven rather than policy driven also seem to offer less risk exposure – judicial reform and customs being the Philippines cases in point. EGTA's work with the BOC and the Philippine Judicial Academy caused no reported problems even though some of it involved policy. One suspects that when bilateral relations are good, tolerance of U.S.-funded policy agitation is greater. In terms of governmental counterparts, it appears that even where they are not interested in a particular reform, their tolerance of coalition building and interest group mobilization is much greater when the program platform is also helping to meet their need for high-quality, traditional technical assistance.

Use of local consultants in high profile advocacy has both pluses and minuses. The Filipino and Filipino-American consultants used by EGTA had a very sophisticated understanding of local reform political dynamics, more so than would be expected from a foreign consultant. The combination of US technical credentials with a Filipino heritage proved especially effective in the provision of technical assistance and in policy advocacy. But there clearly is more risk of emotional involvement in issues and potential personal agendas. In the EGTA case, the former seemed to preclude the later. All things considered, it would be hard to see the EGTA style without the Filipino and Filipino-American element in both operations and management.

Late in the program cycle, as part of the transformation to EGTA, program management instituted formal behavior norms governing the activities of program technicians.* Essentially, this protocol introduced greater transparency. USAID-funded program personnel had to introduce themselves explicitly as such. Program personnel could engage in advocacy empowerment but could no longer engage in direct public advocacy. Program personnel were directed to eschew excessively adversarial and partisan situation. They were to avoid involvement in such sensitive areas as bilateral negotiations and individual investigations/prosecutions. All interface with the public and the media was restricted to or through program counterparts. In essence the program was moved to damage control mode. This seems to us as evaluators a wise response to the situation that had developed. The newest activity, support to the Ombudsman's office, appears to function effectively even under such restrictions. However, clearly the program as a whole would have been severely handicapped had these rules been operative from the start. We suggest that they be applied differentially against selected areas appropriate to the perceive political risk; i.e., on bilateral interest items most or all of these restriction should apply; on issues far from perceived US interests or where a unity of interests is widely understood, the rules could be related a bit.

It is interesting to note that the executive and judicial branches more than just acquiesced to program advocacy. In many case they led the cheers. One thoughtful senior bureaucrat was very explicit, (paraphrasing) "We in the GOP don't know how to mobilize a public interest constituency. Without it, progressive legislation fails. We need an EGTA for this." The EGTA experience is seen as valuable not only in what it did but what it incidentally taught counterparts and reformers in this regard. Perhaps there is a developmental opportunity in spreading advocacy techniques independent of defined reform action goals. One could conceive of an economic reform program that helps civic action constituencies organize themselves, fosters their understanding of issues, develops their advocacy skills, and let them choose the targets. Teaching constituency building and advocacy skills, per se, is often part of USAID democracy programs, but is less common in the economics area. There could be some synergistic possibilities here. Subsidizing the medium rather than the message might allow the self-perpetuating, democratically-based policy and political support initiatives in areas too sensitive for direct foreign involvement.

This is not to argue that generic advocacy skills activities should replace EGTA type targeted constituency building directed toward key policy reforms. The latter achieves direct results through focus, the former through a longer term process. Nonetheless, a less policy focused advocacy approach might be appropriate for areas with excessive potential political fall-out.

* See Appendix 3 for the protocol.

CHAPTER 7. LESSONS LEARNED

The EGTA program yields a rich array of lessons to inform future program design both in the Philippines and elsewhere. Important lessons arise from the breadth and flexibility of its design. Other lessons are drawn from the conscientious use of advocacy to build constituencies and codify reforms. Finally, lessons can be learned from contrasting the performance of various elements of the program.

Perhaps the most obvious lesson is that **USAID can realize a substantial programmatic success with very limited direct hire staff by contracting out a relatively large portion of its traditional in-house portfolio design and management responsibilities to a single contractor.** Direct hire staff was largely relieved of the time consuming in-house design and clearance/approval process that would have been necessary if all of the elements of EGTA had been attempted as stand-alone activities. This permitted USAID's direct hire staff to focus on strategic considerations and results.

Philippine government counterparts also agreed that the contracting approach had significantly reduced their workload since it avoided the time consuming bureaucratic processes that are required to obtain GOP approval for each donor project. EGTA was "on the ground" and each activity did not have to go through the GOP procurement process. EGTA only had to go through the GOP project approval processes once at its start. From then on, the undertaking of all specific activity needed only USAID's approval at the program management level and the agreement of the particular counterpart.

Because of this, **EGTA really was flexible.** EGTA's resources were never fully programmed at the start of the program. Thus, notional earmarks could be changed quickly as progress was monitored against desired objectives. EGTA could pull out of an area when success appeared unlikely or when defined objectives were achieved. Similarly, EGTA could move quickly into an area that had previously not appeared promising. In stand-alone projects, a known amount of financial resources becomes lock into an activity. These resources, in most cases, are committed to be spent over the agreed upon life of the project regardless of whether progress is being made or whether the desired results are obtained well before the project is planned to expire. In the former case, it is politically difficult to shut down a project once it has started. In the latter case, interests associated with the project can usually find "other things that need to be done" within the project's scope even though these may be less important to the Mission's objectives compared to other activities in its portfolio that need more resources.

Essential to the success of this type of activity is that **the initial planned agenda must be considered illustrative.** Early in the implementation of EGTA, the contractor submitted its life of contract workplan. This document discussed virtually every area in which policy reform was needed, often with somewhat detailed plans suggesting specific activities. However, some of the most noteworthy successes of EGTA occurred in areas (aviation and maritime) that were only briefly mentioned and there were no significant activities in areas (railroads and BOT) that were given some importance in the workplan. Had USAID attempted to hold EGTA to the specifics of its life of contract workplan, the program would have had a far more limited impact than it actually had.

EGTA worked because the **management of the program was decentralized**. USAID delegated certain responsibilities to the contractor. The contractor delegated further to the Group Managers, who further delegated authority to the Task Managers. There was oversight at each level, but most importantly, there was a relationship of trust between the layers to deliver results rather than a command structure to order results. Whether this can be routinely repeated with another contractor or another USAID staff remains to be seen.

There is no doubt that **the inclusion of advocacy in the support of reform has proven to be efficacious**. This has been demonstrated in numerous cases in the program. However, the breadth of operations of this single contract in combination with its conscientious use of advocacy in public fora exposed EGTA in multiple areas. **EGTA's seemingly omnipresence in a large number of reform activities offered its critics the opportunity to coalesce and attack the program as a "conspiracy of foreign interests"**. Conspiracy theories are powerful in manipulating public opinion since they feed on appearances more than facts. Thus, it became irrelevant that EGTA was supporting policy reforms advocated by the Philippine authorities. All that critics needed to show was that EGTA was U.S. financed and engaged in "all aspects of Philippine life". Those who benefited from the status quo could easily excite the uninformed by the charge that the program was a sinister conspiracy.

