

DISCUSSION PAPERS



PHILIPPINES

The Philippine Environmental Impact Statement System: Framework, Implementation, Performance and Challenges

June 2007



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ACRONYMS AND ABBREVIATIONS

AO	Administrative Order
ADB	Asian Development Bank
ARMM	Autonomous Region in Muslim Mindanao
BSWM	Bureau of Soil and Water Management
CAA	Clean Air Act
CDO	Cease and Desist Order
CENRO	Community Environment and Natural Resources Office
CNC	Certificate of Non-Coverage
CWA	Clean Water Act
DA	Department of Agriculture
DAO	Department Administrative Order
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DOE	Department of Energy
DOH	Department of Health
ECA	Environmentally Critical Area
ECC	Environmental Compliance Certificate
ECONA	Environmental Consent Agreement
ECP	Environmentally Critical Project
EGF	Environmental Guarantee Fund
EGGA	Engineering Geological and Geo-hazard Assessment Report
EGGAR	Engineering Geological and Geo-hazard Assessment Reporting
EHIA	Environmental Health Impact Assessment
EIA	Environmental Impact Assessment
EIAMD	Environmental Impact Assessment Management Division
EIARC	Environmental Impact Assessment Review Committee
EIS	Environmental Impact Statement
DENR-EMB	Environmental Management Bureau
EMF	Environmental Monitoring Fund
EMP	Environmental Management Plan
EMS	Environmental Management System
ENRMP	Environment and Natural Resources Management Program
EO	Executive Order
EPRMP	Environmental Performance Report and Management Plan
FPIC	Free and Prior Informed Consent
HLURB	Housing and Land Use Regulatory Board
IAIA	International Association of Impact Assessment
IEC	Information, Education and Communication
IEE	Initial Environmental Examination
IEMP	Industrial Environmental Management Project
IP	Indigenous Peoples
IPRA	Indigenous Peoples Rights Act
IRR	Implementing Rules and Regulation

LLDA	Laguna Lake Development Authority
LOI	Letter of Instruction
MC	Memorandum Circular
MGB	Mines and Geosciences Bureau
MMT	Multipartite Monitoring Team
MOA	Memorandum of Agreement
MPP	Mineral Processing Permit
MPSA	Mineral Production Sharing Agreement
NCIP	National Commission on Indigenous Peoples
NCR	National Capital Region
NEDA	National Economic Development Authority
NEPC	National Environmental Protection Council
NGO	Non-Government Organization
NOV	Notice of Violation
NSO	National Statistics Office
OECD	Organization for Economic Cooperation and Development
PAB	Pollution Adjudication Board
PAGASA	Philippine Atmospheric, Geophysical and Astronomical Services Administration
PCD	Pollution Control Division
PCSD	Philippine Council for Sustainable Development
PD	Presidential Decree
PENRO	Provincial Environment and Natural Resources Office
PEPP	Philippine Environmental Partnership Program
PHCO	Philippine Country Office
PHIVOLCS	Philippine Institute of Volcanology and Seismology
PO	Peoples Organization
PP	Presidential Proclamation
PPP	Policies, Plans and Programs
RA	Republic Act
REA	Regional Environmental Assessment
REECS	Resources, Environment and Economics Center for Studies
RSES	Environment and Social Safeguard Division
SBMA	Subic Bay Metropolitan Authority
SEA	Strategic Environmental Assessment
SEAP	Strengthening Environmental Assessment Project
SEPMES-PEISS	Strengthening the Environmental Performance Monitoring and Evaluation System of the Philippine EIS System
SMR	Self-Monitoring Report
TOR	Terms of Reference
TSP	Total Suspended Particles

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FOREWORD

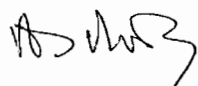
Environmental assessment is widely regarded as a key tool for sustainable development. This common view was the main reason for the adoption of environmental assessment as a national instrument for sustainable development in the *1992 Rio Declaration*. When done properly and at an early stage of project preparation, the results of an environmental assessment can help improve project design and implementation through measures that prevent, mitigate and compensate for adverse environmental impacts.

Over the years, environmental assessment has evolved with many distinct methodologies emerging as the environmental assessment framework is applied to various types and scale of projects. Worldwide, there is now a growing recognition on the use of strategic environmental assessment (SEA) to mitigate negative environmental and social implications and maximize potential positive synergies of policies, plans and programs.

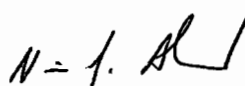
The Philippines' environmental assessment system, popularly known as the Philippine Environmental Impact Statement (EIS) System, was conceived in 1977 through the issuance of the Philippine Environment Policy. With five implementing rules and regulations issued to support its three decades of implementation, the Philippine EIS System evolved into one of the most comprehensive environmental assessment systems in Southeast Asia. The System, however, remains project-based and SEA-exclusive.

This diagnostic review of the Philippine EIS System was conducted by the World Bank and the Asian Development Bank in collaboration with the Philippine government as part of the continuing efforts of the two development agencies to help the government improve its environment and social safeguard systems. The review findings are expected to help the Government develop and implement concrete programs to achieve a more efficient and effective EIS System. The review is also expected to provide inputs to the proposed amendment of the Philippine EIS Law, now filed in Congress, and the formulation of its implementing rules and regulations, once the amendment is approved.

The review is also a key first step towards achieving the long term goal of harmonizing the existing country safeguard systems with those of the development agencies, as espoused in the *Paris Declaration on Aid Effectiveness*.



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EXECUTIVE SUMMARY

Environmental assessment is a process of systematic analysis, evaluation and management of the potential environmental and social effects of a proposed activity before a decision is made on whether or not to proceed with the said activity. Nearly four decades after it was introduced in the United States, environmental assessment is now an essential component of any project proposal preparation. Many countries have adopted and evolved their own environmental assessment systems. In 1992, Principle 17 of the Rio Declaration emphasized that “environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”

In the Philippines, environmental assessment was introduced in 1977 with the issuance of Presidential Decree 1151 or the Philippine Environmental Policy. The Philippine Environmental Assessment System, otherwise known as the Philippine Environmental Impact Statement (EIS) System, was established in 1978 through Presidential Decree 1586. It involves the conduct of environmental assessment on proposed projects and the subsequent government review of the environmental assessment report which would result in either issuance or denial of an environmental compliance certificate. This certificate serves as the contractual obligation of the proponent for the implementation of measures to address possible environmental impacts of a project, as identified in the environmental assessment report.

This review of the Philippine EIS System has a three-fold objective. First, it aims to determine whether the existing EIS System meets the international practice for environmental assessment. Second, it aims to assess the efficiency and effectiveness of the system in terms of protecting the environment and promoting balanced socio-economic development through regulation and improved project planning. Third, it hopes to come up with concrete action programs to address gaps and weaknesses of the system vis-à-vis international practice and to set the agenda for reform toward a more efficient and effective system.

The review findings will be of importance for the Government, the World Bank, the Asian Development Bank and other donor agencies. Specifically, the review could provide significant insights and inputs to the Philippine legislators who are now drafting the bill to amend the Philippine EIS System and to the Department of Environment and Natural Resources (DENR) in its continuing pursuit to make the EIS System more effective and efficient. On one hand, the results of the review would serve as a base for further analyses; while also providing guidance to the donor agencies as they assist the Government to improve its implementation of the system and its capacity.

Legal and Policy Framework - Patterned after the US National Environmental Protection Agency (NEPA) of 1969, the Philippine EIS System was intended to provide an action-forcing mechanism to ensure that the expressed goals of Presidential Decree 1151 which include the “creation of conditions under which man and nature can thrive in harmony,” the

“fulfillment of socio-economic requirements of present and future generations,” and the “attainment of environmental quality that is conducive to life of dignity and well-being,” are infused into government plans and programs. These goals are captured in the policy statement of Presidential Decree 1586 which states that “it is the policy of the state to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection.” These goals are widely regarded as fundamentally the same as those required to achieve sustainable development. In general, Philippine policy making setting has been receptive to new environmental assessment concepts and heightened environmental concerns during the last two decades that resulted in a fairly complex system.

Institutional Framework - The national agency tasked with the implementation of the EIS System is the DENR. The DENR has six bureaus and offices in 16 regional centers, 80 provinces and clusters of municipalities nationwide. The DENR’s Environmental Management Bureau (DENR-EMB) is in charge of implementing the EIS System. It is a line bureau that operates as a sub-organization in the DENR with a direct line of command, usually with their own representative offices, down to the regional level. However, the institutional capacity of the DENR-EMB faces significant challenges especially the inadequate manpower and the very high turnover of staff at the central office due to security of tenure issue and budgetary constraint. To beef up its manpower and capacity, the DENR-EMB taps the services of an independent Environmental Impact Assessment (EIA) Review Committee whose members are mostly from the academe, environmental assessment practitioners and from other government agencies to undertake a substantive review of the environmental assessment reports. Expenses incurred in the course of the review are charged to the proponents. A significant number of local government units have environment and natural resources offices but they are not involved in environmental assessment.

Coverage - The Philippine EIS System covers environmentally critical projects and projects located in environmentally critical areas. Projects are classified into four categories: Category A projects are environmentally critical projects; Category B are those that are considered non-environmentally critical projects but are located in environmentally critical areas, while Category C and D are projects that are not covered by the EIS System. The system also distinguishes between a single project and multiple or co-located projects, new projects and expansion of existing projects. Each category requires different environmental assessment tools and documentation commensurate with the potential impacts of the project. The DENR-EMB central office provides the policy direction, oversight and overall guidance on EIA concerns, but also reviews and processes environmentally critical projects/Category A projects, while the DENR-EMB regional offices review and approve projects considered to be located in environmentally critical areas/Category B, as well as projects outside the purview (Categories C, D) of the EIS System.

Key Features - The basic elements of good environmental assessment practice, as identified by the International Association of Impact Assessment, such as screening, scoping, independent review, public participation, disclosure and monitoring are present in the Philippine EIS System. In addition, the system also has the following features: (i) recognition of other environmental assessment tools; (ii) concept of “social acceptability” as one of the bases for project approval; (iii) legal accountability of environmental assessment consultants

and project proponent on the environmental assessment reports; (iv) provision for the establishment of environmental guarantee fund; (v) provisions for community-based monitoring through the Multipartite Monitoring Team; and (vi) sanctions and penalties for violations.

Implementation - The following characterizes the implementation of the Philippine EIS System:

1. It is applied to a wide range of business activities, the majority of which are small to medium-scale undertakings.
2. It is administered by a central government agency; the role of local governments is very limited.
3. The manner of its implementation is highly regulatory and control-oriented, emphasizing compliance to rigid bureaucratic procedures.
4. More attention is paid on the procedural rather than on the technical aspects, resulting in generally poor quality environmental assessment characterized by voluminous reports and lack of focus and depth of analysis on critical issues and impacts.
5. It has many overlaps with other laws as the EIS System tends to incorporate requirements of laws that are already handled by other agencies. These overlaps are becoming worse as new laws passed after Presidential Decree 1586 tend to include provisions that modify the EIS System.
6. There is a complex but poor system of follow-up and monitoring and virtually no evaluation study.

Effectiveness - The following characterizes the effectiveness of the Philippine EIS System with respect to its purpose and objectives.

1. Environmental assessment as an action-forcing mechanism – In general, the Philippine EIS System is effective as an action-forcing mechanism. It is able to compel proponents to disclose the environmental impacts of their projects and undertakings. The environmental compliance certificate has now become the most important document that must be secured before a proponent embarks on any project or undertaking. However, the quality of the environmental assessment and the decision-making could still be improved.
2. Environmental assessment as a planning tool - The EIS System's contribution as a planning tool has been limited. The planning contribution is achieved in Programmatic Environmental Assessment which was introduced in 1995. In most cases, environmental assessments are still applied downstream of key feasibility decisions, although recent issuances require that environmental assessment be done simultaneously with the feasibility study. Since feasibility studies are outside the environmental assessment process, environmental assessments are viewed by most proponents more as a formality

or justification of the project location, design and other parameters that have already been decided in the feasibility study. The effects of the EIS on planning are probably informal and occur at the pre-feasibility stage, influencing the choice of location and technology. Also, as developers and business owners become aware of the EIS requirements, they tend to avoid politically difficult areas in terms of environmental and social issues or tend to consider upfront environmentally friendly design and technology. The new laws which have been passed such as Clean Air Act, Clean Water Act, Toxic and Hazardous Waste Act and Ecological Solid Waste Management Act have probably more influence on pre-feasibility decisions than the environmental assessment.

3. *Contribution to sustainable development* – Environmental assessment’s contributions to Philippine sustainable development are mostly indirect: and include increased environmental awareness among agencies, business organizations and the general public. An improved decision-making process may be an additional benefit; when the environmental assessment is carried out simultaneously with the feasibility study. As a result, it is difficult to say whether the Philippine EIS System has positively contributed to the country’s sustainable development or “balanced growth” objective. The most pressing environmental problems in the country do not come from industries or the business sector despite the fact that they are the main target of the EIS regulation. The problems are generally linked to the lack of employment opportunities outside the traditional rural employers; the agriculture and fisheries sectors. The complicated, all-encompassing EIS System may have inadvertently contributed to slowing the emergence and growth of alternative livelihood systems which could have eased the burden on the country’s natural resources. It may have also contributed to the uncertainty and long gestation period of businesses.
4. *Conflict resolution* The EIS process has become on one extreme a means for public participation in decision making of development projects; and on the other extreme an instrument for special and vested interests.

Efficiency – The implementation of the EIS System is considered to be generally inefficient because of the following:

1. The expanded coverage of small business activities into the EIS System which overwhelms the DENR-EMB. Given its limited manpower and budgetary resources, it is inefficient to include small business establishments under the EIS System.
2. The lack of focus of the environmental assessment results in voluminous reports which distracts from real issues. There is a tendency to include the whole spectrum of potential environmental and social impacts as the environmental assessment preparation is oriented towards fulfilling baseline or background data requirements.
3. The administration of the EIS by a central agency even when most of the environmental and social issues are local violates the principle of subsidiarity. The central administration of the EIS does not fully benefit from inputs and ownership of the project of actual beneficiaries and affected population and their elected representatives.

4. There are overlaps of processes and procedures with other laws and other agencies. Numerous requirements coming from other laws and other agencies which are intended for the same purpose result in needless duplication and repetition of processes and procedures.
5. There is lack of systematic feedback from actual project impacts and the system does not benefit from learning or results of impact evaluation studies, resulting in the continued imposition of requirements that are unnecessary.

Challenges and Recommendations - It is observed that while many of the government policies and procedures on the environment reflect current international norms, their implementation faces a number of challenges. There is also a need to strengthen environmental capacity at the local government level. The World Bank and the Asian Development Bank can assist national government agencies in the simplification and harmonization of regulations, specifically in streamlining environmental permitting, clarifying information disclosure and enhancing the environmental management systems. The Philippine EIS System faces the following critical challenges:

1. Maximizing the contributions of the EIS to local planning and decision-making through decentralization and de-concentration of the environmental assessment functions – The Philippine EIS system needs to be decentralized to the local government units and de-concentrated to the regional autonomous bodies. Decentralization will maximize the contribution of the EIS process to local government planning, improve follow-up and monitoring of projects and minimize extraneous influences in decision-making. The requisites to decentralizing the system include establishing the legal framework, designing the structure and functions, and capacity building. There is a need to carefully study the design and structure of a decentralized EIS System, i.e., which functions are to be devolved and to which level of the local government. There is also a need to factor into the design of a decentralized scheme the arguments against decentralization, such as: (i) the handling of the project's spillover effects that go beyond the jurisdiction of one local government unit; (ii) local government units are too small to be able to maintain an EIS unit; (iii) lack of technical capacity; (iv) corruption and rent-seeking at the local government level; and (v) establishing the legal basis for devolving environmental assessment functions.

The decentralized scheme could be piloted in one or two local governments to determine whether the system works and to document the processes, procedures and lessons learned for scaling up.

2. Improving the quality of the assessment – There is a need to improve the quality of the environmental assessment processes, focus and depth of assessment and the overall quality of the environmental assessment reports. This can be done by: (i) developing sector-specific EIA, initial environmental examination, and environmental performance report and management plan guidelines that focus on substantive analysis of issues; (ii) developing the capacity of the local government units, environmental assessment preparers and reviewers, and the DENR-EMB personnel in their respective roles under a

decentralized EIS System; (iii) improving the disclosure process of the EIS reports; and (iv) providing a learning and feedback mechanism to improve outcomes on the ground.

3. Streamlining and simplifying requirements - The EIS System may have become too complex and costly for projects, discouraging investments in some sectors or regions. The EIA assessment process imposes various monetary and non-monetary costs to project proponents. Inefficiencies also impose unnecessary costs to the DENR, the regulated community and economy in general. There is therefore a need to: (i) institute flexibility in the EIS System; (ii) relax the regulatory grip and maximize the planning utility of the EIS; (iii) integrate environmental assessment-related requirements of other agencies into the EIS process; (iv) improve screening such that small projects are no longer subjected to the EIS requirements; and (v) simplify the monitoring system.
4. Focusing environmental assessment resources on environmentally critical projects and prioritizing the mapping of environmentally critical areas - There are only about a dozen Category A projects annually. Most of the projects subjected to environmental assessment are those that are located in environmentally critical areas. There is a need to revisit the range of projects to undergo the environmental assessment process.
5. Moving towards strategic environmental assessment – There is a need to gradually shift from a project-based environmental assessment approach to strategic environmental assessments. Project-specific environmental assessments may no longer be necessary as impacts and issues associated with similar projects become known, mitigation measures are routinely applied and increasingly incorporated into industry standards, and legislations on environmental standards are put in place. The future of the environmental assessments lies in the area-based or regional assessments linked to land use or zoning plans and in sectoral environmental assessments of government plans and programs.
6. Subjecting proposed new regulations, including new regulations on the EIS to cost-benefit or impact study – Heavy environmental regulations while intended to protect the environment, may have counterproductive effects as they can restrict growth in non-natural resource-based livelihood systems. Alternative modalities of the Philippine EIS System should be subjected to a social cost-benefit study or a Regulatory Impact Assessment so that the most efficient alternative is considered. The assessment should reflect the environmental benefits, true opportunity cost and impacts of proposed new regulations on investment decisions. This practice can be institutionalized within the DENR to ensure efficiency and effectiveness of future policies and regulations.

INTRODUCTION

1.

1.1 Background

Environmental Assessment is the general term used to refer to the process of systematic analysis, evaluation and management of the potential environmental and social effects of a proposed action before a decision is made to proceed or not with its implementation. Environmental assessment basically refers to the Environmental Impact Assessment (EIA) study framework introduced in the United States in 1969 through the National Environmental Policy Act¹. From the United States, the EIA study framework quickly spread to other countries². In 1992, the Rio Declaration adopted it “as a national instrument” which “shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”³

As the EIA framework is applied to various types and scale of activities, many other distinct methodologies have emerged. Some of these are scaled-down EIA studies such as Environmental Screening, Initial Environmental Examination and Rapid EIA while others are stand alone studies designed to supplement the EIA such as Environmental Risk Assessment, Ecological Risk Assessment, Environmental Health Impact Assessment and Social Impact Assessment. Still others such as Environmental Audit and Environmental Performance Reports are used as alternatives or substitutes to the traditional EIA study. During the last few years, the EIA framework has been increasingly applied to proposed policies, laws, plans and programs which has given rise to a new class of assessment methodologies, such as Strategic Environmental Assessment, Sectoral and Regional Environmental Assessment, Programmatic EIA, and Integrated EIA. Hence, the application of any or combination of these methodologies for the purpose of evaluating a proposed action has been collectively referred to as environmental assessment.

The environmental assessment process is now an essential component of any project proposal preparation. Governments and development agencies all over the world have developed their own system for implementing the environmental assessment process. In the Philippines, the Environmental Assessment System is officially referred to as the Philippine Environmental Impact Statement (EIS) System. It was conceived in 1977 as the main instrument to pursue the country’s environmental policy⁴ and formalized as a regulatory process⁵ in 1978. Since then, it has evolved into a complex system and a critical requirement for public and private development or investment projects.

¹ The US National Environmental Policy Act required all Federal agencies “to include in every recommendation or report on legislative proposals and other major Federal actions significantly affecting the quality of the human environment” an environmental impact statement (NEPA, Section 102). The methodology used to prepare the EIS came to be known as EIA.

² Among the early adopters of the EIA were Australia in 1974, Thailand in 1975, France in 1976, Philippines in 1978, Israel in 1981 and Pakistan in 1983 (Overseas Environmental Cooperation Center 2000).

³ See Principle 17 of the Rio Declaration on Environment and Development (UNCED 1992).

⁴ It is clear in the Philippine Environmental Policy Law that the EIS requirement provides the main action-forcing mechanism in pursuit of the country’s environmental policies and goals (PD 1151, 1977, Section 4).

⁵ See PD 1586 (1978).

Two recent concerns justify a holistic assessment of the Philippine EIS System. One concern relates to the on-going effort by development agencies to harmonize their environmental assessment systems with the country system pursuant to the *Paris Declaration on Aid Effectiveness*⁶. The ultimate goal of harmonization is full reliance on the Philippine EIS System, but before this can happen, development agencies would want to make sure that the country's environmental assessment system is up to international standards. A systematic review of the system should, therefore, be first conducted to identify gaps and weaknesses and recommend corrective actions to fill in those gaps and strengthen the system. The other concern relates to the effectiveness and efficiency of the Philippine EIS System given the continuing environmental and natural resource degradation, and the lackluster investment climate in the country which has been blamed on, among others, the uncertainty and inconsistency in the application of regulation and the high cost of doing business compared to other countries.

A number of studies have been conducted on the Philippine EIS System (*Box 1*). Most of these studies have focused on specific aspects of the system and none of them fully addressed the above twin concerns. The present review of the Philippine EIS System

Box 1. Studies Conducted on Philippine Environmental Assessment System.	
2006	Environmental Assessment of Philippine Planning and Policy Formulation Processes (2006) assessed the possibility of institutionalizing Strategic Environmental Assessment in the Philippines
2005	Strengthening the Environmental Performance Monitoring and Evaluation System of the Philippine EIS System (SEPME-PEISS 2005) looked at the monitoring and evaluation functions of the Philippine EIS System
2003	Strengthening Environmental Enforcement and Compliance Capacity Technical Assistance (SEECTA 2003) examined the institutional capacity of the Environmental Management Bureau (EMB)
1997	Integrated Environmental Management for Sustainable Development funded by UNDP (1995-1997).
1995	Industrial Environmental Management Project (IEMP) funded by USAID (1993-1995)
1993	Strengthening Environmental Assessment Project (SEAP) with funding from AIDAB (1992-1993)

takes on a much wider perspective than the previous studies. Aside from looking at the legal and institutional framework and the quality of implementation, the review also assesses the performance of the system vis-à-vis the prevailing environmental and economic challenges of the country. In particular, the assessment touches on potential impacts of the EIS System on businesses and job creation, the EIS being one of the main sources of increasingly complex regulations while bearing in mind the pressing environmental issues that the country is faced with. This holistic review perspective is adopted to ensure that the proposed reforms do not have unintended negative consequences.

1.2 Objectives of the Review

The objectives of the review are three-fold. First, it aims to determine whether the existing EIS System meets the international practice for environmental assessment. Second, it aims to assess the efficiency and effectiveness of the system in terms of protecting the environment and promoting balanced socio-economic development through regulation and improved project planning. Third, it hopes to come up with concrete action programs to address gaps and weaknesses of the system vis-à-vis international practice and to set the agenda for reform toward a more efficient and effective system.

⁶ The Paris Declaration was the culmination of a series of high level forums on aid effectiveness attended by ministers of developed and developing countries and heads of development institutions. Ratified on March 2, 2005, the declaration resolved, among others, to scale up aid and adapt to differing country situations and commit to continue to work for alignment of development assistance with partners' strategies and the use of strengthened country systems.

1.3 The Review Process

This report is a product of an incremental review process that lasted for two years. It started with a series of dialogues and workshops with government agencies, international financing institutions, non-government organizations and local government units from February to May of 2005 to take stock of the Philippine EIS System, including the implementation capacities and track records of national government agencies.⁷ The results of that stocktaking exercise provided the impetus for a rapid assessment in early 2006, which produced a preliminary assessment report and a Terms of Reference for a more detailed review. The Terms of Reference, along with the preliminary report was then presented to the Department of Environment and Natural Resources (DENR) and representatives of the regulated community⁸ for comments and refinements that led to the creation of a World Bank-Asian Development Bank-DENR Technical Working Group and the DENR Advisory Committee to provide assistance and oversee the review. Undertaken in June to December 2006, the assessment included extensive review of Philippine EIA laws and the various laws and issuances affecting the EIS System, a random survey of projects that have undergone the EIS process, and interview with project proponents and key staff of the DENR-Environmental Management Bureau (DENR-EMB) central and regional offices. Case studies were also conducted on selected projects.

1.4 Organization of the Report

The next three sections provide brief descriptions of the country context. Section 2 describes the legal framework while Section 3 describes the institutional framework. Section 4 provides a glimpse of the current environmental policy and regulatory environment. Section 5 describes the objectives, processes and procedures of the EIS System. Formal assessment of the system starts at Section 6 where the adequacy of the Philippine EIS System was examined vis-à-vis international standards, particularly the International Association of Impact Assessment (IAIA). Section 7 provides an analysis the Philippine EIS System's performance, particularly its effectiveness and efficiency. Section 8 discusses the challenges facing the EIS System and reforms needed.

⁷Approximately 80 individuals, representing 16 government agencies, five non-government organizations, two international financing institutions, and 40 local government units were able to participate in the dialogues and workshops.

⁸The preliminary assessment and the Terms of Reference were presented to about 25 representatives from the industry sector and environmental assessment consulting firms in June 13, 2006.

Box 2. Environmentally Critical Projects and Environmentally Critical Areas.

Environmentally Critical Projects

1. Heavy Industries
 - Non-ferrous metal industries
 - Iron and steel mills
 - Petroleum and petrochemical industries including oil and gas
 - Smelting plants
2. Resource Extractive Industries
 - Major mining and quarrying projects
 - Forestry projects
 - Logging
 - Major wood processing projects
 - Introduction of fauna (exotic-animals) in public/private forests
 - Forest occupancy
 - Extraction of mangrove products
 - Grazing
 - Fishery Projects
 - Dikes for /and fishpond development projects
3. Infrastructure Projects
 - Major dams
 - Major power plants (fossil-fueled, nuclear-fueled, hydroelectric or geothermal)
 - Major reclamation projects
 - Major roads and bridges
4. Golf Courses (as of Presidential Proclamation 300)

Environmentally Critical Areas

1. All areas declared by law as national parks, watershed reserves, wildlife preserves and sanctuaries
2. Areas set aside as aesthetic potential tourist spots
3. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine Wildlife (flora and fauna)
4. Areas of unique historic, archaeological or scientific interests
5. Areas which are traditionally occupied by cultural communities or tribes
6. Areas frequently visited and/or hard-hit by natural calamities, geologic hazards, floods, typhoons, volcanic activity, etc.
7. Areas with critical slopes
8. Areas classified as prime agricultural lands
9. Recharged areas of aquifers
10. Water bodies characterized by one or any combination of the following conditions:
 - tapped for domestic purposes;
 - within the controlled and/or protected areas declared by appropriate authorities; and
 - which support wildlife and fishery activities.
11. Mangrove areas characterized by one or any combination of the following conditions:
 - with primary pristine and dense young growth;
 - adjoining mouth of major river systems;
 - near or adjacent to traditional productive fry or fishing grounds;
 - act as natural buffers against shore erosion, strong winds and storm floods; and
 - people are dependent on them for their livelihood.
12. Coral reefs characterized by one or any combination of the following conditions:
 - with 50 percent and above live coralline cover;
 - spawning and nursery grounds for fish; and,
 - which act as natural breakwater of coastlines

Source: Presidential Proclamations 2146 and 300.

Third Implementing Rules and Regulations (1992-1996) - In 1992, the DENR issued Department Administrative Order No. 21 superseding the NEPC implementing rules and regulations. This Department Administrative Order attempted to rationalize the growing complexity of the Philippine EIS System by delegating to the DENR regional offices the responsibility of processing applications for exemptions and environmental compliance certificates for non-environmentally critical projects in environmentally critical areas. The Regional Executive Director of the DENR was also given the authority to grant or deny environmental compliance certificates to projects which do not require full-blown EIA studies.

Fourth Implementing Rules and Regulations (1996-2003) - On December 1996, the DENR issued a more comprehensive implementing rules and regulations (Department Administrative Order 37-1996), which is the third attempt to simplify the Philippine EIS System. It emphasized further regionalization or de-concentration of the environmental assessment review and approval functions. The DENR central office redirected its focus to information system support, linkaging, policy development and technical assistance to the regional offices. For the first time, a comprehensive procedural manual was developed, which introduced the following innovations: (i) use of initial environmental examination as scaled down environmental assessment for non-environmentally critical projects in environmentally critical areas; (ii) issuance of certificate of non-coverage for projects not covered by the EIS System; (iii) public scoping; (iv) social acceptability of project as a requirement for environmental compliance certificate issuance; (v) formation of a Multipartite Monitoring Team and establishment of corresponding Environmental Monitoring Fund; and (vi) the establishment of Environmental Guarantee Fund.

Fifth Implementing Rules and Regulations (2003-present) - The present implementing rules and regulations (Department Administrative Order 30-2003) was issued in 2003 with the expressed objective of further streamlining the EIS System. The latest Department Administrative Order was an attempt to consolidate previous issuances and to simplify the system. It combined into one set of rules the application of EIA, with emphasis on preparation of an environmental management plan as a component of the EIS. It operated under the Presidential Administrative Order No. 42 issued earlier in 2002, which set time limits for EIS processing, review and environmental compliance certificate-issuance steps, and incorporated the use of environmental management system-derived environmental management plan for entities operating without an environmental compliance certificate or those expanding their operations. It retained the action-forcing, regulatory nature of the Philippine EIS System but also emphasized promoting EIA as a planning tool. Proponents must now demonstrate that the EIA was carried out alongside the project feasibility studies, and that the environmental management plan developed from the EIA is adequately reflected in project implementation work plans and budgets.

The Department Administrative Order series (21-1992, 37-1996 and 30-2003) has been the most important and comprehensive legal pronouncement on the EIS System. Throughout the years, the EIS System became more and more complex necessitating periodic streamlining (*Table 1*).

2.3 Complementary Laws

There are many other laws that support or complement the main Philippine environmental assessment laws. These laws affect the way environmental assessments are conducted and evaluated. Some provide environmental norms and standards, emission limits, specific environmental assessment processes and/or specific management and mitigation measures for certain environmental aspects and industry sectors. *Annex 1* provides a list of these laws and brief descriptions of the relevant provisions. There are also specific provisions in the laws (see summary in *Annex 2*) that affect the institutional context of the environmental assessment and DENR's jurisdiction of the environmental assessment process and the issuance of permits. It is difficult for an agency to keep track of all these laws as most of them also have implementing rules and regulations that are periodically updated or amended by the concerned national government agencies.

Requirements/Features	NEPC IRRs (1979-1992)	DAO 21 (1992-1996)	DAO 37 (1996-2003)	DAO 30 (2003 – present)
Report/Documentary Requirements				
Environmental Impact Statement (EIS) or:	X	X	X	X
• Project Description Document/Initial Environmental Examination for non-Environmentally Critical Projects but located in Environmentally Critical Areas	X	X	X	X
• Programmatic EIS for co-located projects	X	X	X	X
• Environmental Performance Report and Management Plan/Programmatic Environmental Performance Report and Management Plan for expansion of existing projects			X	X
• Project Description Document (for Category C and non-covered project)			X	X
Environmental Risk Assessment for "risky" projects			X	X
Environmental Health Impact Assessment for environmentally health sensitive projects/ locations				X
Proofs of social acceptability (e.g., non-government organization/people's organization/local government units' endorsements)		X	X	X
Locational/zoning clearance			X	X
Engineering Geological and Geohazard Assessment Report			X	X
Scoping Report/Checklist			X	X
EIA Process Documentation Report			X	X
Steps in Environmental Assessment Preparation and Environmental Compliance Certificate Application Process				
Screening	X	X	X	X
Technical Scoping		X	X	X
Public Scoping			X	X
Participatory/Community-Based EIA				X
EIA Results Validation with host communities				X
Submission of EIS	X	X	X	X
Checking for completeness/Procedural review	X	X	X	X
Disclosure/publication and solicitation of comments from government agencies	X			
Reply to comments from government agencies and interested parties	X			
Public Hearing	X	X	X	X
Substantive Review by EIA Review Committee	X	X	X	X
Request of additional information/data by EIA Review Committee			X	X
Fees and Funds				
EIS Review Fund			X	X
Environmental Monitoring Fund			X	X
Environmental Guarantee Fund			X	X
Post-Environmental Compliance Certificate Requirements				
Implementation of Environmental Compliance Certificate Conditions		X	X	X
Formation of Multipartite Monitoring Team			X	X
Submission of Self-Monitoring Report				X

INSTITUTIONAL FRAMEWORK

3.

3.1 Structure of Government

The Philippines has a unitary government with a multi-tiered structure (*Figure 1*). At the top is the central or national government operating through more than 20 executive departments and specialized agencies. The country is divided into 16 geographic regions where national government agencies maintain regional offices. With the exception of the Autonomous Region in Muslim Mindanao (ARMM) which has been given special autonomy, these regions are mere administrative subdivisions and do not have regional governments. The second tiers of government are the provinces and chartered cities. There are currently 80 provinces each headed by a Governor and 61 chartered cities each headed by a City Mayor. The third tier of government is the municipalities and component cities which comprise the provinces. Finally, the chartered cities, municipalities and component cities are further subdivided into barangays which are the smallest political unit. There are currently 56 component cities, some 1,500 municipalities and about 40,000 barangays. The provinces, cities, municipalities and barangays comprise the local government units.

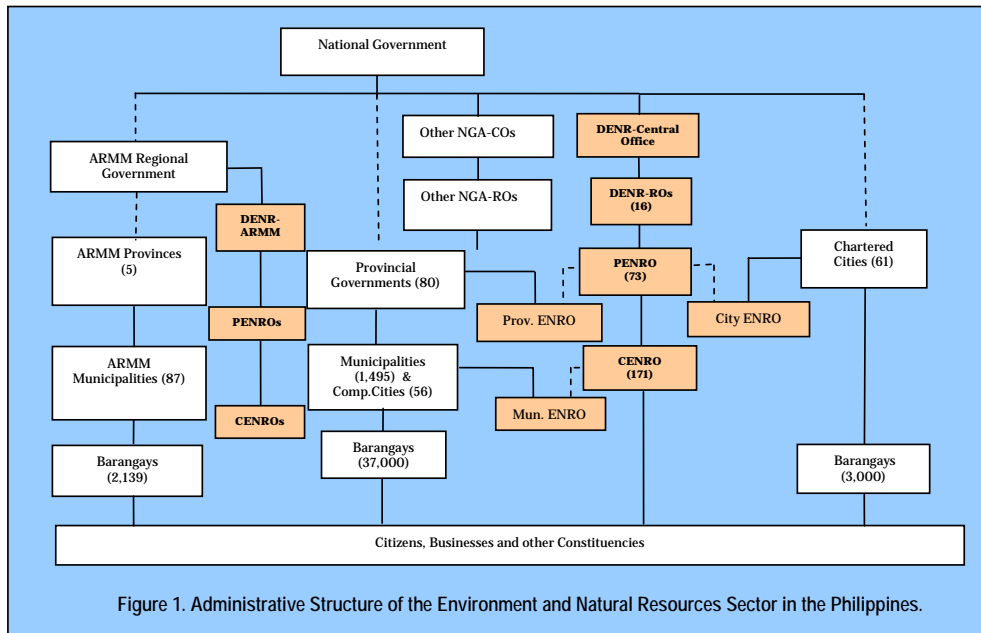


Figure 1. Administrative Structure of the Environment and Natural Resources Sector in the Philippines.

Periodic elections of the chief executives and legislative officials provide the main mechanism for local accountability. The national government maintains executive departments and specialized agencies to deliver basic services and implement national policies, programs and projects. Aside from regional offices, national government agencies maintain representative or field offices at the provincial, city and district (*i.e.*, municipality clusters) levels. Traditionally, it was the national government that provided

most of the social and economic services down to the household levels. In 1991, with the implementation of the Local Government Code (Republic Act 7160), a wide range of functions, which cut across sectors such as agriculture and fisheries, infrastructure, environment, natural resources, social services and health were devolved. To perform these functions most local government units rely on financial transfers or revenue allocations from the central government as they have very limited revenue-generating powers.

3.2 Department of Environment and Natural Resources

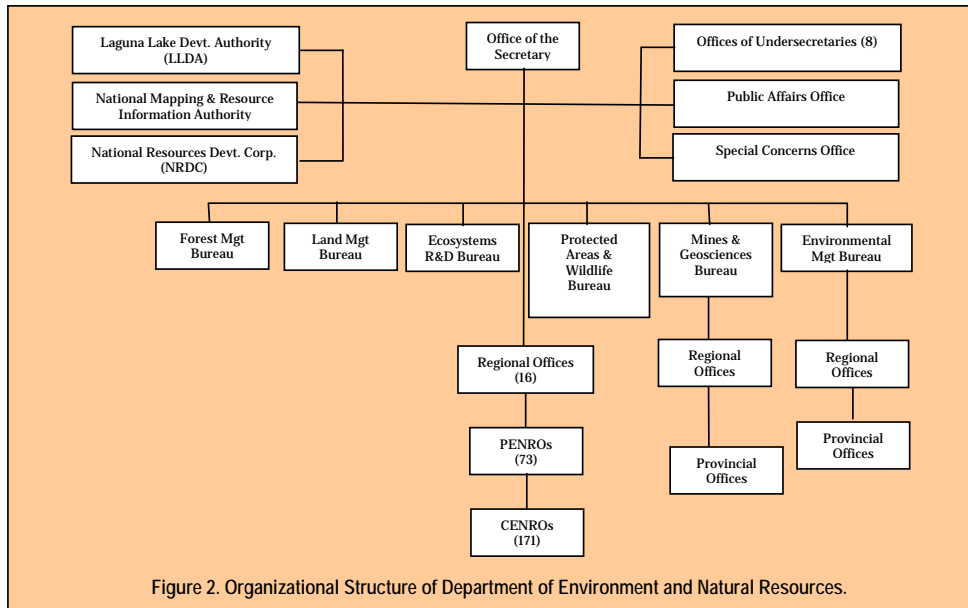
The DENR is the national government agency in charge of most environmental regulations, including the EIS System. The DENR's mandates and functions basically revolve around the implementation of its three broad Major Final Outputs, as follows: (i) development, implementation, monitoring and evaluation of environmental and natural resources policies and plans; (ii) development, protection, conservation, enhancement of ecosystems and natural resources and rehabilitation of degraded ones; and (iii) development, implementation, monitoring and enforcement of comprehensive environment and natural resources standards and regulations.