The problems that arose during the 2003 Senate hearings on money laundering may not have been avoided because powerful vested interests opposed the reforms. If EGTA had been a stand-alone activity for this topic, it still may have been criticized as foreign interference because of its source of funds. But this criticism would have been restricted to the issue at hand. However, because it had affected vested interests in other areas, the critics in the money laundering case were augmented by a larger group of EGTA opponents and the pervasiveness of EGTA became as important for inducing fear of the program as its source of funds.

One should ask if there was any truth to the allegations. While the evaluation team made no effort to review correspondence or communications between USAID and EGTA, the U.S. position in certain matters such as money laundering is well known internationally. So is the U.S. position regarding freer trade and greater competition. The U.S. is also a world leader in biotechnology. Consequently, one could easily conclude that the U.S. foreign assistance program would be supporting reforms in concert with these positions. Even though the views held by the U.S. are also advocated by international organizations and independent economists, **a program such as EGTA is most vulnerable to the charge that it is promoting U.S. interests when it operates in those areas that are known to be U.S. priorities**. It is in these specific areas where the program's involvement in advocacy needs to be particularly careful to ensure that the coalitions it supports represent genuine indigenous interests and opinions. Furthermore, **its support to these indigenous advocacy groups should be advisory, technical and transparent**.

The emotion provoking nature of this conspiracy theory, particularly as it suggested GOP witting or unwitting collaboration, tended to intimidate the bureaucrats and frighten the pro-EGTA politicians. While some government officials spoke out in defense of EGTA, most counterparts did not. In fact, counterparts unrelated to the money laundering issue felt the placement of an EGTA satellite office in their departments had become a liability to their reform interests, and most of these offices were closed.

It is doubtful that the US side had anticipated and was prepared for the extensive and public attacks on the program. It should be recognized that, in the Philippines, at least, and perhaps elsewhere, enemies of reform can and do finance public campaigns to slander reformers. In retrospect, it should come as no surprise that the USG, having aligned itself with reformers, would also be subject to such attacks. (An interesting corollary is that the press response to EGTA may foreshadow similar attacks on the Millennium Challenge Account, which will also presumably push for reform in an obvious and public way. However, that is clearly speculative.) In this case, however, the USG was unable to respond in such a way to defuse the attack. Negative publicity, which appeared to be funded by opponents of reform, could not be rebutted by facts or rational responses. Indeed, a vigorous response may have simply added fuel to the fire. **In future activities designed along the lines of EGTA, the U.S. side, USAID and the Embassy, needs to have a plan at the start of the activity on how it will handle attacks on the program and what it should do for damage control.** The essence of EGTA is that it is a program that concerns itself as much with the political process of obtaining reform as with the technical content of the reform. The approach has real risks and should not be undertaken by the faint hearted. If this successful combination of interventions is to be repeated, a political strategy to defend the program is essential. This strategy should be built on a genuine political commitment of GOP leadership to lead the charge against critics of the program. This means that **the program needs the full knowledge, approval and assured political cover of at least some key members in the senior host country leadership circle.** A steering committee or a counterpart coordinator may not be sufficiently powerful or influential to fulfill this role, although they can be useful for administrative issues in the program provided they do not “control” the flexibility out of the effort.

Besides the change in name, which proved remarkably effective, other changes were introduced into the operations of the advisors that, in hindsight, should have been done from the start. The heavy use of Filipino and Filipino-American consultants had fueled the conspiracy theorists arguments since these individuals were indistinguishable from the advocates from the GOP and the citizenry at large. Furthermore, it is hard to know whether their own local roots prompted them to act more as a stakeholder than a consultant. EGTA now requires that **all EGTA financed consultants identify themselves at the start of all meetings and public activities as USAID/EGTA consultants.*** Thus, the interlocutors and audiences know that they are paid consultants who are to provide only technical information for GOP decision makers. Equally important, should the EGTA model be replicated, is the need to **require all USAID financed consultants to recuse themselves from all official positions in public advocacy groups related to their areas of technical advice.** However, had this second lesson been operational from the start of EGTA, a number of reforms may not have been achieved or their achievement may have been more difficult and time consuming than was the case.

Overall, there is no guarantee that a USAID assistance activity operating in the political economy arena can be designed to avoid generating critics. However, **the up-front preparation of protocols for consultant behavior** may reduce the frequency and scope of criticism. Also, **the up-front development of strategies to manage the political fall-out** may protect the effort from destruction when attacks are made.

* The protocol is provided as Appendix 3.

By looking into and contrasting each of the activities, a number of lessons appear. The relatively unimpressive achievement of one of the larger activities in the program indicates that **having a reformer as a counterpart is a necessary but not sufficient condition for the achievement of results.** To achieve results, the counterpart also needs the bureaucratic and political skills to generate a coalition of supporters both within his department and within the larger body of government institutions whose support must be obtained to reorganize an entity and improve its performance.

By contrasting activities that sought to reform an existing bureaucracy with activities that supported the development of new GOP entities, clearly the latter is easier to accomplish than the former. This lesson is certainly not limited to the Philippines USAID program but is relevant here because the unique design of the EGTA program offered the possibility that greater results would be achieved in reforming, through legislation, main-line bureaucracies than previous institutional development efforts had produced. Main-line bureaucracies, such as the BIR, have a tradition for the way they do business and the momentum to resist change. New entities, such as the GMO unit in the DA, lack both and offer bureaucratic leadership and staff new opportunities to develop their careers in what may be perceived to be emerging endeavors of political or technical importance.

A casual observer might conclude that EGTA's apparent success arose from its target-of-opportunity approach to selecting areas for engagement. While this is pejoratively referred to as "cherry picking", the reforms achieved were consequential to improving competition, lowering prices and facilitating the creation of a significant number of new jobs. **The evaluation team knows of no sound economic reason why a program like EGTA should not take advantage of targets of opportunity when such targets have reform merit.**

However, EGTA did take on, in its assistance to the BIR, one of the most important economic problems in the Philippines – inadequate tax collections. Despite a significant effort and relatively substantial program resources, this problem remains unsolved. The lesson in this is that **despite the importance of a problem, some problems can't be resolved by donor assistance at the time the donors feel they should or need to be resolved.** In these cases, donors must take the developmentally difficult decision to save their resources for other problems or for another day when domestic political or administrative conditions are more propitious for a resolution.

Finally, perhaps the most important lesson of this program is that **success depends on fully assessing the political context of the desired outcome and choosing an approach that is doable.** Where EGTA was particularly successful was in activities in which they did not engage in a traditional manner; i.e., attempt to reform from within the most obvious government counterpart for the objective. Rather, they studied the array of interests and beneficiaries and selected counterparts who would enthusiastically work towards the objective either by pressuring the responsible entity to reform or doing an "end-run" around the responsible entity to legislate change. This approach, occasionally termed "counterpart shopping", was successful in developing the coalitions needed within the GOP to move the reform forward. It is certainly an innovation in the provision of donor assistance. While it is currently popular in most organizations to claim that they are "thinking outside the box", EGTA genuinely did.

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APPENDIX 1

LIST OF CONTACTS

USAID

Robert E. Wuertz, Chief, Office of Economic Development and Governance
Neil Boyle, Trade and Investment Policy Advisor
Maria Teresa S. Robielos, Economic Policy Assistance Manager
Mr. Emmanuel Miciano
Joan Silver, Chief, Program Office
Stephen D. Edminster, Governance Officer
Gil Dy-Liacco, Mission Economist
James Walker, USAID/W, Economist

EGTA

Dr. Ramon Clarete, Chief of Party
Dr. David Tardif-Douglin, Managing Director
Raymund Fabre, Local Government Finance Task Manager
Fran Baniqued, Banking Group Manager
Dr. Emil Bolongaita, Group Manager for Public Sector Governance and Accountability
Jaime Faustino, Competition Policy Advisor
Hugh Patton, Commercial Law Group Manager
Kevin M. Donahue, Project Administrator
Peter Davis, DAI, Economist

US Embassy

Morton Holbrook III, Counselor for Economic Affairs
Daniel I. Martinez, Deputy Counselor for Economic Affairs

Government of the Philippines

Department of Finance (DOF)
Secretary Juanita Amatong, Chairman, EGTA Steering Committee

Bangko Sentral ng Pilipinas
Deputy Governor Alberto Reyes

Anti-Money Laundering Council (AMLC), Secretariat
Mr. Vicente Aquino, Executive Director

Securities and Exchange Commission (SEC)
Lilia R Bautista, Chairman

Philippine Judicial Academy (PHILJA)
Justice Ameurfina Herrera, Chancellor
DCA Bernardo T. Ponferrada

Atty. Peter Conrad C. Lao
Mr. Jose T. Name
Ms. Melissa R. Dimsom

Bureau of Customs
Commissioner Antonio Bernardo, Commissioner

Bureau of Internal Revenue
Atty. Rene Bañez, (former BIR Commissioner, no longer with BIR)

Office of the Ombudsman
Simeon Marcelo, Ombudsman
Atty. Cyril E. Ramos, Asst. Ombudsman
Ador G. Paulino, Director, Research and Special Studies

Department of Budget and Management (DBM)
Undersecretary Laura Pascua

Department of Agriculture
Amparo C. Ampil, Chief, Policy Advocacy & Legislative Support Division
Vivencio Mamail, Supervising Agriculturist, Bureau of Plant Industry

Department of Transportation and Communications
Commissioner Virgilio Pena

Clark Development Corporation
Victor Jose II. Luciano, Executive Vice President

Asian Development Bank
Naomi A. Chakwin, Principal Evaluation Specialist

World Bank
Dr. Joven Balbosa, Economist

Private Sector
Meneleo J. Carlos Jr., President, RI Chemical Corporation
Armi Jane R. Borje, Attorney
Mr. Frank Isaac, FINEX
Prof. Ofelia M. Templo
Ms. Ma.Socorro Zingapan

APPENDIX 2

LAWS, EDS, MCS AND AOS FOR WHICH AGILE PROVIDED ADVICE

(February 14, 2004)
(INTERNAL USE ONLY)¹

COMMERCIAL LAW STRENGTHENING (SEC, SC, DOJ)

Passed

Republic Acts

- R.A. 8799 - Securities Regulation Code (and its IRRs)
- R.A. 9243 – Rationalizing Documentary Stamp Taxes on Securities and Removing DST from Secondary Transactions of Debt Instruments
- R.A. 9227 -- Granting of Additional Compensation in the Form of Special Allowances for Justices and all Other Positions in the Judiciary” seeks to reduce corruption and attract more competent lawyers into the judiciary thereby restoring confidence in the country’s judicial system

Department Administrative Orders, Memorandum Orders and Circulars

- Rules of Procedure on Corporate Recovery
- Court Interim Rules on Corporate Rehabilitation
- New Pre-Need Rules

REVENUE ADMINISTRATION (BIR, DOF, DBM, BOC)

Passed

Republic Acts

- R.A. 8794 - Motor Vehicles User’s Charge (and its IRRs)
- R.A. 9135 - Customs Valuation Law (and its IRRs, i.e. CAO No. 5)

Executive Orders

- EO 230 Authorizing the Establishment and Maintenance of a Super Green Lane Facility at the Bureau of Customs
- EO 160 Creating the Post Entry Audit Group at the Bureau of Customs

¹ This document was created by EGTA originally for internal use.

Department Administrative Orders, Memorandum Orders and Circulars

- CAO No. 02-1999 Rules and Regulations Implementing Section 1 of Republic Act No. 8181 Amending Section 201 of Title II Part I of Presidential Decree No. 1464 Otherwise Known as the Tariff and Customs Code of the Philippines as Amended on the Determination of Customs Durable Value.
 - CMO No. 24-1999 Procedures For The Processing of Comprehensive Import Supervision Service (CISS) Covered Shipment
 - CMO 25-1999 Procedures For The Processing Of Consumption Entry Under The World Trade Organization (WTO) Valuation System
 - CMO 26-1999 Procedures For The Tentative Release Of Shipments Under Bond Pending Resolution Of Valuation Issues
 - CMO 27-1999 Procedures In Protest Cases On The Determination Of The Customs Value Of Imported Goods Under The WTO
 - CMO 03-2000 Enhanced Cargo Clearance Procedures With Provisions On Tentative Release
 - CMO 10-2000 Detailed Procedures to Further Implement CMO 03-2000
 - CMO 37-2001 Revised Cargo Clearance Procedure To Implement Republic Act No. 9135 And CAO 5-2001
 - CMO 01-2002 Procedure In The Determination Of Administrative Liability And The Imposition Of Administrative Fines Provided For In Section VI Subsections A, B, And C Of CAO No. 5-2001
 - CMO 02-2002 Record-Keeping And Post Entry Audit Guidelines
 - CMO 03-2002 Amendment Of CMO 27-99 On The Procedure In Protest Cases Against The Determination Of The Customs Value And Tariff Classification Of Imported Goods Under The WTO Valuation Regime
-
- CAO No. 6-2002 Rules and Regulations Implementing RA 8293, also known as the Intellectual Property Code of the Philippines (“IP Code”) in relation to Sections 51-60 of the Trade Related Aspects of Intellectual Property Rights Agreement (“TRIPS) amending for the purpose Customs Administrative Order (CAO) No. 7-93 on Customs Border Control.
 - CSO No. 24-2002 Creation of an Interim Intellectual Property Unit at the BOC
 - CAO 5 – 2001 Implementing RA 9135 and amending certain provisions of PD 1464 otherwise known as the Tariff and Customs Code of the Philippines as amended and for other purposes.
 - CAO 2-2000 Establishing the Super Green Lane Import Processing Facility
 - CMO 2-2000 Guidelines on Super Green Lane Procedures
 - CSO 20-2002 Creation of the Super Green Lane Technical Working Group and defining the functions of the SGL Committee Secretariat
 - RMO 15-2003 – Order to Streamline the One Time Transaction Process
 - CAO 6-2003 – Department of Finance policy for amending Super Green Lane Guidelines
 - CMO 28-2003 – BOC Order to Improve Super Green Lane system of customs processing for qualified importers