The DENR is composed of six bureaus, and three attached agencies (*Figure 2*). Two of the bureaus, the Mines and Geosciences Bureau (DENR-MGB) and the DENR-EMB are line⁹ bureaus while the rest are staff bureaus. The DENR central office is composed of the Office of the Secretary, the Offices of Undersecretaries of which there are eight, the Public Affairs Office and the Special Concerns Office, the offices of the staff bureaus and the central offices of the line bureaus. For its field operations, the DENR maintains Regional Environment and Natural Resources Offices (DENR-ROs) at the regional level; Provincial Environment and Natural Resources Offices (PENROs)¹⁰ at the provincial level; and Community Environment and Natural Resources Offices (CENROs) at the district or municipality cluster levels. The territorial jurisdiction of CENRO usually covers a cluster of municipalities which straddles an important ecological area.

There are a total of 16 regional offices, one for each administrative region, except Region IV which has two (DENR IV-A and DENR IV-B); 73 PENROs and 171 CENROs. The regional offices in the administrative regions are headed by a Regional Executive Director. As line bureaus, the DENR-MGB and DENR-EMB have their own regional and provincial offices. The DENR-ARMM is no longer under the central government but directly under the ARMM Regional Government. Currently there are four PENROs and eight CENROs under the DENR-ARMM.

⁹A staff bureau exists in executive departments primarily to provide technical support, assistance and advice to the Secretary of the department. It generally has no direct line of command over regional and field offices. A line bureau operates as a sub-organization in the department with direct line of command, usually with their own representative offices, down to the regional and field offices of the department.

¹⁰ PENROs and the Environmental and Natural Resources Office of provincial governments are two different offices. PENROs are extension offices of the DENR at the province level.



3.3 Environment and Natural Resources Functions of Local Government Units

The environmental and natural resources functions specified to be devolved under Republic Act 7160 or Local Government Code are:

At the municipality level: (i) implementation of community-based forestry projects; (ii) management and control of communal forests with an area not exceeding 50 square kilometers; (iii) establishment of tree parks and similar forest development projects; and (iv) solid waste disposal or environmental management system, services and facilities.

At the provincial level: (i) enforcement of forestry laws with respect to community-based forestry projects; (ii) pollution control law; (iii) small-scale mining law; (iv) other laws on the protection of the environment; (v) mini-hydroelectric projects; (vi) solid waste management systems; and (vii) land use planning. *Box 3* shows the environment and natural resources functions that have been actually devolved (LMP 2005). In terms of the EIS, the local government unit is authorized to issue environmental compliance certificates and monitor environmental compliance of village-based micro enterprises or the so-called *Kalakalan 20* businesses.¹¹

3.4 Environment and Natural Resources Functions in Other National Government Agencies

The environment and natural resources sector is not entirely the domain of the DENR. There are other environment and natural resources functions that have been assigned by

¹¹ Business enterprises registered under RA 6810 also known as Magna Carta for Countryside and Barangay Business Enterprises. The number of employees of these enterprises should not exceed 20.

law to other agencies. Among these are agricultural, soil and water management and aquatic resources, which is handled by the Department of Agriculture (DA); land use conversion,¹² which is handled by the Department of Agrarian Reform (DAR); responses to climate change, which is assigned to the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA); responses to geological and seismic hazards, which is assigned to Philippine Institute of Volcanology and Seismology (PHIVOLCS); and public health and sanitation which are the domain of the Department of Health (DOH) and local governments.

3.5 DENR-Environmental Management Bureau

The office within the DENR responsible for the implementation of the EIS System is DENR-EMB. The DENR-EMB had been a staff bureau until the enactment of the Clean Air Act in 1999, which mandated its transformation into a line bureau. However, the order for its reorganization came only in 2002 through Department Administrative Order 2002-17. The DENR-EMB has eight divisions, namely: the Pollution Control Division; Environmental Education and Information Division; Legal Division; Research and Development Division; Environmental Policy and Planning Division; Environmental Impact Assessment and Management Division; Pollution Adjudication Board, a quasi-judicial body, which has original jurisdiction over pollution cases; and the National Solid Waste Management Commission. As a line bureau, DENR-EMB now has its own regional offices. However, it is still building up its organization at its regional offices, particularly in terms of staffing and building the capacity of staff to review and approve applications for permits to operate air and water quality management facilities, conduct emissions and wastewater discharge monitoring, as well as compliance monitoring on the EIS System. In general, the structure of the regional offices mirrors that of the central office with key divisions such as Pollution Control Division and Environmental Impact Assessment and Management Division. Under the regional offices are the Environmental Management Provincial Offices.

Specifically, the Environmental Impact Assessment and Management Division is in-charge of processing environmental compliance certificate applications and post-environmental compliance certificate monitoring. The Environmental Impact Assessment and Management Division had been an ad hoc division within DENR-EMB and most of its staff only had contractual appointments. It became a full-fledged division only with

Box 3. Environment and Natural Resources Functions Actually Devolved to the Local Government Units.

- Regulation of environmental impacts of small and medium scale enterprises under the *Kalakalan* 20 Law (Republic Act 6810)
- Establishment of greenbelts and tree parks under Local Government Code (Republic Act 7160)
- Management of communal forests and watersheds (Republic Act 7160)
- Integrated Social Forestry Projects (Republic Act 7160)
- Community-based Forestry Projects (Republic Act 7160)
- Regulation of fishing in municipal waters (Republic Act 7160 and the Fisheries Code or Republic Act 8550)
- Regulation of minor mineral extraction like small-scale mining and certain scales of quarrying and sand and gravel gathering (Republic Act 7160)
- Regulation of nuisance and pollution under the Clean Air Act (Republic Act 8749)
- Solid waste management under the Ecological and Solid Waste Management Act (Republic Act 9003)
- Anti-smoke belching program (Republic Act 8749)

Source: LMP 2005.

¹² Land use conversion application process is also centralized at DAR, with land use conversion applications of less than 5 hectares done at DAR's regional offices. Among the prerequisites of land use conversion are: a certificate from the Department of Agriculture of land convertibility which is a long process; a certificate from the CENRO for environmental critical areas; and, a social benefit-cost study and Environmental Compliance Certificate from the local government for land use plan/zoning compatibility..

the issuance of Presidential Administrative Order 42 in 2002. Like the whole of DENR-EMB, Environmental Impact Assessment and Management Division is still building its organization. At present, it has two sections in both its central office and regional offices: (i) the EIA Evaluation Section, which is in charge of project screening, EIA scoping, and evaluation of EIS and initial environmental examination reports submitted for environmental compliance certificate issuance; and (ii) Impact Monitoring and Validation Section, which is in charge of monitoring compliance to environmental compliance certificate conditions and implementation of environmental management plan. As it is,

Box 4. EIS-related functions of DENR-EMB.

- Determine whether a project or a program is covered by the Philippine EIS System and, thus, should require an Environmental Compliance Certificate prior to implementation;
- Determine the scope of the EIA study to be required for a specific type of project in a specific location for the processing of Environmental Compliance Certificate application;
- Recommend whether to issue or to deny Environmental Compliance Certificates/Certificate of Non-Coverage for Environmentally Critical Projects (and other project types) upon completion of review and assessment;
- Monitor compliance of projects with Environmental Compliance Certificates: compliance to Environmental Compliance Certificate conditions, EMP, and project design as committed in the EIS Report; and
- Formulate policies for the improvement of the implementation of the Philippine EIS System.

the staff capability of these DENR-EMB offices is only limited to procedural review of the EIS report. The technical review is covered by the EIA Review Committee, which operates outside the DENR. A Systems Planning and Management Section has been proposed at the central office, which will be responsible for ensuring that a continually improving systems-oriented and integrated approach is followed in implementing the EIS System vis-à-vis national development programs.

The mandates of DENR-EMB emanates from various environmental laws. These are: the Pollution Control Law (Presidential Decree 984 of 1976); the Philippine Environmental Policy (Presidential Decree 1151 of 1977); the EIS Law (Presidential Decree 1586 of 1978); Executive Order 192 of 1987 which created the DENR; the Toxic Substances and Hazardous and Nuclear Waste Management Act (Republic Act 6969 of 1990); the Clean Air Act (Republic Act 8749 of 1999); the Ecological Solid Waste Management Act (Republic Act 9003 of 2000); and the Clean Water Act (Republic Act 9275 of 2004).

3.6 Environmental Units in Other National Government Agencies

In 1996, Executive Order 291 encouraged the establishment of environmental units in all implementing national government agencies, including government-owned and controlled corporations and government financial institutions. In particular, national government agencies with mandates that include the introduction of physical plants and infrastructure were required to create their own environmental units. The envisaged functions of environmental units are: (i) to assist in the preparation of EIS; (ii) to ensure that their respective national government agencies/government-owned and controlled corporations meet the procedural requirements of the EIS System; (iii) to facilitate the acquisition of the environmental compliance certificates of their respective projects; (iv) to ensure compliance by the project with the environmental compliance certificate conditions; and (v) for government financial institutions, to ensure that loans or related funding applications from government and private institutions comply with the EIS System.

THE POLICY ENVIRONMENT

4.

4.1. Dynamics in Philippine Environmental Policy Making

Philippine policy-making with regard to the EIS System has so far been very receptive to new concepts and ideas. The broad language of Presidential Decree 1586 has enabled the DENR to periodically update the implementing rules and regulations to reflect current norms and apply new EIA concepts.

The Philippine environmental policy arena is being played by non-government organizations¹³ and other environmental interest groups on the one side, and the businesses, industry and developers on the other. Three groups exert strong influence on Philippine environmental policy, namely: environmental non-government organizations, the academe, and international development institutions. The social and political culture in the Philippines is extremely tolerant of and receptive to the work of non-government organizations. Most non-government organizations derive financial support from international institutions and experts from the academe usually affiliate themselves with non-government organizations. The academe is the major source of a significant number of environmental assessment reviewers for the DENR, while the international institutions bring in new concepts and international practices into the system.

Policy change proposals in the Philippines nowadays undergo almost mandatory consultation. However, there is an impression that industry interests tend to be under-represented in environmental policy making and consultations lack frameworks¹⁴ to allow concerns from the industry and business sector to be considered. Moreover, a number of policy initiatives while they undergo consultation usually do not benefit from detailed studies in terms of their necessity or their impacts to the regulated community or to other sectors of society. Examples of these include the Engineering Geological and Geo-hazard Assessment Report which was introduced as an additional requirement for environmental compliance certificate in response to the Cherry Hill landslide incident¹⁵. The capacity to review the said report is vested in the DENR-MGB. The Environmental Guarantee Fund requirement was first introduced as part of the environmental compliance certificate conditions in some projects before it was adopted as standard requirement in the Mining Act of 1995 and subsequently as a discretionary requirement in Department Administrative Order 37-1996. Lately, there was the mandatory environmental insurance coverage which was introduced in 2005 without consideration of the existing Environmental Guarantee Fund requirement only to be suspended amidst

¹³ According to Wurfel (2004), the Philippines has the largest number of non-government organizations per capita in Asia and their role in facilitating environmental policy is as great as in the case of agrarian reform. The non-government organization movement in the Philippines is vibrant and they wield significant influence over the shaping of public opinion and government policy (Tan 2002). Environmental non-government organizations' influence in Philippine environmental policy is reflected in the presence of many provisions for public participation and sustainable development in most of the Philippine legislations concerning natural resources. Non-government organizations' influences are particularly significant in the crafting of the implementing rules and regulations of the Philippine EIS System, the Philippine Clean Air Act, the Ecological and Solid Waste Act (Lucas 2004).

¹⁴ This came directly from a comment by an official from the Philippine National Oil Company (PNOC-EDC 2006). But the same can be gleaned from complaints of industry advocates charging that while the industries are not the major sources of air pollution, it bears the brunt of most stringent regulation (Alabastro 2005).

¹⁵ Even now many still question the popular conclusion that lapses in the EIS process were to blame for the Cherry Hill disaster. EGGAR as a requirement has been applied not just to subdivisions but to all land development projects including cemeteries, transmission lines and cellular telephone antenna sites.

protests by the business sector.¹⁶ When studies do get conducted they generally focus on ensuring effectiveness or maximum compliance of the proposed regulation and seldom consider the impacts of the proposed regulation to the regulated community.

Table 2. Number of Business Establishments in the Philippines by Sector.			
Sector	Total	Less than 20 employees	More than 20 employees
Primary Sector	4,026	3,108	918
Agriculture, hunting and forestry	2,920	2,178	742
Fishery	1,106	930	176
Industry Sector	124,338	117,526	6,812
Mining and quarrying	295	232	63
Manufacturing	121,476	115,297	6,179
Construction	2,567	1,997	570
Services Sector	591,008	577,480	13,528
Wholesale and retail trade	365,161	360,768	4,393
Hotels and restaurants	87,767	85,481	2,286
Electricity, gas and water	1,027	598	429
Transport, storage and communication	9,328	8,280	1,048
Financial intermediation	16,439	15,735	704
Real estate, renting	35,270	33,726	1,544
Others	76,016	72,892	3,124
Total	719,372	698,114	21,258

Source: 2003 Annual Survey of Philippine Business and Industry.

4.2 The Regulated Community

The annual survey of business projects of the National Statistics Office (NSO) provides a good approximation of the number, scale and types of businesses that are subject to various requirements under the Philippine EIS System (*Table 2*).



Source: Conservation International/William Azucena.

¹⁶ DAO 06-2005 was issued requiring mandatory environmental insurance coverage of all projects only to be suspended in DAO 01-2006 when industry sectors complained about lack of consultation and the fact that it is a duplication of the Environmental Guarantee Fund, among other issues (Foreign Chamber of Commerce in the Philippines 2005 and College of Social Science and Philosophy 2005).

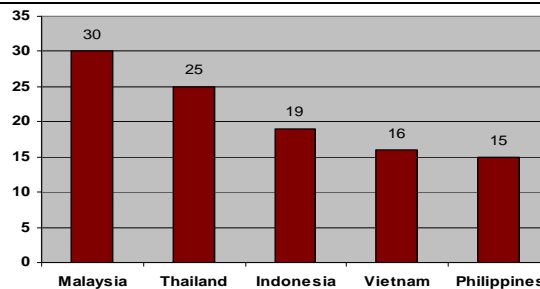
The survey revealed that more than 95 percent of the projects are small-scale businesses, i.e., operating with less than 20 employees. This may indicate that the greatest demands for EIS services under the current EIS System are in the small- and medium-scale categories. These are the Categories B, C and D projects. The survey also indicates that many of the projects are in the services sector. The industrial sector (i.e., mining, manufacturing and construction) accounts for less than one percent of the total

Region	Total	Primary	Industry	Services
National Capital Region (NCR)	178,273	110	24,684	153,479
Cordillera Administrative Region	12,525	23	1,815	10,687
Region I (Ilocos Region)	41,757	228	10,945	47,465
Region II (Cagayan Valley)	21,955	64	4,975	80,661
Region III (Central Luzon)	78,532	632	14,036	149,214
Region IV-A (Calabarzon; Southern Luzon)	104,112	392	18,250	123,785
Region IV-B (Mimaropa)	22,201	435	4,298	71,652
Region V (Bicol)	26,686	143	5,544	54,259
Region VI (Western Visayas)	41,768	457	7,967	68,745
Region VII (Central Visayas)	42,488	408	6,586	51,290
Region VIII (Eastern Visayas)	19,725	177	3,686	37,648
Region IX (Zamboanga Peninsula)	25,222	120	3,293	44,783
Region X (Northern Mindanao)	27,696	188	4,470	48,295
Region XI (Davao Provinces)	30,689	301	5,080	56,815
Region XII (Soccsksargen)	24,838	290	4,902	38,302
Region XIII (Caraga)	13,079	55	2,716	18,718
ARMM (Muslim Mindanao)	7,874	33	1,050	6,791

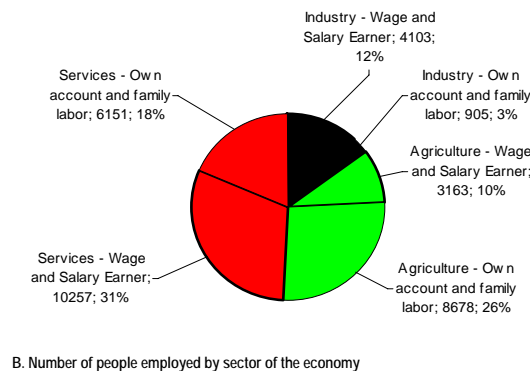
Source: 2003 Annual Survey of Philippine Business and Industry.

Box 5. Size of the Philippine Industrial Sector Relative to Agriculture and Services Sectors.

The Philippines is still basically a traditional economy with a relatively small industrial sector. Its industrial sector is able to absorb only 15% of the country's employed labor force, the smallest in Southeast Asia (Panel A). The great majority of the population derives their income and livelihood in the services sector (49%) and the primary sector, i.e., the agriculture, fishery and forestry (36%) (Panel B). However, more than two-thirds of those employed in the primary sector and almost half of those employed in the services sector are non-wage earners or family labors. In agriculture and fishery sectors these are the small fishers, the small landholding farmers and upland subsistence farmers while in the services sectors these are the tricycle drivers, sari-sari store operators, sidewalk vendors and those engaged in other petty services. This indicates that roughly about 60% of the country's economic activities are still informal.



A. Percent of Labor Force in the Industrial Sector in Southeast Asian Countries



B. Number of people employed by sector of the economy

Sources: National Statistics Office 2006 Labor Force Survey and ILO Yearbook of Labor Statistics 2006.

number of establishments. In terms of regions, business projects are generally concentrated within and around the National Capital Region (NCR) and its neighboring regions (Regions III and IV) (Table 3).