PUBLIC SECTOR GOVERNANCE

Passed

- EO 259 -- Creating the Department of Finance (DOF) Revenue Integrity Protection Service (RIPS)

GOVERNMENT PROCUREMENT (DBM, NEDA-ICC, CCPSP)

Passed

Republic Acts

- RA 9184 Government Procurement Reform Act (and its IRRs)

Executive Orders

- EO 262 (procurement of goods and supplies)
- EO 40 and the corresponding IRRs (consolidation of PD 1594, EO 262, and the E-Procurement System)

Department Administrative Orders, Memorandum Orders and Circulars

- IRRs for PD 1594 (procurement of infrastructure projects)

BANKING/ANTI-MONEY LAUNDERING (BSP, DOJ, SEC, IC)

Passed

Republic Acts

- R.A. 9160 - Anti-Money Laundering Law (and its IRRs)
- R.A. 8791 - General Banking Law
- R.A. 9182 - Special Purpose Vehicle Law (and its IRRs)
- R.A. 9194 - Amendments to the Anti-Money Laundering Law
- R.A. ____ -- Securitization Act

Executive Orders

Department Administrative Orders, Memorandum Orders and Circulars

COMPETITION IN TRANSPORTATION (PPA, CAB, DOTC, MARINA)

Passed

Executive Orders

- EO 308 (repealing EO 59) on privatization of port operations
- IRRs for EO 219 (liberalization of both domestic and international civil aviation)
- IRRs for EO 32 (creation of single air negotiating panel to represent the country in all negotiations leading to the conclusion of Air Service Agreements)
- EO 170 (Promotion of the Use of RoRo Services) and its IRRs
-

Department Administrative Orders, Memorandum Orders and Circulars

-

COMPETITION IN INFORMATION AND COMMUNICATIONS TECHNOLOGY (NTC, DOTC, DTI, ITECC)

NTC

Passed

Department Administrative Orders, Memorandum Orders and Circulars

- MC No. 01 "Rules on Interconnection"
- MC No. 04 (6-9-2001) "Rules for Retail Pricing" (menu of retail tariffs)
- MC No. 11-12-2001 "CMTS Spectrum Users Fees (SUF)"
- MC No. 05-05-2002 "Rules and Regulations on the Provision of High Speed Networks and Connectivity to IT Hub Areas"
- MC No. 08-07-2002 "Deployment of PCOs and Telecenters in the country side"
- MC No. 2-A (09-07-2002) "IRRs for Specific Guidelines for Interconnection"
- MC 10-10-2003, highlighting importance of competition in development of the Cable TV market
- DOTC Department Order (DO) directing the NTC to begin public hearings on VoIP and to promulgate the rules that would govern its use

ITCC

Passed

Republic Acts

- R.A. 8792 – Electronic Commerce Act
- Implementing Rules and Regulations for Electronic Authentication

Executive Orders

- EO 269, creating a Commission on Information and Communication Technology (CICT)

Department Administrative Orders, Memorandum Orders and Circulars

TRADE AND AGRICULTURE COMPETITION (DA, DTI, TC, NFA)

Passed

Republic Acts

- R.A. 8762 - Retail Trade Liberalization Act of 2000
- R.A. 8752 - Anti-Dumping Act of 1999 (and its IRRs)
- R.A. 8751 - Strengthening the Mechanism for the Imposition of a Countervailing Duties
- R.A. 8800 - Safeguard Measures Act (and its IRRs)
- R.A. 9168 - Plant Variety Protection Act (and its IRRs)
- R.A. 9230 - Legislation Creating the Optical Media Board

Executive Orders

- EO 133 -- Reduces tariffs on key agriculture and fisheries inputs to zero

Department Administrative Orders, Memorandum Orders and Circulars

- Department of Agriculture (DA) AO 8 - Rules and Regulations for the Importation and Release into the Environment of Plants and Plant Products Derived from the Use of Modern Biotechnology.
- DA AO 7 – IRRs of the PVP Act
- DA Memorandum Circular No. 17, series of 2003, adopting an insect resistance management (IRM) strategy for Bt corn
- Department of Interior and Local Government (DILG) MC 2003-229, “Protection of Intellectual Property Rights”
- Customs Special Order 19-2003 -- to improve border control against pirated products.

Competition Policy

Passed

Executive Orders

- EO 270, which establishes a National Minerals Policy and instructs the DENR to prepare a Minerals Action Plan

Department Administrative Orders, Memorandum Orders and Circulars

APPENDIX 3

AGILE PROJECT

PROTOCOLS FOR PERFORMANCE OF ASSISTANCE

Acknowledging USAID Support

Visible materials like letterhead, business cards, conference banners, and reports will show USAID's logo.

Identification of AGILE

AGILE will be identified in all the project's interaction with the Congress or the public. In particular, staff will identify themselves as AGILE project staff in Congressional meetings.

Non-Official Status

Project staff will avoid being mistakenly identified as officials of the Philippine or U.S. Government. Project staff will not participate in discussions or negotiations in such a way that observers might assume that they actually are government officials.

Staff will not participate in tasks directly related to US-RP bilateral negotiations, including Government-to-Government meetings, Government-to-firm meetings, or firm- to-firm meetings. However, AGILE may assist in the implementation of agreements arising from US-RP bilateral negotiations.

Neutrality

Project staff will not participate in investigations or prosecutions of firms or individuals.

In general, AGILE will avoid excessively adversarial conditions. AGILE will attempt to include in its activities a wide enough range of interests and points of view to avoid excessively adversarial and partisan situations.

Documenting Assistance

AGILE documents, such as work plans, scopes of work, and sub-contracts, will clearly state the role that counterparts have in requesting, approving, and leading projects, as well as the counterparts' support for the project's objectives.

Work plans and scopes of work will state that activities are authorized by the Steering Committee and are consistent with official GRP development plans.

Assistance for Public Information and Consultations

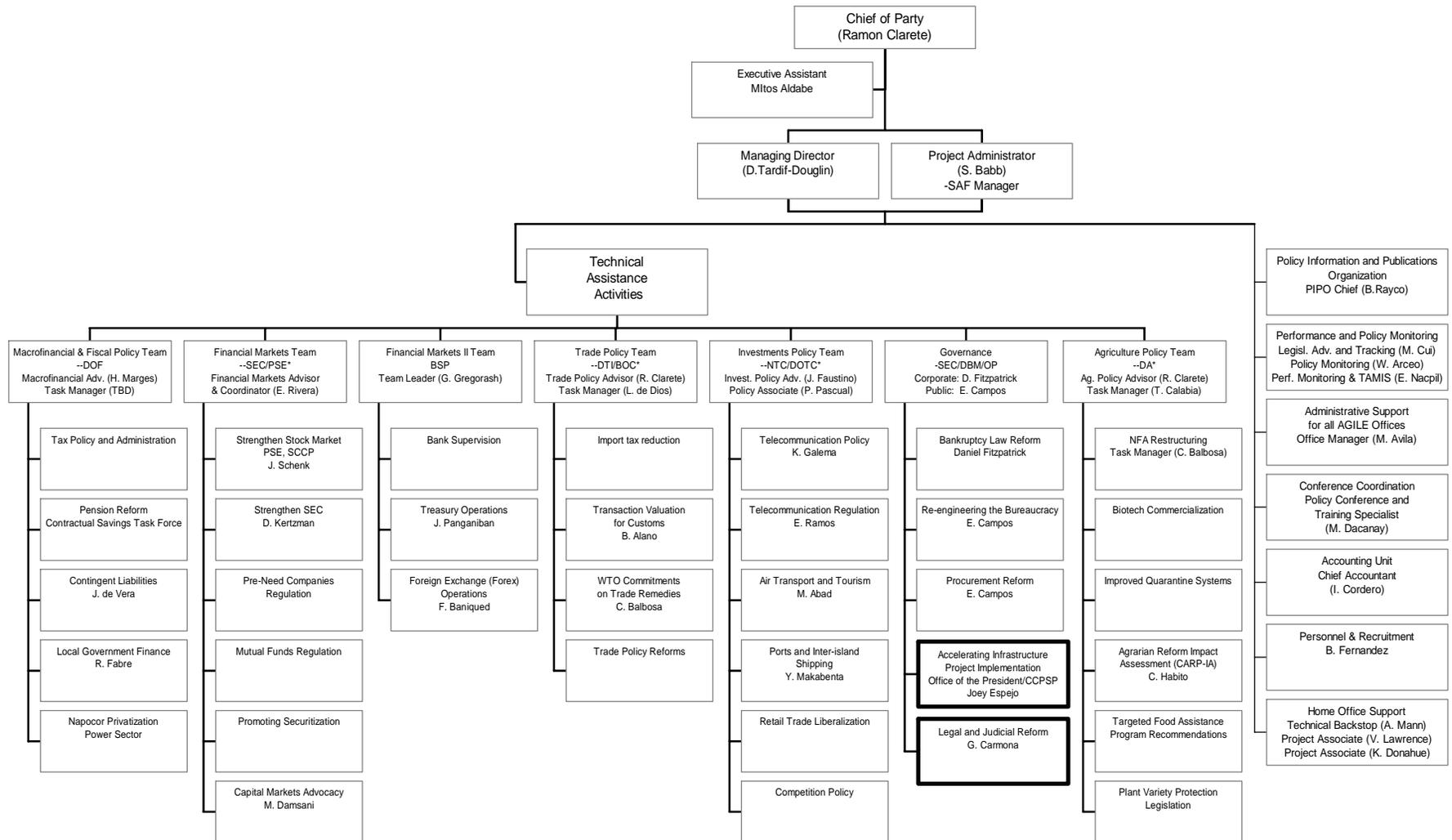
Project staff will communicate technical recommendations to counterparts privately. At counterparts' request, project staff may also communicate technical recommendations to those with whom counterparts interact.

All dissemination of information concerning policy proposals to the general public or to anyone other than project counterparts, via news media or other means, will be done by project counterparts in their own name, with identification of AGILE project support as necessary.

Public Reporting to Describe Assistance and Results

Public reporting concerning AGILE project assistance, or the achievements of efforts that AGILE assists, will identify the project and its achievements as belonging to the counterpart.

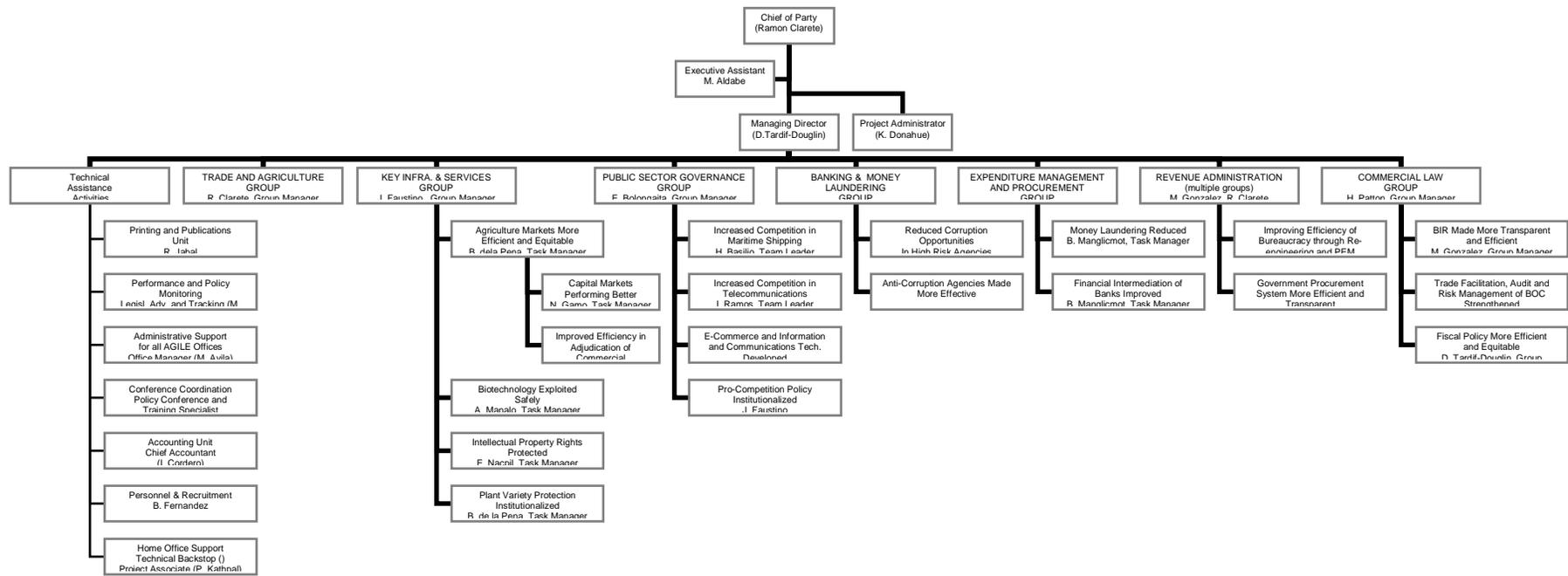
APPENDIX 4 AGILE ORGANIZATIONAL CHART (3/31/2000)