4.3 The Philippine Economy and its Environmental Problems

The Philippines is still a traditional economy with a great number of people deriving their income from informal economic activities (*Box 5*). The most pressing environmental problems in the Philippines are not due to industrial activities but from population pressure and chronic lack of employment opportunities outside of the natural resource-based livelihood systems (*Table 4*). These include deforestation and loss of natural habitat due to illegal logging and expanding agricultural settlements; upland soil degradation and sedimentation of rivers due to hillside farming and intensified slash and burn cultivation; fishery depletion due to over-fishing and use of destructive fishing methods; urban air pollution largely from the transport sector which uses cheap fuels and second-hand engines; and water pollution due mainly to untreated domestic effluents.

Table 4. Environmental Problems in the Philippines.		
Problem	Extent of the problem	Main Causes
Declining air quality in urban centers	Roadside total suspended particles levels exceed national standards	Vehicular emissions from diesel engines and two stroke motorcycles
Declining water quality in rivers and lakes	11 of 88 rivers surveyed in 1989-92 are biologically dead while 34 had high or slight pollution level	Biochemical oxygen demand (BOD) levels nationwide are contributed by the following: (i) domestic sewage (48%); (ii) intensive aquaculture and agricultural runoff (37%); and (iii) industrial wastewater (15%).
Declining forest cover	Only 3.8 million of the 17.1 million hectares of forest remain; 130,000 hectares of forest are cleared each year	Population pressure: slash and burn cultivation, illegal logging.
Loss of natural habitat	3,659 hectares converted per year; 284 species considered endangered	Population pressure: encroachments, slash and burn cultivation, and poaching
Land degradation	2 million hectares of uplands are cultivated for agriculture	Population pressure: upland/hillside farming
Watershed degradation	90% of watershed reservations considered degraded	Population pressure: increasing upland population
Declining coastal and marine resources	Only 4.3% corals remain in excellent condition; 76% of mangrove forest lost	Population pressure: overfishing and use of destructive methods, mangrove conversion.

Sources: *Philippines Environment Monitors 2000-2005*.

THE PHILIPPINE ENVIRONMENTAL IMPACT STATEMENT SYSTEM

5.

5.1 Objectives of the Philippine EIS System

The main objective of the Philippine EIS System is to achieve sustainable development. This was articulated in the Philippine Environmental Policy (Presidential Decree 1151) which states: “It is hereby declared a continuing policy of the State to:

- a. create, develop, maintain, and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other;
- b. fulfill the social, economic and other requirements of present and future generations of Filipinos; and
- c. ensure the attainment of an environmental quality that is conducive to a life of dignity and well-being.”

This is also reflected in Presidential Decree 1586, Section 1 which declared “It is... a policy of the State to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection” and lately, in Department Administrative Order 30-2003, Article I, Section I “It is the policy of the DENR ... to ensure a rational balance between socio-economic development and environmental protection for the benefit of present and future generations”.

5.2 Processes and Procedures

The Philippine EIS System can be divided into three major phases: (i) screening, (ii) application for environmental compliance certificate, and (iii) the post-environmental compliance certificate application.

5.2.1 Screening

The first step in the EIS process is determining which projects are covered or not by which requirements. The law pre-categorizes projects based on the level or degree of potential environmental impacts and each category has a prescribed environmental assessment instrument of commensurate scale or level of complexity (*Table 5*). In general, projects that fall under environmentally critical projects are classified as Category A, while those that are non-environmentally critical but located within environmentally critical areas are classified as Category B. Projects that are neither environmentally critical nor located in environmentally critical areas fall under Category D. Department Administrative Order 30-2003, which is based on Presidential Administrative Order 42 of 2002, introduced a special category (Category C) to classify projects that are in themselves intended to enhance the environment, such as water treatment facility serving a single project, seawalls, embankments and artificial reefs. Category C projects have special requirements but both Category C and Category D projects are not required to secure an environmental compliance certificate. The DENR

maintains a list of projects falling under Category A, B and D. For projects that have not been pre-categorized, the proponent may submit a project description to the DENR for screening.

5.2.2 Application for Environmental Compliance Certificate

Central to the Philippine EIS System is the environmental compliance certificate, which is the document, issued by the DENR certifying that the proponent has complied with all the requirements of the EIS System and has committed to implement its approved environmental management plan. The environmental

compliance certificate contains specific measures and conditions that the project proponent has to undertake before and during the operation of a project and, in some cases, during abandonment to mitigate identified environmental impacts. The issuance of an environmental compliance certificate does not exempt a project proponent from securing related permits (such as sanitary, land use conversion, water and building) from concerned government agencies. *Table 6* summarizes the procedural and documentary requirements of each project category.

5.2.2.1 Environmental Compliance Certificate Application for Category A Projects

Category A projects must undergo full EIA study, which involves evaluating and predicting the likely impacts of a project including cumulative impacts on the environment during construction, commissioning, operation and abandonment. It also includes designing appropriate preventive, mitigating and enhancement measures addressing these consequences to protect the environment and the community's welfare. The process is undertaken by the project proponent, EIA consultant, DENR-EMB, an independent EIA Review Committee, affected communities, and other stakeholders.

Table 5. Environmental Categories under the Philippine EIS System.		
Environment Category	Descriptions	Required Environmental Assessment Study/ Report
Category A	Environmentally critical projects or projects with significant potential to cause negative environmental impacts.	Full EIA
Category B	Projects which are not environmentally critical but which may cause negative environmental impacts because they are located in environmentally critical areas.	Initial Environmental Examination or Full EIA
Category C	Projects that are intended to directly enhance environmental quality or address existing environmental problems.	Project Description with Environmental Management Plan
Category D	Projects that are considered outside the purview of the Philippine EIS System because they do not have negative environmental impacts.	Project Description
Co-located	Projects or series of similar projects or a project subdivided to several phases and/or stages by the same proponent, located in contiguous areas.	Programmatic EIA
Expansion	Expansions of existing projects.	Environmental Performance Report and Management Plan *
*For expansion of single existing project currently operating without an environmental compliance certificate (i.e., projects constructed before 1982) the proponent may undertake an ISO Environmental Management System-based Environmental Management Plan in lieu of Environmental Performance Report and Management Plan.		

Table 6. Summary of Procedural Requirements of the Philippine Environmental Impact Statement System.

Project Category	Existing or New	Single or Co-located	Documents Required	Processing Responsibility/ Endorsing Official	Deciding Authority	Maximum Time to Grant or Deny Environmental Compliance Certificate Application
A: Environmentally Critical Projects	A-1: New	Co-located projects	Programmatic EIS based on an eco-profile and focused on critical environmental parameters	DENR-EMB Central Office Director	DENR Secretary	180 days
		Single Project	Project EIS	DENR-EMB Central Office Director	DENR Secretary	120 days
				DENR-EMB Central Office/ EIA Division Chief	DENR-EMB Director	120 days
	A-2: Existing and to be expanded (including undertakings that have stopped operations for more than 5 years and plan to re-start, with or without expansion) A-3: Operating without environmental compliance certificate	Co-located projects	Programmatic Environmental Performance Report and Management Plan (PEPRMP)	DENR-EMB Central Office Director	DENR Secretary	120 days
		Single Project	Environmental Performance Report and Management Plan (EPRMP)	DENR-EMB Central Office/EIA Division Chief	DENR-EMB Director	90 days
B: Non-Environmentally Critical but located in an Environmentally Critical Area	B-1: New	Single Project	Project Initial Environmental Examination or Initial Environmental Examination Checklist if available (Initial Environmental Examination may be followed up by full EIA if required by DENR-EMB after its review of the Initial Environmental Examination)	DENR-EMB Central Office/EIA Division Chief	DENR-EMB Director	60 days
				DENR-EMB Region/EIA Division Chief	DENR-EMB Regional Director	60 days
	B-2: Existing and to be expanded (including undertakings that have stopped operations for more than 5 years and plan to re-start, with or without expansion) B-3: Operating without an environmental compliance certificate	Single Project	Environmental Performance Report and Management Plan (based on a checklist if available)	DENR-EMB Region/EIA Division Chief	DENR-EMB Regional Director	30 days
		Co-located Project	PEPRMP	DENR-EMB Central Office/EIA Division Chief	DENR-EMB Central Office Director	60 days
C: Environmental Enhancement or Direct Mitigation		Co-located or Single Projects	Project Description	DENR-EMB Regional Office/ EIA Division Chief	DENR-EMB Regional Director	15 days
D: Not Covered			Project Description or Proof of Project Implementation Start Prior to 1982 (if applying for Certificate of Non-Coverage)	DENR-EMB Central Office or Regional Office/EIA Division Chief	DENR-EMB Central Office or Regional Director	15 days

Source: Department Administrative Order 30-2003 Procedural Manual.

The following comprise the major steps of the environmental compliance certificate application process for Category A projects:

1. *Scoping* – This is mandatory for Category A projects, where the key issues and concerns are identified and the scope of the study is agreed upon by the proponent, the EIA consultants, DENR-EMB, EIA Review Committee, local residents and other project stakeholders. It is during scoping that the EIA Review Committee for the project is formed and project stakeholders are identified. The review committee is a body of independent technical experts and professionals of various fields organized by the DENR-EMB to evaluate the EIS Report and to make appropriate recommendations regarding the issuance or non-issuance of an environmental compliance certificate. It is also during scoping when requirements for specific studies such as environmental risk assessment and environmental health impact assessment are determined. The major activities include presentation of project to the EIA Review Committee, on-site scoping with project stakeholders, and a technical scoping session with the review committee. These activities result in the production of the scoping report and the scoping checklist.
2. *Environmental Impact Assessment Study* - The conduct of the EIA study commences after the scoping checklist is finalized. The assessment for Category A projects typically includes characterization and analysis of the biophysical, chemical, social, economic and cultural environment. Proponents are encouraged to employ a community-based approach to the EIA study and public participation is a requirement. At the onset of the EIA, stakeholders within the influence zone of the project are identified and profiled. Prior to scoping, the project proponent is urged to conduct social preparation or information, education and communication activities. Public participation occurs during scoping, baseline data gathering, impact identification, prediction and evaluation, and environmental planning process. Public consultation and conflict resolution may also be conducted on certain issues. The proponent is required to document the public participation, consultation and conflict resolution processes, and include them in the EIS Report.
3. *Environmental Impact Assessment Review* - The results of the EIA study together with other required documents are packaged into an EIS Report, which is submitted to DENR-EMB central office for review. The review process consists of two stages. The first stage is a “procedural review” to be conducted by a DENR-EMB staff whose primary job is to check for completeness and ensure that submitted documents are clear and legible. The second stage is the “substantive review” by the EIA Review Committee. At this stage, the review committee may conduct field visits or site inspections and may decide to conduct a public hearing. They may request for additional information up to a maximum of two requests. The environmental compliance certificate application is deemed automatically approved if the DENR cannot come up with a decision within a total of 120 working days.

5.2.2.2 *Environmental Compliance Certificate Application for Category B Projects*

Category B projects are required to undergo only initial environmental examination. However, a full EIA study may be required after an evaluation has found that an initial environmental examination report is not sufficient to address environmental impacts of the project. The initial environmental examination report is a scaled-down EIS report,

which presumably can be quickly accomplished. Scoping for initial environmental examination is encouraged but not required. For some projects, the initial environmental examination report can be accomplished by filling out a checklist as DENR-EMB has prepared pro-forma checklists for a number of projects including housing, transmission lines and telecom cell sites. Where checklists are not available, the EIS procedural manual suggests an outline which resembles a mini-EIS report. The initial environmental examination can be processed at the DENR-EMB regional office where the project is located. A case handler of a technical review committee is charged with the review. During the review, the case handler may conduct field visit, additional sampling or informal consultations. The reviewer is entitled to one request for additional information and may request the PENRO or CENRO to validate them.

5.2.2.3 Applications for Certificate of Exemptions for Category C and D Projects

Proponents for projects classified as Category C are required to submit a project description for issuance of certificate of non-coverage. The project description is a document that describes the nature, configuration, use of raw materials and natural resources, production system, waste or pollution generation and control and the activities of a proposed project in all its phases (i.e., pre-construction, construction, operation and abandonment). Category D projects are considered outside the purview of the EIS System, and are issued a certificate of non-coverage upon request by the proponent. However, DENR-EMB may still require such projects to provide additional environmental safeguards as it may deem necessary.

5.2.2.4 Environmental Compliance Certificate Application for Co-Located Projects

For co-located Category A or B projects, such as those in economic zones, the proponent has the option to secure a programmatic environmental compliance certificate. Otherwise, each project must individually apply for an environmental compliance certificate. To secure a programmatic environmental compliance certificate, the proponent must undertake a programmatic EIA and submit a programmatic EIS. A programmatic EIA is a comprehensive study of the environmental baseline conditions or ecological profile of a contiguous area. It also includes an assessment of the carrying capacity, or the capacity of the area to absorb impacts from co-located projects such as those in industrial estates or special economic zones. Programmatic EIS is the documentation of the programmatic EIA. The review of the programmatic environmental compliance certificate application process is similar to Category A but allows a longer timeframe of 180 working days.

5.2.2.5 Environmental Compliance Certificate Application for Expansions of Existing Projects

Expansions of existing projects are required to submit an environmental performance report and management plan which is a documentation of actual cumulative environmental impacts of projects with proposals for expansions. The environmental performance report and management plan should also describe the effectiveness of current environmental mitigation measures and plans for performance improvement. If the projects for expansion are co-located projects, the proponent is required to submit a programmatic environmental performance report and management plan.

5.2.3 Post-Environmental Compliance Certificate Application Requirements

5.2.3.1 Conduct of Specialized Studies and Additional Conditions

After the environmental compliance certificate is issued, the proponent is expected to implement the environmental management plan and meet the conditions stipulated in the environmental compliance certificate. Post-environmental compliance certificate requirements may include the conduct of additional specialized studies such as biodiversity, culture or environmental risk assessment. It may also include specific provisions such as submission of plans for resettlement, watershed management or emergency response where such measures are included in the environmental management plan. Since there is no limit on the number and types of conditions that can be included in the environmental compliance certificate, the DENR has used the environmental compliance certificate to include conditions or requirements that were not yet mandated by law but which the DENR felt necessary.

5.2.3.2 Follow-up and Monitoring

The DENR-EMB is expected to conduct periodic monitoring and evaluation of the project, not only on compliance to environmental compliance certificate conditions and commitments on the environmental management plan, but also to other environmental laws. In addition, the DENR requires Category A projects to form a community-based Multipartite Monitoring Team (with the proponent, DENR, representatives from local government units, non-government organizations and people's organizations as members) whose purpose is to monitor the proponent's compliance with environmental compliance certificate conditions, environmental management plan and other applicable laws, rules and regulations. Based on Department Administrative Order 30-2003, the DENR is requiring the proponent to submit a self-monitoring report and audit plan semi-annually.

5.2.3.3 Penalties and Sanctions

Presidential Decree 1586 provides for the cancellation or suspension of the environmental compliance certificate or the imposition of fines of PhP50,000 per violation of the decree and its implementing rules and regulations. The fine is fixed in nominal terms, hence, its deterrence value has been severely eroded by almost three decades of inflation. The main deterrence against violation of EIS law is DENR-EMB's power to impose a Cease and Desist Order to the violating establishment, presumably to prevent damage to the environment. The Cease and Desist Order takes effect upon issuance, and any appeal or motion seeking to lift it shall not sway its effectivity. The DENR shall act on such appeal or motion within 10 working days from filing. Finally, the DENR-EMB may publish the identities of firms that are in violation of the EIA law and its implementing rules and regulations despite repeated notices of violation and/or Cease and Desist Order.

6.1 The Philippine EIS Policy Framework

The Philippine EIS System is perhaps one of the most elaborate and comprehensive environmental assessment systems in the world. The Asia Pacific Center for Environmental Law describes it as “extremely comprehensive” (Tan 2002). It does not merely emphasize the regulation of industrial pollution, but also aims at protecting natural resources, fragile ecosystems and the rights of local communities. The present EIS System as articulated in the Presidential Administrative Order 42, Department Administrative Order 30-2003 and its accompanying Procedural Manual, prescribes procedures, requirements and criteria from screening to compliance monitoring of all projects or undertakings. It must be emphasized that the EIS System is an evolving one and continues to be shaped to suit present conditions. There is now a move to gradually shift from project-based environmental assessment to regional or sectoral environmental assessment.

6.1.1 Strategic Environmental Assessment

It is believed that the future of environmental assessment lies in strategic environmental assessment. This type of environmental assessment refers to a range of analytical and participatory approaches that aim to integrate environmental considerations into policies, plans and programs and evaluate the inter-linkages with economic and social considerations (OECD 2006). In its simplest form, it is EIA applied to policies, plans and programs. And it can be applied to a sector or to a region. As such, its purpose is clearly not regulatory and its application will certainly be limited only to national government agencies.

A recent study on the prospect of strategic environmental assessment in the Philippines noted various regional environmental assessment initiatives on programs funded by international agencies (REECS 2006). Regional environmental assessment has been applied to river basins, coastal zones, and provincial or municipal areas in the course of formulating environmentally sustainable development plans, programs and/or strategies. It also noted the existence of provisions in national laws that provide a platform for the use of strategic environmental assessment-related initiatives. These include the Local Government Code which calls for comprehensive land use planning at the municipal and provincial levels. The Clean Water Act, meanwhile, requires the conduct of programmatic EIA for area-based development projects. In addition, the Clean Air Act provides for the establishment of local air shed management. The study proposed two ways in which strategic environmental assessment can be instituted in the Philippines through legislation or through an executive directive. In terms of the legislation, the EIA bill pending in Philippine Congress includes provisions for strategic environmental assessment (see *Annex 3*).

However, the formulation of policies, plans and programs in the Philippines is a separate and complex process. Policies are promulgated by the various government instrumentalities based on their legal mandates. Plans are formulated by various sectoral

agencies, regional and local development councils and consolidated into the Medium Term Development Plan by the National Economic Development Authority (NEDA). On the other hand, major government programs and projects are proposed by government agencies and approved by the Investment Coordinating Council, which is also chaired by NEDA. The different circumstances under which policies, plans and programs are formulated mean that different protocols are required for the strategic environmental assessment of policies, plans and programs. There is also the question of who will be the lead agency for strategic environmental assessment. For socio-economic policies, plans and programs, clearly NEDA has a comparative advantage being the main government planning agency. NEDA also chairs the Philippine Council for Sustainable Development, a multi-sectoral body charged with coordinating and monitoring the Philippine Agenda 21. When it comes to programs involving multiple projects, which are more of an extension of programmatic compliance, the DENR has the comparative advantage. It is under multiple project programs where strategic environmental assessment can probably be readily applied given current institutional capacities.

6.2 The EIS Process

The key elements of a sound environmental assessment system as listed by the IAIA (1999) are present in the Philippine EIS System including screening, scoping, independent review, public participation and monitoring (*Table 7*).

Aside from these key elements, the Philippine EIS System includes some additional features, as summarized in *Table 8*.

6.3 Institutional Capacity

The mandate to administer the EIS has been assigned to DENR-EMB, which is saddled with the implementation of all the other environmental laws passed in recent years. A study on the institutional capacity of DENR-EMB has counted a total of 239 mandated functions and, of these, it has managed to operationalize only 189 mandated functions, including all of EIS-related functions (REECS 2003).