NB: Boxes that do not include names remain the primary responsibility of the individual (s) named in the preceding box. Bolded boxes contain activities that are stand-alone activities in relation to the immediately preceding box in the chart's hierarchy. Managers of activities identified in this way have a reporting relationship directly to AGILE management.

APPENDIX 5

EGTA ORGANIZATIONAL CHART (09/01/2003)



NB: Boxes that do not include names remain the primary responsibility of the individual (s) named in the preceding box. Further details of the Organizational Chart are presented in subsequent pages

APPENDIX 6

EGTA TECHNICAL ASSISTANCE TO THE GOVERNMENT OF THE PHILIPPINES

EGTA Technical Assistance to the Government of the Philippines

June 1998 - December 2003

GOP Entity	Task Order Expenditure to Date
Agriculture, Department of	\$1,665,978
Air Transportation Office	\$29,077
Anti-Money Laundering Council	\$101,972
Banko Sentral ng Pilipinas	\$2,256,037
Budget and Management, Department of	\$1,650,010
Capital Market Development Center, Inc.	\$161,480
Center for Research and Communications	\$405,203
Clark Development Corporation	\$570,314
Congressional Planning and Budget Department	\$66,344
Customs, Bureau of	\$1,553,358
Export Development Council	\$609,104
Finance, Department of	\$2,516,447
Flagship Projects, Presidential Committee of	\$366,296
Information Technology and Electronic Communication Council	\$1,000,256
Intellectual Property Office	\$533,604
Internal Revenue, Bureau of	\$2,962,240
Investments, Board of	\$15,830
National Economic and Development Authority	\$693,527
National Food Authority	\$458,341
National Telecommunications Commission	\$1,308,472
Office of the Ombudsman	\$419,951
Philippine Judicial Academy and Supreme Court	\$939,501
Philippine Stock Exchange	\$300,266
Public Works and Highways, Department of	\$337,234
Securities and Exchange Commission	\$3,913,527
Tourism, Department of	\$402,412
Trade and Industry, Department of	\$810,367
Transportation and Communications, Department of	\$928,158
Total EGTA Task Order Expenditure	\$27,256,304
EGTA "Core" Management Support	\$5,925,151
Grand Total: EGTA Expenditure through December 31, 2003	\$33,181,455

Shading indicates a GOP entity not currently receiving EGTA technical assistance

Source: Economic Governance Technical Assistance (EGTA) Project, March 2004

APPENDIX 7

EGTA TECHNICAL ASSISTANCE BY SECTOR

EGTA Technical Assistance by Sector

June 1998 - December 2003

Sector	Task Order Expenditure to Date
Agriculture (DA, NFA)	\$1,860,638
Financial (AMLC, BSP, PSE, SEC)	\$7,009,112
Fiscal (DBM, BOC, BIR, DOF)	\$8,418,373
Infrastructure (ATO, CDC, DPWH, DOTC)	\$1,864,782
Judicial (SC, PhilJa)	\$939,501
Governance (OMB, CPBD)	\$508,295
Services and Information Technology (CEC, ITECC, NTC, DOT)	\$3,116,343
Trade and Industry (DTI, NEDA, EDC, IPO)	\$3,539,260
Total EGTA Task Order Expenditure	\$27,256,304
EGTA "Core" Management Support	\$5,925,151
Grand Total: EGTA Expenditure through December 31, 2003	\$33,181,455

Source: Economic Governance Technical Assistance (EGTA) Project, March 2004

APPENDIX 8

AN EXPOSE ON THE PLANT VARIETY PROTECTION BILL

AN EXPOSE on the PLANT VARIETY PROTECTION BILL

Democracy as an Illusion? How AGILE/DAI Promotes US Interests At the Expense of Farmers' Rights

What do the Intellectual Property Rights Code, the Omnibus Power Law, the Anti-Money Laundering Law, the Electronic Commerce Law, the Anti-Dumping Act, and the Plant Variety Protection Bill have in common?

These laws and bills were formulated by and pushed rabidly to the Philippine Congress by a group of consultants from the **Development Alternatives, Inc. (DAI)** under the program **Accelerating Growth, Investment, and Liberalization with Equity (AGILE)** of the **United States Assistance for International Development (USAID)** in the Philippines.

The AGILE Agenda: Economic Liberalization at All Fronts

AGILE is an USAID-funded umbrella project for the entire economic policy and governance portfolio of the USAID Mission in the Philippines. The initiative spans all major areas of the Philippine economy, assisting the government to liberalize policies that impede economic growth.¹ AGILE works to expand competition in major industries, strengthen financial markets, improve fiscal policies, increase trade and investment, and promote macro-economic stability. For these tasks, the US Congress has earmarked a total of **\$31,215,212** for AGILE's five-year operations, from **June 1998 to June 2003**.² That's more than \$6 million for its annual implementation, or at least P300 million in Philippine peso equivalent!

When Consultants Are Paid to Lobby for Public Policies

The main implementor of AGILE in the Philippines is the US-based consultancy firm, Development Alternatives, Inc. (DAI). DAI is registered in 1995 as a foreign stock corporation with the Securities and Exchange Commission (SEC). It is registered in the Philippines as a branch of an international consultancy firm based in Bethesda, Maryland. It was established in 1970 and has grown into an employee-owned \$100 million international development consulting firm.³ It boasts of a formidable line up of clients that include the World Bank, Asian Development Bank, United Nations agencies, US Department of Agriculture and foreign governments from all over the industrialized and developing worlds. DAI's key specialization is on economic development policies, as captured in the company slogan "Solving Economic Development Problems Worldwide".