In terms of personnel, the study found that as of 2002, DENR-EMB has a total of 632 personnel, about 107 or 17 percent of which perform EIS-related functions. These comprise of 540 regular employees (85 percent), 39 casuals (6 percent) and 53 (8 percent) contractual. Of DENR-EMB's manpower, 215 or 34 percent are based in the central office while an average of 27 staff or 4 percent are in regional offices. The rate of staff turnover at the Environmental Impact Assessment and Management Division is very high since most of them are contractual employees. In terms of budget, DENR-EMB receives only 5-6 percent (around PhP350 million) of the total DENR budget (REECS 2003) and only a very small percentage goes to the EIA division. For example, in 2006 the EIA division was allocated only 7 percent of DENR-EMB's total budget.

Table 7. Presence of Key Elements of Environmental Assessment System in the Philippine EIS System.

Elements of EIA (IAIA 1999)	Equivalent Provisions in the Philippine EIS System
1. Screening	With Department Administrative Order 2003-30, the DENR classifies projects into one of four categories and distinguishes between a) single and co-located, and b) new undertakings and expansion of existing projects.
2. Scoping	Scoping has been part of the EIA study process since Department Administrative Order 21-1992. The present scoping process involves technical and community scoping under the auspices of an independent multidisciplinary review committee formed for the project. Scoping is required for Category A projects and encouraged for Category B.
3. Examination of alternatives	Although not formally applied in Philippine environmental assessments, full EIA studies typically include analyses of future environmental and socio-economic conditions under a "no project" scenario.
4. Impact analysis	Impact analysis is usually done after baseline characterization. A chapter on impact assessment is standard in Philippine EIA reports.
5. Mitigation and impact management	The mitigation and impact management measures are contained in the environmental management plan which is a standard requirement of all environmental assessment reports.
6. Evaluation of significance	Impact evaluation is not recognized as a distinct step in most Philippine environmental assessments. It is integrated into the impact analysis step.
7. Preparation of environmental assessment report	All applications require the preparation of environmental assessment reports which are in the form of EIS, initial environmental examination, project description or environmental performance report and management plan.
8. Review of environmental assessment report	Environmental assessment reports, particularly the EIS and associated documents are subject to a two-stage review. A procedural review to determine completeness and clarity is first done by the DENR, after which the report is subjected to a substantive review by an independent multidisciplinary review committee, which is the same committee formed early in the scoping stage. The review process is time-bounded and covered by detailed protocols.
9. Decision making	The Philippine EIS System includes decision to approve or deny the project through the issuance of an environmental compliance certificate. The decisions to grant or deny the environmental compliance certificate are currently vested in the DENR Secretary, DENR-EMB Director and DENR-EMB Regional Directors, depending on the project category.
10. Follow-up and monitoring	Department Administrative Order 2003-30 includes provisions for post-environmental compliance certificate monitoring by the DENR. Monitoring typically covers compliance of the environmental management plan and the environmental compliance certificate conditions. However, the DENR also monitors compliance to various other laws, such as the Pollution Code, Clean Air Act and Clean Water Act. In addition, the Department Administrative Order also provides for the establishment of multi-sectoral monitoring teams and the submission of semi-annual self-monitoring and audit report to the DENR.

Table 8. Other Features of the Philippine EIS System.	
Element	Description
Timing of the conduct of Environmental Assessment	The new regulation (Department Administrative Order 30-2003) requires that the EIA be conducted simultaneously with the project feasibility study purportedly to ensure that environmental aspects are considered in the project development and financial plan.
Alternative environmental assessment instruments	The Philippine EIS System utilizes various environmental assessment instrument/tools depending on the project category.
Public participation (stakeholder consultation and disclosure)	The typical Philippine EIA study is a highly participatory exercise. Consultations are held at various stages of the project starting with social preparation to scoping, impact assessment, review, and finally, compliance monitoring through the Multipartite Monitoring Team. Environmental assessment reports are made available to the public, especially for Category A projects where EIS reports are required to be displayed in public places. Initial environmental examination reports, on one hand, are available upon request. There is also a provision for public hearing when the DENR sees the need. The social acceptability requirement also forces the project proponent to address public sentiments and ensures the conduct of public consultation over issues and the resolution of conflicts.
Social acceptability	Social acceptability constitutes a major factor in the decision to grant or deny an environmental compliance certificate. It was introduced amidst vigorous public opposition to infrastructure projects in the early 1990s and was formally adopted starting Department Administrative Order 37-1996. Because of its inherent subjectivity, social acceptability is one of the most contentious requirements in the EIS System.
Accountability of proponents	Starting Department Administrative Order 37-1996, the DENR requires environmental assessment report preparers and project proponents to sign a legal undertaking making them liable to any deliberate misinformation in the environmental assessment report. The impact of this requirement to the quality of the environmental assessment report and to the preparers have not been evaluated.
Sanctions and penalty	The Philippine EIS imposes sanctions and penalties. These include fines amounting to PHP50,000 for every violation; Cease And Desist Order to prevent significant damage to the environment; and/or cancellation of the environmental compliance certificate.
Environmental Guarantee Fund	Project proponents of environmentally critical projects are now required to establish an Environmental Guarantee Fund, the actual amount of which shall be negotiated through a memorandum of agreement. Department Administrative Order 30-2003 requires environmentally critical projects to include in the EIS draft memorandum of agreement an Environmental Guarantee Fund. The environmental guarantee fund is compulsory for mining projects per the Mining Act of 1995.

To beef up its capacity and manpower in terms of EIS-related functions, DENR-EMB gets the services of an EIA Review Committee whose expenses are being charged to the proponents. EIA Review Committee members are mostly from the academe, but some are practitioners and from the private sector. Clearly DENR-EMB is undermanned and under-funded relative to its law-mandated functions. The greatest deficiency as far as implementation of the EIS mandates is concerned may be in the compliance-monitoring. The DENR-EMB has reportedly only able to monitor 18 percent of the total number of projects to whom it has issued environmental compliance certificates and the number of new environmental compliance certificate issuances averaged about 1,600 per year.

6.4 Issues in the Philippine EIS System

6.4.1 Perceived Weakness of the Environmental Impact Assessment Law

The source law of the Philippine EIS System (Presidential Decree 1586) is about three decades old and was passed during the authoritarian era. Most of the specific provisions governing the present EIS System are coming from the implementing rules and regulations, which is a subsidiary legislation. Many provisions of the present regulations are only generally supported by Presidential Decree 586, hence, there is always the perception that the EIS law is weak. The implementing rules and regulations can easily be challenged in the courts. The pending EIS bill is intended to update the law.

6.4.2 Overlaps with Other Laws

The Philippine EIS System is still evolving, partly driven by other laws that have been passed since its inception. Although the rules of jurisprudence normally consider the provisions of the most recent law the most binding, national government agencies drafting the implementing rules and regulations and other issuances sometimes fail to consider other laws (*Table 9*). The most common overlaps include: (i) requirements of studies or reports that serve the same purpose or are already covered by the EIS (e.g., Engineering Geological and Geo-hazard Assessment Report of DENR-MGB, Environmental Health Impact Assessment of DOH, Environmental and Socio-cultural Impact Study under the Indigenous Peoples Rights Act); (ii) specific processes (e.g., public consultation, Certification Precondition/Free and Prior Informed Consent) which serve the same purpose and are already covered by the EIS process but which the project must undergo to fulfill the requirements of another law or a permit by another agency; (iii) establishment of funds for the same purposes (e.g., Environmental Guarantee Fund, rehabilitation funds, reforestation, health and/or Environment Enhancement Fund of the Department of Energy); and (iv) environmental monitoring requirements of environmental laws and other agencies, although the DENR has recently unified all monitoring into the Self-Monitoring Report that contains Republic Act 6969 (Hazardous Waste), Republic Act 9275 (Clean Water), Republic Act 8749 (Air Pollution), Presidential Decree 1586 (the monitoring plan in the environmental management plan and compliance with environmental compliance certificate conditions), and others.

The most critical form of overlap so far has been in terms of agency jurisdiction. Liberal interpretation of the charters of autonomous agencies has often led these agencies to carry out EIS functions of the DENR in their areas of jurisdiction. For example, the Subic Bay Metropolitan Authority (SBMA) has been issuing environmental compliance certificates to locators within the Subic Bay Special Economic Zone through a memorandum of agreement with the DENR. Another example is the authority of Laguna Lake Development Authority (LLDA) to carry out EIA-related functions, such as issuance of a Cease and Desist Order and monitoring of projects located in the Laguna de

Table 9. Overlaps of the Philippine EIS Process and Requirements with Other Laws and Issuances.

Laws or Issuances	Required Studies, Reports or Permits	Clearance Processing and Approving Agency	Monitoring
Presidential Decree 856 - Sanitation Code of the Philippines	Environmental Health Impact Assessment Report including Environmental Health Management Plan	DOH as member of EIA Review Committee	Environmental Health Monitoring Plan
Republic Act 7942 – Philippine Mining Act of 1995 and its Implementing Rules and Regulation	Environmental Compliance Certificate Prior Informed Consent with Indigenous Peoples	DENR-EMB NCIP	
Department Administrative Order 1996-40 – Revised Implementing Rules and Regulations of Republic Act 7942	Environmental Protection and Enhancement Plan Environmental Work Plan Safety and Health Program Environmental Risk Management and Emergency Response Program Mine Rehabilitation and/or Decommissioning Plans	DENR-MGB NCIP	Report on rehabilitation of mined-out or areas covered with mine tailings Safety and Health Program Multipartite Monitoring Team: Monitoring Report to Mine Rehabilitation Fund and Comprehensive Liability and Rehabilitation Fund Steering Committee
Department Administrative Order 28-2000 –Engineering Geological and Geo-hazard Assessment as Additional Requirement of Environmental Compliance Certificate Applications	Engineering Geological and Geo-hazard Assessment Report	DENR-MGB	
Republic Act 8371 – Indigenous Peoples Rights Act of 1997	Environmental and Socio-Cultural Impact Study Written undertaking to answer for damages the Indigenous Peoples may suffer Certification Precondition/Free and Prior Informed Consent	NCIP	
Republic Act 8749 – Philippine Clean Air Act of 1999	Environmental Compliance Certificate Environmental Management Plan	DENR-EMB	Use of monitoring equipment or methods Multipartite Monitoring Team: periodic inspections of pollution sources to assess compliance to emission limits
Department Administrative Order 81-2000 – Implementing Rules and Regulations of Republic Act 8749	Permit to Operate: Compliance Plan Authority to Construct: Engineering Report, Air Quality Impact Analysis Environmental Management System Environmental Management Plan	DENR-EMB	Continuous Emission Monitoring System for each pollutant Establish Multipartite Monitoring Team Self-Monitoring Reports Operational data and control test
Republic Act 9275 – Philippine Clean Water Act of 2004	Programmatic EIA for contiguous area or development zone	DENR-EMB	
Department Administrative Order 10-2005 – Implementing Rules and Regulations of Republic Act 9275	Risk Assessment	DENR-EMB	Self-Monitoring Report Multipartite Monitoring Team
RA 9147 – Wildlife Resources Conservation and Protection Act	Environmental Impact Study focused on bio-ecology	DENR or DA	
Administrative Order 01-2004 – Implementing Rules and Regulations of Republic Act 9147	Clearance: feasibility study, management plan, environmental impact study, scientific study or background research	PCSD or NWMC	
Republic Act 9003 – Ecological Solid Waste Management Act of 2000	Environmental Compliance Certificate	DENR-EMB	Groundwater Monitoring Wells Water quality of surface and ground waters, effluents and gas emissions
DA Administrative Order 08-2002 – Importation and release into the environment of plants and plant products	Risk Assessment	DA	
Department Administrative Order 2004-36 – Procedural Manual Title III of Department Administrative Order 29-92 "Hazardous Waste Management"	Environmental Compliance Certificate or Initial Environmental Examination Facility Permit TSD Facility Permit: Emergency/Contingency Plans and Abandonment Plan, Storage Management Plan	DENR-EMB	Quarterly report TSD Annual Report Air and water monitoring data
CARP (Land Use Conversion Law Rules)		Local government DENR, DAR, DA (NIA, PCA, BSWM)	

Bay region (*Box 6*). Jurisdictional conflicts have temporarily caused confusion among project proponents. These conflicts are usually resolved through court rulings.¹⁷

**Box 6. Laguna Lake Development Authority vs. Court of Appeals
(GR 110120, March 16, 1994).**

During an on-site investigation on November 15, 1991, the LLDA discovered that Caloocan City was maintaining an open dumpsite at Barangay Camarin without an environmental compliance certificate from DENR-EMB or clearance from the LLDA. The leachate could considerably affect the quality of receiving waters since it indicates presence of bacteria, other than coliform.

On December 5, 1991, LLDA issued a Cease And Desist Order against Caloocan City and the dumping operation immediately stopped. However, dumping was resumed sometime in August 1992, which compelled the LLDA to issue an alias Cease And Desist Order against the City Government.

The City Government thereafter filed a case before the Supreme Court questioning the authority of LLDA to issue the Cease And Desist Order. The City Government argued that it is within its power and pursuant to the general welfare provision of the Local Government Code of 1991, to determine the effects of the dumpsite operation on the ecological balance and to see that such ecological balance is maintained. The case was transferred to the Court of Appeals.

The Court of Appeals ruled that the LLDA has no power and authority to enjoin the dumping of garbage in the Camarin area. The Supreme Court, however, reversed the Court of Appeals and upheld the authority of LLDA to issue a Cease And Desist Order.

The Supreme Court held that, by virtue of its charter, the LLDA has the responsibility to protect inhabitants of the Laguna de Bay region from the deleterious effects of pollutants emanating from the discharge wastes from the surrounding area. It recognized the authority of LLDA to pass upon and approve or disapprove all plans, programs and projects proposed by local government agencies, persons or enterprises where such plans, programs and projects are related to those of LLDA for the development of the region.

It should also be mentioned that sometime in July 1992, DENR-EMB acted as intermediary at the meeting between the LLDA and representatives of Caloocan City to discuss the possible reopening of the dumpsite. In relation to this, the Supreme Court mentioned that, while there is an allegation that the dumpsite was operated without an environmental compliance certificate, DENR-EMB as an intermediary, constitutes a recognition by the DENR of the primary jurisdiction of the LLDA over the case.

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Another common form of overlap is in terms of environmental compliance certificate being made a prerequisite of other agency requirements. For example, the National Commission on Indigenous Peoples (NCIP), the agency in charge with the protection of indigenous peoples in ancestral domain areas, requires proponents to conduct an environment and socio-cultural impact assessment within the free and prior informed consent process, but the DENR may need the proponent to secure the said consent first as evidence of social acceptability before it issues the environmental compliance certificate. Land use conversion certificates were previously required by the DENR, but DAR also required that the proponent first present an environmental compliance certificate before it processes land use conversion applications. These chicken-and-egg situations usually occur at

the early years of implementation of new laws. But it is not uncommon to encounter the same problem even after several years of implementation, especially for environmentally sensitive and complicated projects.

¹⁷ The conflict between the DENR and the SBMA regarding the latter's authority to issue environmental compliance certificates was resolved by a Court of Appeals decision upholding the DENR's authority to exercise its regulatory powers within the Subic Bay Freeport Zone in the Province of Zambales. The decision prompted the DENR and the SBMA to sign a memorandum of agreement in August 2005, assigning the DENR the lead role in the processing and approval of environmental compliance certificate applications by new locators and relegating SBMA's Ecology Center to a recommendatory role in the granting of environmental compliance certificates. The agreement also calls for the review and validation by the DENR of all environmental compliance certificates previously issued by SBMA's Ecology Center, which number around 300.

**Box 7. Republic of the Philippines vs. City of Davao
(GR 148622, September 12, 2002).**

On August 11, 2000, the City of Davao filed an application for a certificate of non-coverage for its proposed project, the Davao City Artica Sports Dome at the DENR-EMB-Region XI. Attached to the application were the required documents for its issuance: (a) detailed location map of the project site; (b) brief project description; and (c) certification from the City Planning and Development Office that the project is not located in an environmentally critical area. The DENR-EMB-Region XI denied the application and ruled that the City must undergo the EIA process to secure an environmental compliance certificate before it can proceed with construction of its project.

The Davao City filed a petition for mandamus and injunction at the Regional Trial Court of Davao, claiming that its proposed project was neither an environmentally critical project nor within an environmentally critical area, and was outside the scope of the EIS System. Thus, the DENR should issue a certificate of non-coverage upon submission of the required documents. The Regional Trial Court ruled in favor of Davao City based on certifications of the DENR-CENRO that the project is not within 18-30 percent slope and not inside NIPAS, and the data gathered from PHIVOLCS, that the site for the Artica Sports Dome is 37 kilometers from the Davao River Fault. In support of its ruling, the Regional Trial Court of Davao also reasoned that there is nothing in Presidential Decree 1586 which requires local governments to comply with the EIS Law. Only national government agencies, government owned and controlled corporations, as well as private corporations, firms and entities are mandated to go through the EIA process for their proposed projects which has significant effect on the quality of the environment. A motion for reconsideration was denied hence the DENR elevated the case to the Supreme Court.

The Supreme Court affirmed the decision of the Regional Trial Court, granting the writ of mandamus and directing the DENR to issue in favor of Davao City a certificate of non-coverage. Citing provisions of Presidential Decree 1586 and Proclamation 2146, it ruled that the Artica Sports Dome project does not come close to any of projects referred to in the law to be covered by the EIS System. However, it also assailed the comment of the Regional Trial Court that local governments are excluded from the EIS law. According to the Supreme Court, the local government unit being both a government agent and as a corporate entity or a juridical person is covered by Presidential Decree 1586. In particular, Section 4 of Presidential Decree 1586 states that "no person, partnership or corporation shall undertake an environmentally critical project or CP or a project under an environmentally critical area without first securing an environmental compliance certificate issued by the President or its duly authorized representative." The Supreme Court also cited the Local Government Code particularly Section 15 which defines a local government unit as "a body politic and corporate entity endowed with powers to be exercised in conformity with the law." Hence, a local government units like the city of Davao cannot claim exemption from the coverage of the Presidential Decree 1586.

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6.4.3 Loose Screening Process

Deciding whether or not a project is covered by the Philippine EIS System has been a major source of inefficiency of the system.

This is particularly true for projects in environmentally critical areas, as these areas have not been mapped out. Referring to the list of environmentally critical areas (*Box 2*) does not help the proponent or the DENR as environmentally critical areas include areas such as those frequently visited by natural calamities (e.g., typhoons, floods, landslides or droughts), which occur in virtually all parts of the country. The lack of delineation of environmentally critical areas was observed in case studies (e.g., Elazegui et al 2004). In fact, in the early years of the EIS System, some regional offices argued that all projects in their regions are covered by the EIS. Even today, many projects undergo the process due to the arbitrary application of the environmentally critical area criterion. *Box 7* exemplifies a case where the DENR-EMB regional office required the project proponent to submit a full EIS Report even when the project was not supposedly covered by the EIS System.

A visit to the EIA section of the DENR-EMB website revealed that indeed initial environmental examination has been applied to offices, retail outlets, fastfood restaurants, apartment buildings, gas stations, funeral parlors, piggeries, slaughter houses and cellular telephone antennas while the certificate of non-coverage which is supposed to be optional, has been applied to small projects, even for rehabilitation work of rural

infrastructure and small-scale community-based interventions, building-mounted and indoor antennas. The environmental aspects of these projects are already covered by various other laws, including hazardous wastes law, sanitation, building and fire codes, local ordinances and industry standards. The environmental impact of these projects is also well known and control measures are routinely applied. Hence, given the manpower and budgetary resources of the DENR, there is a compelling need to evaluate the added value of subjecting these projects to the EIS process or the additional permitting process of certificates of non-coverage. The economic impact of the permitting requirement should also be assessed as environmental compliance certificates and certificates of non-coverage applications are processed at the regional offices.

6.4.4 Unfocused Scoping Exercise

Scoping under the Philippine EIS System tends to consider the whole spectrum of environmental and social aspects of the project and the project site resulting in voluminous environmental assessment reports¹⁸. *Box 8* lists the items in the scoping checklist, which are to be included in the EIS Report.

Scoping is expected to narrow down the focus of the assessment. However, this seldom happens. One reason is that scoping is usually oriented towards fulfilling a complete baseline characterization of the project site and less on discussions and analyses of key environmental and social issues associated with the type of project. This baseline orientation is highly susceptible to professional biases of the EIA Review Committee members who often insist in including all data in the checklist that pertains to their field of expertise. This tendency can be tempered by a lead person who is given sufficient authority and who understands the holistic and multidisciplinary nature of the EIA. The lack of expertise was especially severe in the early years of the EIS System but it has been remedied by requiring a generic format for environmental assessment reports. However, the generic format, since it must cover all types of projects, is inevitably broad, and hence, still results in the submission of voluminous reports that include irrelevant information (Luken 1999).

6.4.5 Rigid EIS System

The Philippine EIS System is governed by very detailed procedures and processes from screening to compliance monitoring and thus, allows very little room for DENR staff discretion. All the steps are pre-set and reports are submitted for compliance to the requirements rather than as inputs to further study and decision-making. The system does not allow for iterative environmental assessments. Projects that are identified to belong to a category must undergo the required process for that category even though initial assessments and common knowledge would justify for exemptions or for a downscaled study. The reason for the preference for a rigid system is probably rooted in the perception of low technical capabilities of bureaucrats. However, staff discretions may also be viewed as providing opportunities for corruption or abuse of power and are thus avoided. Because this impinges into the local culture and would require long-term solutions, rigid procedures will probably be the norm for the EIS System for some time.

¹⁸ The tendency of the EIS to become voluminous was anticipated by the crafters of the implementing rules for the US NEPA when it instructs that: "agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses" (43 FR 55994, Nov. 29, 1978, Section 1502.1 Purpose).

Box 8. Items in the Technical Scoping Checklist for EIS Report.

1.0 Physical Environment

- 1.0 **Geology** (Regional/General Geological Map; Geological Cross-Sections; Sequence Stratigraphic Column of Rock Units; Geomorphological Map; g factor Contour Map for Rocks; g factor Contour Map for Medium Soils; Seismicity Map; Differential Settling Hazard Map; Bathymetric and Morphostructural Map; Results of Petrographic and Mineragraphic Analyses; Results of Geochemical Analyses of Rock Samples)
- 1.2 **Pedology** (Topographic Map showing Drainage System; Slope and Elevation Map; Laboratory Results of Soil Sample Analysis); Soil Investigation Report including maps on the following : Soil Erosion, Soils Types, Soil Fertility, Vegetation
- 1.3 **Hydrology** (Regional Hydrogeologic Map; Streamflow Measurements/ Mean Monthly Flow Data; Flood Peaks, Volumes, frequency rating curves and Stormwater flow estimates; Spring and Well Inventory)
- 1.4 **Oceanography** (Predicted Tides; 24-Hour Tidal Cycles; Surface Current System)
- 1.5 **Water Quality** (Physico-Chemical Characteristics of Wells and Springs; Physico-Chemical Characteristics of Inland Surface Waters; Physico-Chemical Characteristics of Coastal Waters; Bacteriological Characteristics of Wells and Springs; Bacteriological Characteristics of Inland Surface Waters; Bacteriological Characteristics of Coastal Waters; Sampling Site Map)
- 1.6 **Meteorology/Climatology** (Monthly Average Rainfall of the Area; Climatological Normals/Extremes; Wind Rose Diagrams; Frequency of Tropical Cyclones)
- 1.7 **Air Quality/Noise** (Ambient Air Quality (TSP, SO_x, NO_x, PM10, etc.) 24-Hour Sampling; Noise Levels; Sampling Station Map (air and noise); Air Dispersion Diagrams/Isopleth)

2.0 Biological Environment

- 2.1 **Vegetation, Wildlife and Insect Profile** (Flora and Fauna Species Inventory or Survey; Summary of Endemicity / Conservation Status; Summary of Abundance, Frequency and Distribution; Site Observation/ Transect Walk Map)
- 2.2 **Aquatic Fresh/Marine Environment** (Abundance/Densities/Biomass of Seagrasses/Seaweeds; Density or Abundance of Planktonic and Benthic Algae; Benthic Fauna Population and Density of Benthic Organisms; List of Fish Species/Estimated Biomass; Ranks and Proportion of Commercially and Non-commercially Important Indicator Species; Seabottom Cover Map showing Coral & Seagrass Beds, etc.; Sampling Site Map)

3.0 Socio-Economic and Cultural Environment

- 3.1 **Demography** (Settlement Map and Population Distribution Map; Land Use Map (*include locations of ecological, military reserves, scenic spots and areas of religious, historic and cultural significance*); Population Growth Rate; Number of Households and Household Size by Barangay; Summary of Demographic data per Barangay to be directly affected: Land Area, Population, Population Density, Main Sources of Income, Sex and Age Composition, Literacy, Highest Educational Attainment, Employment Status; Household Profile based on results of the Survey; Indigenous Peoples/Vulnerable Groups)
- 3.2 **Health** (*Morbidity and Mortality Rates* (Infants and Adults) from Direct Impact Areas; 5-Year Trend in Morbidity and Mortality; Notifiable Diseases in the Area including Endemic Diseases; Local Health Resources (Government and Private); Environmental Health and Sanitation Profile: water supply, human excreta management, waste management and disposal systems and food hygiene)
- 3.3 **Other Social Services/Utilities** (Water Supply and Demand; Transportation; Power Supply and Demand)
- 3.4 **Public Participation and Social Acceptability** (Public Perception Survey Questionnaire and Results Summary; Endorsement/Proof of consultation with local governments/RDC; Endorsement/Proof of consultation with non-government organizations/peoples organizations)

Source: DAO 2003-30 Procedural Manual.

6.4.6 Centralized EIA Administration

The Philippine EIS System was established during the authoritarian regime when almost everything was dictated from the central authority. In fact, initially, the authority to grant environmental compliance certificates was vested only in the President. Since the restoration of democratic institutions in the mid-1980s, public participation in planning and decision making has been encouraged. The Local Government Code of 1991 devolves some environment and natural resources functions to local governments, including the preparation of comprehensive land use plan. But many environment and natural resources functions, such as the implementation of the EIS System, still remain with the central government. The centralized administration of the EIS System, given that it covers small- and medium-scale businesses, requires enormous manpower resources, which the DENR does not have. The decision to approve projects is still vested with the DENR while environmental and social concerns pertaining to a project or any undertaking are fundamentally local in scope.

6.4.7 Social Acceptability: Vague Definition and Questions of Jurisdiction

Social acceptability as one of the criteria for the issuance of environmental compliance certificates was introduced during the review of some projects in early 1990s, presumably to give consideration to on-going public protests. Operationally difficult to define, it was subjected to intense debate. The consensus was to define it in terms of its procedural rather than its substantive meaning. Social acceptability was formally adopted into the implementing rules and regulations starting with Department Administrative Order 37-1996. It was defined as “the result of a process that is mutually agreed upon by the DENR, the stakeholders and the proponent to ensure that the concerns of stakeholders, including affected communities, are fully considered and/or resolved in the decision-making process for granting or denying the issuance of an environmental compliance certificate.” The social acceptability requirement has been generally applied in terms of at least three endorsements from host local government, local non-government organizations or peoples organizations. But because of its loose meaning, it is sometimes used by the DENR to justify non-granting of environmental compliance certificates for highly controversial projects.

The persistence of public protests is always seen as an indication of lack of social acceptability. In the latest implementing rules and regulations (Department Administrative Order 30-2003), the DENR defines it as “acceptability of a project by affected communities based on timely and informed participation in the EIA process particularly with regard to environmental impacts that are of concern to them.” It also added that, “social acceptability of a project is a result of meaningful public participation, which shall be assessed as part of the environmental compliance certificate application, based on concerns related to the project's environmental impacts.” The qualification of “affected communities” may exclude protesting outsiders. Identifying who the “affected communities” or “affected peoples” are based on the project impact zone also poses a challenge.

The operational definition of social acceptability in the procedural manual, however,

Box 9. Bangus Fry Fisherfolk vs. Lanzanas (GF 131442, July 10, 2003).

The DENR issued an environmental compliance certificate in favor of the National Power Corporation (Napocor) to construct a temporary mooring facility in Mindoro Cove in Oriental Mindoro. Fisherfolk sought reconsideration of the issuance of an environmental compliance certificate on the ground that it was illegally obtained. The request of the fisherfolk was denied by the Regional Executive Director. The fisherfolk thereafter filed a complaint before the regional trial court, which was likewise dismissed.

In support of their claim that the environmental compliance certificate issued to the Napocor was not valid, the fisherfolk claimed, among other grounds, that no public consultation was conducted prior to its issuance.

The Supreme Court rejected the fisherfolk's argument on the basis of Section 26 and 27 of the Local Government Code. The Court said that Section 27 of the law should be read in conjunction with Section 26, which requires every national agency or government-owned or controlled corporation to conduct public consultations in case of projects that may: (1) cause pollution; (2) bring about climate change; (3) cause the depletion of non-renewable resources; (4) result in loss of crop land, rangeland, or forest cover; (5) eradicate certain animal or plant species; and (6) call for the eviction of a particular group of people residing in the locality where these will be implemented.

In the said case, the Court noted the fisherfolk's admission that the mooring facility itself is not environmentally critical and hence does not belong to any of the six types of projects mentioned above. There is also no statutory requirement for the concerned *Sanggunian* to approve the construction of a mooring facility. Thus, the Supreme Court affirmed the decision of the regional trial court dismissing the complaint.

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seems to contribute more to the vagueness of the concept than to common understanding. It considers four groups of proofs of social acceptability: (i) ecological and environmental soundness of the proposed project; (ii) effective implementation of the public participation process; (iii) conflict resolution; and, (iv) promotion of social and intergenerational equity and poverty alleviation. The definition issue has remained and, hence, the uncertainty of the outcome of the EIS process persists. The Strengthening the Environmental Performance Monitoring and Evaluation System of the Philippine EIS System study noted that the sources of problem include: (i) non-standardized proofs of social acceptability; (ii) lack of guidelines on stakeholder participation (*Box 9*); and (iii) no weight given to the relevant considerations.

The other issue on the social acceptability requirement concerns the DENR's jurisdiction over social and political aspects of the project. Industry advocates contend that social and political aspects are jurisdictions of local government units (Alabastro 2005). They argue the DENR must concern itself on the natural environment and that social and

political issues should be decoupled from the environmental compliance certificate and settled within a consultation framework of the local government units.

6.4.8 Complex Monitoring System

The monitoring system in the Philippine EIS is very complex. Currently, the DENR prescribes at least four monitoring protocols: (i) the usual DENR-EMB compliance monitoring; (ii) self-audit and monitoring by the owner or proponent as part of its environmental management plan; (iii) monitoring by third party auditors in connection with environmental consent agreement signed by DENR-EMB and industry group under the Philippine Environmental Partnership Program (PEPP)¹⁹; and (iv) monitoring by

¹⁹ The Philippine Environmental Partnership Program was created by the DENR through DAO 14-2003 to encourage self-monitoring and compliance with environmental standards and to encourage voluntary self-regulation among establishments for improved environmental performance. The program consists of two tracks. Track 1 involves public recognition, relaxation of reportorial

Multipartite Monitoring Team. The latter monitoring is required for all Category A projects while it is case-to-case basis for Category B projects. However, by delegating the monitoring to outside groups, there is a tendency for abuse. Sometimes members of the Multipartite Monitoring Team demand honoraria and some even require trips abroad and to various parts of the country in the guise of training. Furthermore, environmental units of sectoral agencies such as the DOE and DOH and funding agencies may also conduct their monitoring on projects under their respective sectors. With all these monitoring going on, the problem of coordination and duplication almost immediately comes to mind but the impact on the regulated community in terms of the burden of entertaining various environmental monitors may be significant. Despite this, the policy study, “Strengthening the Environmental Performance Monitoring and Evaluation System of the Philippine EIS System,” noted the inadequacies of monitoring which is traced to DENR-EMB’s perennially poor resource endowments.

6.4.9 Environmental Guarantee Fund – Related Issues

Department Administrative Order 30-2003 requires the establishment of an Environmental Guarantee Fund by the proponent of co-located or single projects that have been determined by DENR-EMB to pose a significant public risk or where the project requires rehabilitation or restoration. The Environmental Guarantee Fund is a negotiated amount, on a per project basis, which is to be used to compensate for damage to life, property and the environment or for rehabilitation or restoration measures. It shall also be used to implement damage prevention measures, scientific or research studies, information, education and communication campaigns and training. The Environmental Guarantee Fund is required for mining projects under the Mining Act. For other projects, an integrated memorandum of agreement on the Multipartite Monitoring Team-Environmental Monitoring Fund-Environmental Guarantee Fund shall be entered into among the DENR-EMB regional office, the proponent, and representatives of concerned stakeholders. The fund is to be managed by the multisectoral team made up of community and local government representatives, the DENR regional office staff, and industry representatives.

The issues surrounding the Environmental Guarantee Fund include the following: (i) that the regulation has no legal basis as it is not mentioned in Presidential Decree 1586; (ii) it is difficult to justify as projects undergo the EIS process (and environmental risk assessment when needed) which is supposed to reduce the environmental risks to manageable levels through mitigation and control measures; and (iii) funding for company environmental measures, information, education and communication campaigns and damage compensation may be faster when directly administered by the project

Project	Million PhP
Distillery	1.0
Logging	8.0
Airport	4.0
Potable Water Supply System	4.0
Sanitary Landfill	10.0
Coal Project	1.5
Water Treatment and Disposal Facility	0.2
Resort and Residential Project	0.2
Upscale Resort Project	5.5
Freeport Operation	10.0
Nickel Mining	5.2
Average	4.5

Source: Random survey of selected projects from various regions conducted by Soluziona Phils., Inc. for the World Bank.

requirements, simplified requirements for securing environmental compliance certificate for expansion, financial assistance such as access to credit facilities and incentives such as tax credit to qualified establishments. Track 2 involves the signing of an Environmental Consent Agreement between the DENR and an establishment or industry association binding the latter to agreed environmental plans vis-à-vis its environmental management system.

owner. Indeed many projects that are subjected to the Environmental Guarantee Fund requirements do not have a history of causing catastrophic damage to the environment (e.g., power plants²⁰). Two of the most contentious issues in the negotiation of Environmental Guarantee Fund arrangements are: the basis for computing trust fund amounts and the opportunity costs of a company for the funds that are put in trust. *Table 10* shows the amounts of Environmental Guarantee Fund required for selected Category A projects, while *Table 11* provides a listing of the potential duplication of Environmental Guarantee Fund with other funds required by other laws.

Table 11. Environmental Funds and Fees Required on Development Projects.			
Source Law or Issuances	Project	Fund	Fee
EIS Law Implementing Rules and Regulations	Environmentally critical areas and environmentally critical projects that are deemed risky by the DENR	Environmental Monitoring Fund/Environmental Guarantee Fund as part of the conditionality of the environmental compliance certificate EIA Review Fund	
Philippine Mining Act	Mining Projects	Comprehensive Liability and Rehabilitation Fund and Monitoring Trust Fund (satisfies the EIS System's Environmental Guarantee Fund requirement)	
Indigenous Peoples Rights Act	Projects and undertakings in Ancestral Domain area	Cash bond/surety bond for damage	
Philippine Clean Air Act	Projects with air emissions	Environmental Guarantee Fund in the form of trust fund, insurance, surety bonds, etc. (satisfies the EIS System's environmental guarantee fund)	Air Emission Charges
Philippine Clean Water Act	Projects with waste water effluents	Environmental Guarantee Fund to be set by DENR-EMB (satisfies the EIS System's Environmental Guarantee Fund)	Effluent Charges
Wildlife Resources Conservation and Protection Act	Biological prospecting	Wildlife Management Fund	
DOE Law (ER – 194) and EPIRA	Power generating projects or energy resource development projects	Electrification Fund (P0.005/kWh of sales) Development and Livelihood Fund (P0.0025/kWh) Reforestation, Watershed Management, Health and/or Environmental Enhancement Fund (P0.0025/kWh)	Environmental Fee

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²⁰ As of March 1996, a total of 96 projects had been required by the DENR to establish an Environmental Guarantee Fund. Of those ventures, 25 percent were power-generating projects.

6.4.10 Poor Quality of Environmental Assessment Reports

6.4.10.1 Voluminous Reports

The scope and conduct of actual assessment is largely dependent on and influenced by the Scoping Checklist agreed upon by the DENR, EIA Review Committee and project proponent. Since the scoping is centered on baseline characterization, it is common that the assessment produces a voluminous report that is heavy on baseline but wanting in terms of analysis of key issues associated with the project. The other reasons for the voluminous reports are the increasing documentary requirements of the DENR particularly on social acceptability. A typical EIS Report consists of an EIA study including the environmental management plan and social development plan, process documentation report including transcripts of public hearing, project endorsements and the draft memorandum of agreement on Environmental Guarantee Fund and Environmental Monitoring Fund, and other requirements such as Emergency Response Plan and Watershed Management Plan.

6.4.10.2 Lack of Focus and Depth of Analyses

Where reports tend to be voluminous the analyses of important issues tend to lack rigor and depth. There is still paucity of skills in holistic analyses. The DENR is addressing this problem by making available a detailed procedural manual. Even though it contains some general guidance on the policy and intention of the environmental assessment, the manual mainly focuses on the process rather than on the technical aspect of environmental assessment. There is an apparent need for guidelines on specific environmental aspects that would guide project reviewers. There are specific regulations on air and water quality, hazardous wastes, indigenous peoples, land use, etc., but they are not yet integrated into the procedural manual. EIS



Source: World Bank.

review has so far relied solely on the knowledge of the EIA Review Committee members of these laws. The DENR mandate also does not cover social policies. DENR-EMB has been developing sector-specific scoping guidelines, which include lists of relevant environmental laws. However, these sector-specific guidelines still inherited the broad baseline scoping of the generic scoping checklist.