¹ <http://www.dai.com>

² *ibid.*

³ *ibid.*

DAI's key officers in the Philippines include Dr. Ramon Clarete, its Chief of Party for the AGILE program, who is also a professor on public finance at the University of the Philippines' School of Economics in Diliman. Dr. Clarete made a name as a long-time consultant of the Department of Agriculture who has assiduously promoted neo-liberal economic policies and who has formulated policy prescriptions to counter the ill-effects of our accession to the World Trade Organization (WTO) at the height of the 1993/1994 debates on the General Agreement on Tariff and Trade (GATT). His policy prescriptions have failed to arrest the displacement of farmers, farm workers and laborers as a result of trade liberalization.

Other top DAI officers in the country include two Americans, Dr. Joji Reyes who acts as the Resident Agent and Dr. David Tardif-Douglin as Managing Director.⁴ The firm maintains a pool of consultants who specialize on specific policy concerns, ranging from macro-finance, trade, finance, telecommunications and agriculture. DAI was contracted by the USAID in 1998 to carry out the AGILE agenda in the Philippines.

To accomplish the goals of AGILE, DAI works with government counterparts and private sector stakeholders in conducting rigorous policy studies, formulating recommendations for policy reforms, and implementing advocacy activities to build consensus and effect change.⁵ To facilitate this role and ensure the smooth interface of the AGILE agenda and the DAI consultants with the target government agencies, DAI maintains satellite offices at the Central Bank, Department of Finance, Department of Budget and Management, Department of Trade and Industry, Securities and Exchange Commission, Bureau of Customs, Philippine Stock Exchange, National Telecommunications Council, National Economic Development Authority, Department of Transportation and Communications, and the Department of Agriculture since 1998.

As DAI boasts in its website, "this direct presence in the vital government agencies has allowed AGILE to make great strides in policy reform".⁶ Through this cozy set-up, AGILE has accomplished a string of milestones in policy reform, formulation and lobbying. Among its more notable accomplishments -- through its role in technical assistance in crafting, ensuring the enactment and direct lobbying -- are the Securities Regulation Code, the General Banking Act of 2000, the Anti-Money Laundering Law, the Electronic Commerce Law, the Countervailing Measures Act, the Anti-Dumping Act, and Safeguard Measures Act. AGILE, through DAI, is currently extending "technical assistance" to the Department of Agriculture "including assessment of consistency of plant variety protection (PVP) bills filed in Congress and the evaluation of modalities and impact of rice trade liberalization."⁷

DAI takes its job seriously, no doubt. Since 1999, it maintains an Advocacy Database that provides information and updates on relevant bills filed in the Philippine Congress, shares its advocacy calendar and even provides its analysis of the bills with regard to projected results, following USAID analysis tools.⁷

⁴ Securities and Exchange Commission (SEC), Registration Number AF9500090

⁵ <http://www.dai.com>

⁶ *ibid.*

⁷ *ibid.*

Democracy as an Illusion: Lobbying the DAI/AGILE Way

Lobby groups as a tool for channeling the concerns of key stakeholders into specific policy proposals is a crucial component of a democratic society and participatory governance. But, of course, some lobby groups are luckier than others since they can get their specific proposals adopted by target government agencies wholesale without much debate and dissent. Such is the case of the United States (whose interest is naturally represented by the USAID), through DAI in pushing for the AGILE agenda. It is not a big surprise at all if a lobby group has at least P300 million to spare every year, courtesy of American taxpayers' money, and maintains satellite offices at the brain center of key government agencies in the Philippines.

Nothing can be more convenient in lobbying and pressuring target government offices than how AGILE/DAI does it. Since 1998, AGILE/DAI maintains an office at the Planning and Monitoring Service of the Department of Agriculture (DA) -- the office where the plant variety protection bill submitted to Congress was formulated. The staff assigned at the DA is under the supervision of the Undersecretary for Planning and works closely with the Policy Staff of DA, while remains directly answerable to the big bosses at DAI. This clearly presents a highly schizophrenic organizational arrangement and institutional loyalty. The set-up blurs institutional loyalties and confuses the staff on who they should be held accountable to. Or worse still, is the staff monitoring the Undersecretary for Planning or is the Undersecretary for Planning reporting to DAI?

The reason for putting AGILE/DAI people inside the Department of Agriculture is the assumption that AGILE works for the interest of the department and the Filipino farmers while its staff remains loyal to DAI who pays their salary from the AGILE kitty. There remains the issue of who now is the government employee? It is interesting to note that there are Department of Budget and Management (DBM) circulars regulating the direct hiring of private consultants and these are often discouraged government especially when the task assigned to consultants can be performed by existing government personnel. Have these rules been complied with? Are the DAI staff working inside the Department of Agriculture treated as government employees or foreign consultants?

The AGILE program also pays some agriculture officials and staff for occasional consultancies and bank rolls most of the consultations pertaining to policies within the AGILE economic liberalization agenda, such as the plant variety protection (PVP). The matter of DAI paying DA officials for consultancies raises the issue of double compensation for these government officials and the propriety of receiving additional compensation for work, which they should be doing in the first place because of their oath of office in the government. Then there is the question of whether these payments can be considered as pay-offs considering their amounts and frequency.

The existence of these well-oiled and well-entrenched powerful lobby groups makes a parody of the supposedly freest political system in South East Asia in a set up where the inputs of elected officials in policy making are provided by consultants, working with foreign consultancy firms, who are unelected and therefore not accountable. What is worse, these are policies that do not promote the interests of the Philippine Government interests nor the Filipino people's. The Congressional discussions and public deliberations on our laws before they are passed are supposed to ensure an even-handed consideration of issues from all possible concerns or points-of-view.

With AGILE/DAI working as the think-tank of government agencies that willingly act as "fronts" for policy proposals that emanate from the USAID agenda, Congress is getting specific policy proposals from just one side of the issue, which may not represent the interests of the stakeholders in any issue nor the dominant political view.