6.4.10.3. Generic Environmental Management Plan

The general observation on the quality of environmental management plans has been mixed, with some environmental assessment reports with concrete mitigating measures and with proper costing. However, a number of environmental management plans have been observed to have highly generic measures without the corresponding costs for implementation. This observation is especially true for Category B projects.

PHILIPPINE EIS SYSTEM PERFORMANCE

7.

7.1 Effectiveness

7.1.1 EIA Influence in the Promotion of Sustainable Development

Environmental assessment is generally regarded as a key tool for sustainable development (Sadler 1996 and Weaver 2003). This common view was the reason for its endorsement as a national instrument for sustainable development in the *Rio Declaration*. The Philippine government attached the same purpose to the Philippine EIS System as can be gleaned from Presidential Decree 1151 and Presidential Decree 1586 (see Section 5.1). The *Philippine Strategy for Sustainable Development* identified EIA along with Land Use Planning and Natural Resource Accounting as the main tools for integrating environmental considerations in decision-making. This widely held view encouraged evaluators to look at the environmental assessment's contribution to the sustainable development. Their common findings, however, is that environmental assessment has generally failed to substantively contribute to sustainable development.²¹ The same can be said in the case of the Philippine EIS but perhaps in an entirely different context.

After more than 25 years of the Philippine EIS System, its expressed goal of “balanced socio-economic growth and environmental protection” appears to be not achieved. Looking at the Philippine economic situation today, it is difficult to see a balanced socio-economic growth while environmental degradation continues. The country's natural resource base (i.e., forestry, fishery and agriculture) is still the main source of livelihood of a significant number of people, while the industrial or manufacturing sector has remained relatively small and growing slow compared with the rest of the region (*Box 10*). *Figure 3* illustrates the causal relationships between socioeconomic factors and environmental problems in the Philippines. The chronic lack of jobs and alternative livelihoods outside the agriculture

Box 10. Industrial Growth in the Philippines.

The Philippines is not looking good in terms of industrial development. The Philippine industrial output measured in terms of per capita Manufacturing Value Added (MVA) grew only a meager 7% over 1990-2002 period compared to 72% in Indonesia and 92% Thailand.

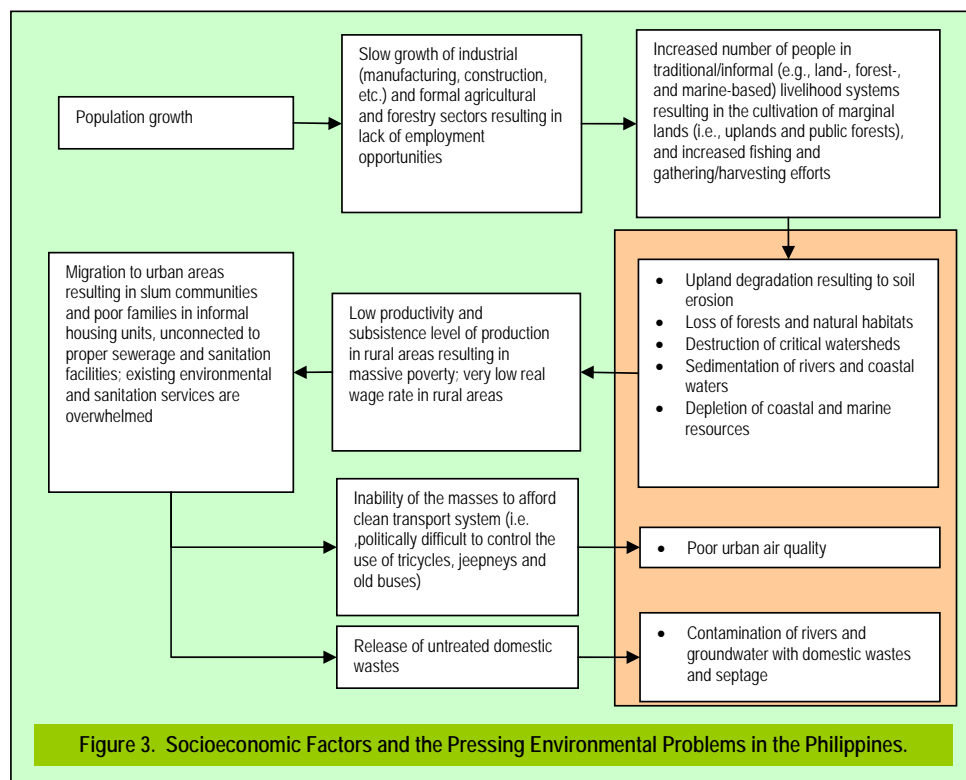
Industrial output of the Philippines and ASEAN neighbors

Country	Per Capita MVA 1995 US\$		% Change
	1990	2002	
Philippines	252.4	269.5	7%
Indonesia	162	278.7	72%
Malaysia	757.5	1516.5	100%
Thailand	520.9	999.6	92%
Singapore	4410.3	6582.5	49%

Source: UNIDO 2005.

²¹ Benson, J.F. (2003) “What's the alternative? Impact assessment tools and sustainable planning,” *Impact Assessment and Project Appraisal*, 21(4):261-266. Although there are documented benefits which confirmed the contributions of environmental assessment to meeting the challenge of sustainable development, the report finds that Environmental Assessment falls short of realizing its full potential [page 1]. Sadler, B. (1996) “International Study of the Effectiveness of Environmental Assessment,” Final Report, Environmental Assessment in a Changing World: Evaluation Practice to Improve Performance, Minister of Supply and Services, Canada.

and fishery sectors under a regime of high population growth exerts enormous pressure on the natural resources, exceeding the limits of their carrying and productive capacities.



A great majority of the people in primary sectors are already cultivating or exploiting the marginal and ecologically fragile areas such as the uplands, public forests lands and nearshore areas, where production systems are at subsistence level. However, despite supporting 60 percent of the population, agriculture, fishery and forestry sector contributes only 20 percent to the country's gross domestic product. It is in these sectors where poverty incidence is highest. Environmental and natural resource conservation laws, including housing and sanitation laws in these areas, are politically difficult to enforce²² and hence, are routinely ignored.

EIS as a planning instrument is not sufficient to address the country's environmental problems - It is becoming clearer that the EIS is not the only instrument to address the Philippine environmental and economic predicament. The EIS relies on the integration of environmental concerns into economic decision-making of sufficiently large economic units. But it cannot be used to address economic decision-making of millions of subsistence farmers and fishers. Environmental assessment's contributions to Philippine sustainable development are mostly indirect. This would include increased awareness and

²² The political difficulty of enforcing natural resources conservation and environmental laws in the countryside due to humanitarian reasons was underscored by the Philippine Supreme Court Chief Justice Hilario Davide, Jr. in his speech during the Conference of Coastal Municipalities sponsored by the League of Municipalities on May 27, 1999.

learning among agencies and business organizations and members of the public, and improved decision making.

Other policy instruments for sustainable development - The Philippines has been a forerunner in environmental laws and sustainable development initiatives. Although the EIS was the main policy instrument identified in the 1977 Philippine Environmental Policy (Presidential Decree 1151), it is not the only tool available. Contemporary to the EIS were the updated versions of the Philippines' environmental laws such as the Pollution Control Law (Presidential Decree 984), the Philippine Environment Code (Presidential Decree 1152), the revised version of Forestry Code (Presidential Decree 705) and the Sanitation Code (Presidential Decree 856). Moreover, as early as 1989, two years before the Earth Summit, the government already formally adopted the conceptual framework of the Philippine Strategy for Sustainable Development. The Philippine Council for Sustainable Development (PCSD) was created on September 1, 1992 through Executive Order No. 15 in response to the commitments made by the Philippines in the 1992 Earth Summit. In 1996, the PCSD launched the Philippine Agenda 21, a document which outlines the program of action that needs to be pursued to ensure the attainment of the country's vision for sustainable development.

Philippine Agenda 21 envisions "a better quality of life for all through the development of a just, moral, creative, spiritual, economically vibrant, caring, diverse, yet cohesive society characterized by appropriate productivity, participatory and democratic processes and living within the limits of the carrying capacity of nature and the integrity of creation." Out of the Agenda came policies, legislations and programs on sustainable development (*Table 12*). Philippine Agenda 21 concentrates on providing safeguards to economic development initiatives (including small businesses and mining) and rehabilitation programs (i.e., reforestation, livelihood development).

However, the Agenda is a "comprehensive shopping list" and "did not relate to other plans and initiatives"²³. It lacks aggressive strategy towards addressing the carrying capacity of the natural resources sector that takes into account the causal relationships of socio-economic factors in development.

Strategic Environmental Assessment is expected to better promote sustainable development than project-based EIS - If sustainable development in the Philippines should be rationally addressed under the environmental assessment framework, greater use of Strategic Environmental Assessment should be promoted. Strategic Environmental Assessment should even be applied to any proposed environmental regulations in conjunction with a social cost-benefit study. Stringent or excessive environmental regulations may backfire as they can stifle growth of the industrial or business sector, thereby worsening the population pressure on natural resources.

²³ Philippine Council for Sustainable Development. (2004). *Revisiting Philippine Agenda 21: Building a Framework Plan for Long Term Sustainable Development* Manila, Philippines: National Economic Development Authority.

Table 12. Philippine Policy Instruments and Pressing Sustainable Development Issues.

Pressing Problems	Policy Instruments
<ul style="list-style-type: none"> • Poverty, landlessness and low productivity in agriculture and fishery sectors 	<ul style="list-style-type: none"> - Comprehensive Agrarian Reform (Republic Act 6657-1988) – Land redistribution, community development and provision of support services - Indigenous Peoples Rights Act (Republic Act 8371-1997) – Recognition of ancestral domains and land titles, right to free and prior informed consent to development interventions - Urban Development and Housing Act (Republic Act 7279-1992) – Provides for low cost housing and resettlement of squatters - Magna Carta of Small Farmers (Republic Act 7607-1992) - Provides mechanism for small farmer participation, infrastructure and access to support services including credit - Agriculture and Fisheries Modernization Act (Republic Act 8345-1997) –Delineation of Strategic Agriculture and Fisheries Development Zones, restriction in land use conversion, rationalization of government credit programs, funding for irrigation and other infrastructure, market information support, establishment of product standards, research and extension, development of rural non-farm employment and rural industrialization - Social Reform and Poverty Alleviation Act (Republic Act 8425-1997) – Formulation of Social Reform Agenda targeting farmers and landless rural workers, fisherfolk, indigenous communities, workers in the informal sectors, urban poor and disadvantaged groups, expansion of microfinance service for the poor, livelihood programs, among others.
<ul style="list-style-type: none"> • Deforestation, encroachment and cultivation of forestlands, loss of natural habitat, upland soil erosion and sedimentation of waterways • Degradation of coastal and marine resources, depletion of fishery stock • Loss of biological diversity 	<ul style="list-style-type: none"> - Forestry Code (Presidential Decree 705-1975) – Forest protection, rehabilitation and management, prohibition of disposal of lands above 18% slope for agricultural use. Prohibits cultivation or entry into forestlands without permits and provides penalties for violators - National Integrated Protected Areas System (Republic Act 7586-1992) – Provides for the definition, delineation and management of protected areas - Community-Based Forest Management (LOI 1260-1982; Executive Order 263-1995; Department Administrative Order 29-1996) - Provides for a people-oriented approach to forest land management. Allows individuals and communities to use and manage forestlands and resources through 25-year stewardship contract subject to conditions designed to ensure ecological stability. - Fishery Code (Republic Act 8550-1998; Department Administrative Order 03-1998) – Provides the rules and regulations for the protection, conservation, utilization and management of the country's fishery resources. - Local Government Code (Republic Act 7160-1992) – Devolves to local government the management of fishery and enforcement of fishery laws in municipal waters - Wildlife Resources Conservation and Protection Act (Republic Act 9147-2001)
<ul style="list-style-type: none"> • Deteriorating environmental quality in urban areas: particularly outdoor air and surface waters 	<ul style="list-style-type: none"> - Pollution Control Law (Presidential Decree 984-1976) – Provides rules for approval of plans and specifications for sewage works and industrial waste disposal systems, prohibitions and penalties for violations - Environmental Code (Presidential Decree 1152-1978) – Provides standards, rules and regulations for air quality, water quality and waste management. - Code of Sanitation (Presidential Decree 856-1975) – Provides for standards, rules and regulations governing drinking water, food establishments and other personal care establishments - Clean Air Act (Republic Act 8749-1999) – Provides standards for air emissions, mandatory testing of vehicular emissions, banning of incineration, among others. - Clean Water Act (Republic Act 9275-2004) – Provides standards for BOD and other effluents. - Toxic Substances and Hazardous and Nuclear Waste Act (Republic Act 6969 – 1990) – Regulates importation, transport, storage and disposal of hazardous wastes - Ecological Solid Waste Management Act (Republic Act 9003-2000) – Provides for the establishment of sanitary landfills, material recovery, composting, among others.

7.1.2 EIS as a Planning Tool

Traditionally, environmental assessments are applied downstream of key feasibility decisions of the project. Hence, it is usually viewed by many as a formality or justification of project location, design and parameters that have already been decided in the feasibility study. Environmental assessment reports have included a section on project description including technical and financial aspects of the project. The environmental assessment produces the environmental management plan which may include modification of the project's design and operational plan. The mitigation and management measures in the environmental management plan plus the environmental compliance certificate conditionalities, will clearly have financial implications on the project. The DENR has no way of checking whether the feasibility study and project implementation plans are updated to reflect these changes. But whether they are updated or not is inconsequential to the DENR because the environmental management plan and the environmental compliance certificate are binding documents.

Department Administrative Order 30-2003 directs proponents to simultaneously prepare the project feasibility study²⁴ and the environmental assessment while the procedural manual provides the authority to “validate whether or not the EIS was integrated on project planning by requiring relevant documentary proofs, such as terms of reference for feasibility study and copies of the feasibility study.” However, it is still too early to tell whether this has a significant impact on project planning. A survey of a few projects which has undergone the environmental assessment process during the last 5 years revealed that environmental assessment has resulted in the adoption or application of environment-friendly technologies to some 30-37 percent of the projects. The

Table 13. Outcomes of Environmental Assessment Process.			
Environmental Assessment Outcomes	Category A n=10 (%)	Category B n=27 (%)	All Projects n=40 (%)
Change in project location	0	4	2
Modification/change in project design	10	15	12
Adoption/application of environment-friendly technology	30	37	34
Resettlement program for affected families	10	4	5
Crop/property damage compensation scheme	30	4	10
Benefit-sharing scheme with communities	20	7	10
Others	10	22	20
<i>Source: Random survey of 40 projects conducted by Soluzionaria Phils., Inc. for the World Bank.</i>			

environmental assessment process was also credited for crop or property compensation schemes (Table 13). But it did not influence the location of the project and did little to modify or change the project design.

7.1.3 EIS as a Regulatory Tool

The Philippine EIS System has been effective as a regulatory tool. It has made the project proponent consider many other environmental laws (particularly, the Toxic and Hazardous Waste Law, Clean

Water Act and the Clean Air Act) at the least before the start of construction/development.

²⁴ It should be noted that a similar persuasion was attempted as early as 1996 by Executive Order 291. Section 2 of EO 291 states that: “To maximize the use of resources, project proponents are hereby directed to simultaneously conduct the environmental impact study and the feasibility study of the proposed project. Proponents are urged to use simultaneous conduct of the environmental impact study and the feasibility study as a planning tool, with the end in view of minimizing or managing adverse environmental impacts of the proposed activity”.

The environmental compliance certificate has come to be recognized as one of the most important requirement of any project undertaking. Most banks in the Philippines now make loans contingent upon the proponent securing an environmental compliance certificate. A number of government agencies also require an environmental compliance certificate before issuing project-related permits and approvals. Thus, securing an environmental compliance certificate is a critical and requisite step for a project to be approved.

Complete statistics on the rate of violations are not readily available. Data gathered in the “Strengthening the Environmental Performance Monitoring and Evaluation System of the Philippine EIS System Project” indicate that in 2002, the DENR-EMB central office issued 335 Notices of Violation. In the same year, Regions IV-A and IV-B (the regions closest to the NCR) issued a total of 311 Notices of Violation or 25 percent of 1,232 projects being monitored. It is, however, difficult to use these data as an indication of effectiveness of the EIS System in improving environmental performance of establishments for lack of baseline data and that the number of Notices of Violation issued may be more of a function of the monitoring efforts of the DENR-EMB rather than on non-compliance.

Box 11. Experience of Rio Tuba Nickel Mining Corporation in the EIS Process.

The Rio Tuba Nickel Mining Corporation (RTNMC), a Filipino-Japanese partnership engaged in mining, production and export of nickel silicate ore to Japan, has been operating since 1977 in Barangay Rio Tuba, Municipality of Bataraza, Province of Palawan. In 1996, RTNMC conducted an EIA for the renewal of the 990-ha Nickel Mining Claims and the conversion of the mining lease contract into a Mineral Production Sharing Agreement under the new Mining Act. The environmental compliance certificate was issued in late 1997. In November 2000, another EIA was conducted for the Hydrometallurgical Processing Plant (HPP) Complex Project, owned and operated by the Coral Bay Nickel Mining Corporation, a 90 percent foreign-owned corporation consisting of Sumutomo Metal Mining, Sojitz, Mitsui and RTNMC. Both EIAs underwent consultations, review and evaluation with the Palawan Council for Sustainable Development (PCSD) for the PCSD Clearance. The HPP Complex Project, however, underwent more extensive consultations including three scoping sessions, Focus Group Discussions with non-government organizations, information, education and communication activities, validation meetings and technical conference with PCSD, site walkthrough with PCSD and non-government organizations, project presentation at the Palawan Provincial Board and a public hearing. The EIS Report was submitted to PCSD on July 2001 and the PCSD Clearance was issued on November of the same year. In December 2001, RTNMC/CBNC submitted the EIS Report to the DENR-EMB for an environmental compliance certificate issuance. Between February and May 2002, the EIA Review Committee conducted at least four technical conferences and the DENR-EMB conducted a separate public hearing and site inspection in March 2002. The environmental compliance certificate was issued in July 2002. The presence of indigenous peoples in the area led opposition groups to demand for a Free and Prior Informed Consent as a requirement for environmental compliance certificate issuance despite lack of ancestral domain claims and that Free and Prior Informed Consent was already obtained as a requirement for the Mineral Production Sharing Agreement and Mineral Processing Permit.

In December 2002, following the environmental compliance certificate issuance, the Environmental Legal Assistance Center and the Palawan Non-Government Organization Network filed a Petition for Certiorari at the Court of Appeals on grounds that were previously raised and responded to by Rio Tuba Nickel Mining Corporation/Coral Bay Nickel Mining Corporation. In September 2003, the Court of Appeals dismissed the case for lack of merit. After a motion for reconsideration was denied, the Environmental Legal Assistance Center and the Palawan Non-Government Organization Network elevated the case to the Supreme Court. The petition was first denied on February 2004 and finally, the Supreme Court decided to deny with finality the petition and uphold the DENR decision to issue an environmental compliance certificate. It took 555 days for the case to be resolved.