The AGILE Agenda in the PVP Bill

It was DAI/AGILE consultants who drafted the plant variety protection Bill in 1999, for the Department of Agriculture. It was AGILE that paid for the "public consultations" in Metro Manila in 1999 and 2000 to present the PVP draft Bill for comments. It was DAI/AGILE that rabidly pushed for the PVP Bill in the Philippine Senate and the House of Representatives, hiding behind the skirt of the planning office of the Department of Agriculture. It was the Department of Agriculture that willingly extended its hospitality to house AGILE and the DAI consultants within its roof - in exchange for some benefits, for sure -- and unashamedly acted as its mouthpiece in the consultations and discussions surrounding the PVP Bill.

DAI/AGILE has vowed to delete all laudable provisions of a version of the PVP Bill, especially those pertaining to farmers' rights and community registration system, passed recently by the Philippine Senate as the consultants are very much adamant that the PVP bill adhere closely to the 1991 version of the UPOV, as originally drafted by DAI consultants. Indeed, this UPOV 91 version will not benefit small farmers but only the foreign seed companies and big plant breeders whose interests the original PVP Bill exclusively protects.⁸

PVP and the US Agenda

The push for the Philippines to adopt a plant variety protection system that is closely similar to the 1991 version of the UPOV is clearly part of a scheme of the United States to achieve uniform market conditions for transnational corporations in developing countries. The UPOV-type PVP system establishes a "conducive" environment for corporations to assure return of investments through an intellectual property rights regime that does not recognize farmers' contributions in plant variety development and unashamedly provides equal treatment to foreign nationals -- which are among the key features of the PVP Bill being deliberated in the Philippine Congress. This scheme is hammered on developing countries in various ways, through the Trade-Related Intellectual Property Rights System (TRIPS) under the WTO, through arm-twisting bilateral trade agreements just what the US forged with Bangladesh and Vietnam, and through "harmless" economic policy development programs like AGILE.

The PVP Bill, true to the letters of the 1991 version of the UPOV, only recognizes the role of formal breeders in the development of new plant varieties. The highly technical process and set criteria required in obtaining a plant variety protection inherently discriminate against informal breeders, such as farmers and women who

⁸ UPOV is the French acronym for the *Union for the Protection of New Plant Varieties*, a voluntary Convention established in 1961. It was established primarily to protect the intellectual property rights of breeders in industrialized countries over new plant varieties (particularly industrial crops and ornamental plants) that they developed. The UPOV presently has 50 members, 35 of which are industrialized countries. Only 3 countries in Asia joined the UPOV, namely, Japan, China and South Korea. The UPOV Convention comes in two versions: the original one adopted in 1978 and the revised version in 1991. Countries have the option to accede to either version, but accession to the 1978 Convention was closed on 31 December 1998. Only the 1991 version is now open for membership.

have continuously developed and improved on plant varieties in their fields through millennia. The efforts of informal breeders not only go un-recognized but are made vulnerable to misappropriation since the burden of proof to contest an protection on a "new" plant variety are placed on them.

The Bill essentially does not recognize farmers' rights to save, exchange, use and sell farm-saved seeds, which were tokenly mentioned in the Senate version BUT subject to the criteria and rules to be set by a national government body. This, despite the fact that the Philippines has rabidly pushed for the adoption of the farmers' rights principle in the International Treat on Plant Genetic Resources for Food and Agriculture (ITPGRFA) adopted in November 2001 under the auspices of the UN Food and Agriculture Organization (FAO). The United States consistently worked to torpedo this Treaty through the seven-year negotiation process and refused to sign the final compromise document.

The thrust to open up investments on plant breeding by foreign corporations and entities is clear in many aspects of the PVP Bill. It includes reciprocity and national treatment clauses that accord the same rights and privileges to foreign applicants who file their application for protection in a country that affords the same privileges to Filipino citizens under a treaty, convention or law, such as the UPOV.⁹ In order for Filipinos to avail of this privilege, of course, the country has to accede to the UPOV. This is indeed a very sophisticated way of pushing the UPOV down the Philippines' throat, without us realizing it.

What Now?

With the AGILE agenda in PVP, the Philippines has clearly fallen victim to a sophisticated ploy to subordinate its national interest to the US' agenda. There may be nothing new but it is a cause of alarm if the tools being used to advance that agenda are government agencies and officials paid from the Filipino taxpayers' pocket who are supposed to serve the interests of farmers, particularly small and poor farmers who constitute the bulk of the toiling masses. The Department of Agriculture, particularly its Planning Service, has knowingly or unknowingly, allowed itself to be used to ram down the government's throat a policy agenda that will not at all benefit the majority of Filipino farmers. It has allowed itself to serve as "front" that gives legitimacy and provides an official stamp to the US agenda on the PVP Bill, and give the illusion to the Philippine Congress that this Bill is what the Filipino farmers want.

This scheme should be exposed and opposed by Filipinos who believe they still live in a democracy.

The Technical Working Group (TWG) that worked on "fine-tuning" the Bill is composed of the planning staff of the Department of Agriculture, the Bureau of Plant Industry (BPI), the Institute of Plant Breeding (IPB) and representatives of the seed industry. No farmer representative. In its meeting last Monday, 20 May, the TWG has committed to delete the following provisions from the Senate version:

- (1) Any reference to community seed registration;
- (2) Use of the Community Gene Trust Fund for technical training of farmers; and
- (3) Right of farmers to sell farm-saved seeds

⁹ Sections 21 and 23, Senate Bill 1865, "Plant Variety Protection Act of 2001".

These three provisions are the most notable provisions of the Senate version of the Bill which makes it different from the House version which has stuck to the original version as formulated by the AGILE/DAI Consultants.

The TWG harbors a grossly mistaken notion that these provisions make the Bill "complicated" and "political", based on the premise that the Bill is "technical" in nature. Nothing can be more wrong, superfluous and naïve than this assumption. In fact, the opposite is right: the PVP Bill is political in nature, and yes, economic. The role of this policy agenda under the AGILE program falls within the economic liberalization plans of the USAID for the Philippines, not to improve the plant breeding competence of gifted Filipino breeders from the formal sector. Even DAI/AGILE did not claim that for all its \$31 million worth policy crusade in the Philippines towards economic liberation. Proponents of the Bill who believe that it is "technical" in nature are fooling themselves.

The Philippine Congress and the Ombudsman should investigate the clear conflict-of-interest situation presented by the cozy arrangement forged by AGILE/DAI with government agencies where the former holds satellite offices within public premises and have direct access to government documents and personnel. They should investigate this matter further for possible violations of Philippine laws prohibiting graft and corrupt practices in the government and even the Code of Ethics of Government employees and officials, among other applicable statutes.

The worse thing that will happen to expose is when our well-meaning officials in Government and even sensible Filipinos will shrug this matter off and say: "This has been going on for a long time already, so what is the problem?"

When the consensus among us, has reached that point, democracy indeed, already, dead in this country.

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