7.2 Efficiency

Over time, there is a general tendency of the Philippine EIS System to impose more and more requirements (see *Table 1*). Unfortunately every time a new law is passed, there is a period of initial confusion due to needless interlocking provisions of these laws (*Box 11*). There is also a tendency to focus on procedural reforms when the cause of the problem is the quality of environmental assessment and the implementation of measures. The present implementing rules and regulations have succeeded in reducing the number of days of processing environmental compliance certificate applications. However, this was achieved through the strict imposition of maximum processing time thereby sacrificing quality.

Early in the implementation of EIS there were complaints about requirements causing delays in many projects. Starting with Department Administrative Order 1996-37, the DENR imposed maximum processing time for environmental compliance certificate applications. The present Department Administrative Order 30-2003 set the maximum number of days for processing from the acceptance of the environmental compliance certificate/certificate of non-coverage application for substantive review up to the issuance of the decision. These timelines, however, apply only to processes and actions within the DENR-EMB's control and do not include actions or activities that are the responsibility of the proponent. Still, the processing time is expected to improve tremendously with the limit set on the number of requests for additional information by the EIA Review Committee of up to two requests per project. Staggered and multiple requests for information in the past have been blamed for much of the delay in processing environmental compliance certificate applications especially on environmentally critical projects. Technically, however, the environmental compliance certificate application process begins at scoping. The timelines do not include the conduct of EIA or initial environmental examination and gathering of requirements from other agencies such as locational clearance, endorsements from local governments, and certificates from PHIVOLCS and PAGASA. *Table 14* shows the actual number of days it took for 24 projects to acquire an environmental compliance certificate from the start of the EIA process.

Finally, since the environmental assessment process is just part of the myriad of other processes that the development projects undergo, its efficiency should also be evaluated in conjunction with the overall process of project preparation. It was reported that in land development projects, under normal conditions, the EIS-related activities constitute 30.5 percent of the time spent on acquisition of permits and clearances. Land development is one of the most heavily regulated activities in the Philippines where a maze of interlocking requirements by various agencies served as a formidable barrier of entry for new businesses (*Box 12*).

	Number of days by project category	
	Category A	Category B
From Screening to Environmental Compliance Certificate Issuance (Calendar Days)	443	165
From Submission of EIS to environmental compliance certificate Issuance (Calendar Days)	268	104
Official Maximum Processing Time at the DENR*	120	60

Source: Random survey of projects conducted by Soluziona Phils., Inc. for the World Bank.

Box 12. Land Development in the Philippines.		
Activity	Average number of days*	% of Total
Raw Land Acquisition	60	7.3
Conceptualization Phase	75	9.1
Planning Phase	55	6.7
Permits and Licenses	360	43.6
Total EIS-Related Activity	110	30.5
Barangay Clearance	5	1.4
Locational Clearance	5	1.4
EIA Preparation	40	11.1
Processing of Environmental Compliance Certificate Application	60	16.7
Other Permits	250	69.5
Construction	275	33.3
Total	825	100.0

Source: Report of the Office of Special Assistant to the Executive Vice President of Filinvest, Inc. 1996

* Number of days referred to is working days (i.e. 20 days/month) and reckoned under normal conditions. Abnormal conditions occur in cases such as the following: (1) disagreement with farmers, tenants or illegal claimants; (2) conflicts among local government unit personnel or between local government units and NGA; and (3) social pressure.

Land development in the Philippines is subject to one of the most complex permitting/licensing process. A developer going through the licensing process will have to deal with approximately 155 approving personnel in at least 31 agencies and comply with 160 requirements. About 41 of these requirements are permits and clearances and about 16 of which are repeating or duplicating requirements. The accompanying table shows that a significant portion (43.6 percent) of the developer's time is spent in the acquisition of permits and clearances. The EIS process alone constitutes about 30.5 percent of the time spent on permit and licenses.

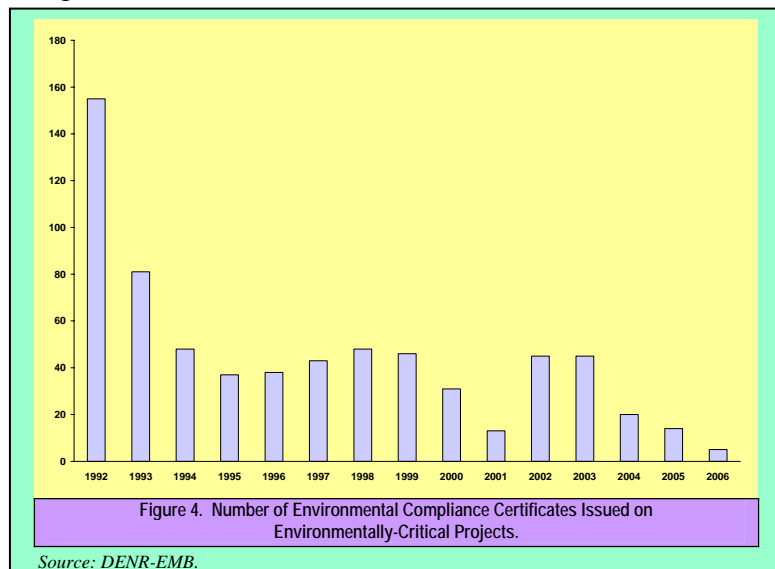
The result is high transaction costs in land development projects. A significant portion of this cost is pecuniary, but much of it is in the form of uncertainty and confusion and is avoided or captured by large real estate companies by contracting in the forms of "grease" money and procedural short-cuts, although their agents also establish good connections and rapport with the approving agencies. The costs eventually manifest in the ratio of the price of a developed plot and the price of the raw land, also known as the land development multiplier. The land development multiplier in the Philippines of 6.7 is highest in Southeast Asia. Land multiplier in the region averaged only at 3.0.

Source: Ballesteros 2000.

7.2.1 Issuance of Environmental Compliance Certificates

A DENR study estimates that they issued a total of 21,286 environmental compliance certificates from 1980 to 2003 (latest figure as of 2005 is 27,537). Some 1,893 (or 9 percent) of these were for environmentally critical projects and, hence, underwent an EIA. Almost all of them (1,846) were processed at the DENR-EMB central office. The rest (19,323) were projects that required only an initial environmental examination or a project description. Most of these environmental compliance certificates (19,209) were issued by the DENR-EMB regional offices. Of the total of 2,030 environmental compliance certificates issued by the DENR-EMB central Office, only 184 or 9 percent were initial environmental examination projects and these were issued before 1997.

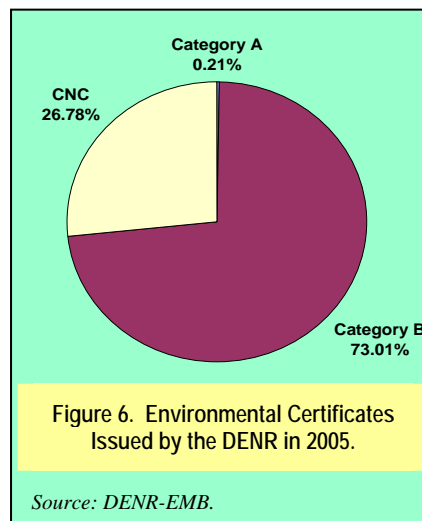
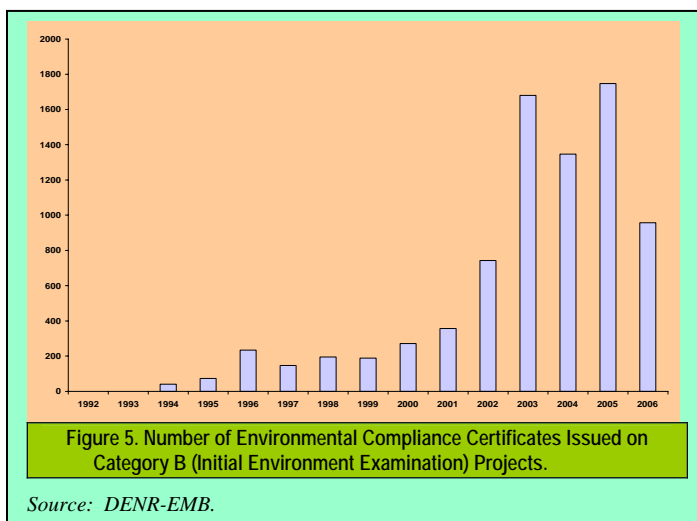
There is a very dramatic decline in the number of environmentally critical projects being issued environmental compliance certificates since 1992 (Figure 4). One reason



Source: DENR-EMB.

may be due to the downgrading of projects previously considered Category A to Category B as a result of streamlining in 2002-2003 (Administrative Order 42 and

Department Administrative Order 30). However, the decline continues up to the present indicating a real decline in development projects.



The downgrading of some small projects to Category B also cannot fully account for the dramatic increase of initial environmental examination-based environmental compliance

Region	Category A (ECC)	Category B (ECC)	Category C & D (CNC)	Total
DENR-EMB -Central Office	2,033	0*	0*	2,033
Region I (Ilocos)	1	3,741	51	3,793
Region II (Cagayan Valley)	0	740	51	791
Region III (Central Luzon)	9	1,974	57	2,040
Region IV-A (Southern Tagalog-A)	8	7,170	147	7,325
Region IV-B (Southern Tagalog-B)	0	932	516	1,448
Region V (Bicol)	0	1,558	65	1,623
Region VI (Western Visayas)	10	4,587	1,520	6,117
Region VII (Central Visayas)	0	2,854	2,416	5,270
Region VIII (Eastern Visayas)	0	1,316	182	1,498
Region IX (Western Mindanao)	0	1,315	32	1,347
Region X (Northern Mindanao)	0	1,055	64	1,119
Region XI (Southern Mindanao)	8	3,024	1,544	4,576
Region XII (Central Mindanao)	0	1,361	62	1,423
Region XIII (Caraga)	0	608	46	654
CAR (Cordillera Admin. Region)	3	1,118	838	1,959
NCR (National Capital Region)	2	1,017	202	1,221
ARMM (Autonomous Region in Muslim Mindanao)	-	-	-	-
Total	2,074	34,370	7,793	44,237

Note: The number of environmental compliance certificates issued is likely underreported;
 *This contradicts reports that central office issued certificate of non-coverage for Telecom Antennas.

certificates (Figure 5) which increased from 700 in 2002 to about 1,800 in 2005. This dramatic increase in Category B projects could be a reflection of DENR's efforts to expand the coverage of the EIS regulation. Figure 6 shows the percentages of environmental compliance certificates and certificates of non-coverage issued by the DENR in 2005 by project category; the environmental compliance certificates and certificates of non-coverage issued per region is presented in Table 15. The average annual environmental compliance certificate

and certificate of non-coverage issuances during each implementing rules and regulations regime is presented in Table 16.

7.2.2 Rate of Environmental Compliance Certificate Approvals and Denials

The DENR study counted a total of 64 EIS-based environmental compliance certificate applications within the period of eight months (January to August 2003) and recorded a total of 28 (or 44 percent) approvals. In the same period, a total of 4,701 initial environmental examination-based environmental compliance certificate applications were received by the DENR-EMB regional offices, out of which 3,444 were issued environmental compliance certificates, or an approval rate of 73 percent. Assuming that there is more or less a constant number of applications and approvals on any particular period, then the rate of environmental compliance certificate approvals is 44 percent for EIA and 73 percent for initial environmental examination. It is not clear from

EIS Regime	Period of Effectivity	No. of Years	Average Annual Category A ECC Issuances	Average Annual Category B ECC Issuances	Average Annual CNC Issuances
First NEPC IRR	1980-84	5	103	-	-
Second NEPC IRR	1985-92	8	108	123	-
Department Administrative Order 21-1992	1993-96	4	51	1,377	87
Department Administrative Order 36-1997	1997-02	7	39	2,513	512
Department Administrative Order 30-2003	2003-06	3	13	4,254	1,350
Total		27			

Source: DENR-EMB.

Project Category	No. of applications received/pending	No. of certificates issued	Percent of applications approved during the period
Category A and other EIA-based Environmental Compliance Certificate Applications	64	28	44%
Category B and other Initial Environmental Examination-based Environmental Compliance Certificate Applications	4,701	3,444	73%
Category C and D	1,719	1,467	85%
Total	6,484	4,939	76.17%

Source: REECS 2003.

the report whether the applications were received during the period or were carried over from the previous period. The regional offices have also been processing certificates of non-coverage with applications received during the period totaling 1,719 and approvals of 1,467 or a rate of 85 percent approvals (*Table 17*).

There has been no systematic documentation and data gathering on cases of environmental compliance certificate denials. But there may actually be very few cases of projects being denied an environmental compliance certificate, as the review process actually provides opportunities for the proponents to correct any deficiency in the project design and the EIS Report (i.e., in *Table 16*, those that did not get approved during the period may eventually be issued an environmental compliance certificate). Most of the denials involving high profile projects have something to do with their lack of social acceptability. Based on a few high profile projects that have been denied an environmental compliance certificate, there is a strong

indication that the decision to grant or deny an environmental compliance certificate is heavily influenced by public opinion outside the affected areas.

7.2.3 Follow up and Monitoring

As of 2002, monitoring by the regional offices covers only an estimated 18 percent of total initial environmental examination/Category B projects issued environmental compliance certificate and only about 4 percent of total environmentally critical project/Category A projects (Table 18). Based on the 2004 quantitative survey of the DENR-EMB regional offices, there were about 192 established Multipartite Monitoring Teams in the various regions. The 144 or 75 percent of the known Multipartite Monitoring Team population are operational while the rest are not. The reason for the inactive status of the remaining 25 percent is yet to be established. These statistics clearly reveal the pressure on the DENR manpower resources in terms of monitoring tasks. The DENR-EMB staff involved in monitoring projects is also actually at risk of being charged with negligence of duty when catastrophic event occurs in the project being monitored (Box 13).

Region	Projects Monitored
Region IV (Southern Tagalog)	1132
NCR (National Capital Region)	647
Region VII (Central Visayas)	600
Region IX (Western Mindanao)	504
Region VIII (Eastern Visayas)	500
Region III (Central Luzon)	493
Region X (Northern Mindanao)	400
Region II (Cagayan Valley)	399
Region I (Ilocos Region)	387
Region VI (Western Visayas)	360
Region XI (Southern Mindanao)	227
Region XIII (Caraga Region)	233
Region XII (Central Mindanao)	100
CAR (Cordillera)	96
Region V (Bicol Region)	42
ARMM (Muslim Mindanao)	-
Total	6,120

Source: DENR-EMB Planning 2002 as cited by REECS 2003.

Box 13. Principe vs. Fact-Finding Intelligence Bureau (GR 145973, January 23, 2002).

The liability of DENR staff in charge with monitoring projects was demonstrated by the charging and subsequent dismissal of the staff in the aftermath of landslide incident of the Cherry Hills Housing Project.

On February 3, 1994, Philjas Corporation applied for an environmental compliance certificate to develop the Cherry Hills Subdivision in Antipolo City. On April 28, 1994, upon favorable recommendation and conduct of field evaluation, Antonio Principe, as DENR Regional Executive Director, approved the application filed by Philjas. On August 3, 1999, a landslide occurred on a slope where Cherry Hills Subdivision is located resulting in 53 fatalities. Thus, an administrative complaint was filed against Principe for gross neglect of duty.

Acting on the administrative complaint, the Ombudsman dismissed Principe from government service. The Ombudsman concluded that, as the signing and approving authority of the environmental compliance certificate issued to Philjas, it was incumbent upon Principe to conduct actual monitoring to enforce strict compliance with the terms and conditions of the environmental compliance certificate. The Court of Appeals affirmed the decision.

The Supreme Court reversed the decision of the Court of Appeals holding that monitoring compliance with the terms and conditions of an environmental compliance certificate is not one of the functions of the office of the Regional Executive Director as enumerated in Department Administrative Order 1990-38; monitoring of projects is the function of the Regional Technical Director.

Furthermore, monitoring is defined in Department Administrative Order 1992-21 as the activity designed to gauge the level of compliance with the conditions stipulated in the environmental compliance certificate, EIS or presidential decree documents. Thus, monitoring is the function of the CENRO and PENRO, as provided in Department Administrative Order 1996-37.

Lastly, monitoring of housing and land development projects is lodged with the DENR as provided in the Administrative Code of 1987 (Executive Order 292). Citing Executive Order 90, the Supreme Court ruled that such monitoring is a function of the HLURB, being the sole regulatory body for housing and land development.

**Compiled by Soluziona Philippines Inc. for the World Bank.*

Table 19 presents the implementation issues identified by the project proponents and the DENR-EMB regional offices, some of which have already been discussed in this paper.

Table 19. Implementation Issues Raised by the Proponents and DENR-EMB Regional Offices.		
EIS Process	Issues Raised By Proponents	Issues Raised by DENR-EMB Regional Offices
Screening	<ul style="list-style-type: none"> • Unclear definition of environmentally critical areas • Unclear designation of projects exempted from environmental compliance certificate application • Unclear portions of the Initial environmental examination checklist requirements 	<ul style="list-style-type: none"> • Difficulty in determining environmentally critical areas • Some regional offices do not use screening form or initial environmental examination checklist • Difficulty in determining coverage of projects that are not in the list of covered projects • Procedures for EIA and NCIP projects are separate Almost 40% of applications are certificates of non-coverage
Scoping	<ul style="list-style-type: none"> • Unavailable scoping guidelines and required documents for specific projects 	<ul style="list-style-type: none"> • Scoping for initial environmental examination-based projects not necessary due to familiarity with the nature or location of the project • Scoping for initial environmental examination-based projects is conducted only if requested by the proponents
Review	<ul style="list-style-type: none"> • Absence of some Review Committee members during meetings • Some Review Committee members demand unreasonable requirements such as a traffic management plan for a condominium project and air quality test for golf course projects 	<ul style="list-style-type: none"> • Most regional offices require proponents to establish Review Fund ranging from P9,600 to P18,000 for Category B projects and from P30,000 to P120,000 for Category A projects, which may cover compensation of contractual employees and purchase of office equipment and computers • There is no existing accreditation for external reviewers
Approval	<ul style="list-style-type: none"> • Difficult requirements from other agencies for other permits although an environmental compliance certificate has been issued • Difficulty in securing barangay endorsement (uneducated officials or uninformed about the system, illicit requests, i.e., cash, basketball court) • Unreasonable conditions, i.e., annual health study for a quarry project amounting to P150,000 and 15-30 meters buffer zone for a small banana plantation • Failure of proponent to conduct Environmental Risk Assessment, an environmental compliance certificate condition, due to lack of the DENR personnel to explain to proponent regarding the requirement • Delay in processing time when function was transferred to the LLDA • Numerous permits required as pre-requisite for environmental compliance certificate approval 	<ul style="list-style-type: none"> • Fraudulent applications, i.e., signature of barangay official was forged in the endorsement for an environmental compliance certificate • Existence of pro-forma environmental compliance certificate and certificate of non-coverage and a set of environmental compliance certificate conditions for specific projects • Public opinion weighs 20% on the decision to issue or deny environmental compliance certificate while environmental and social merits weigh 80%; public complaints affect the processing of environmental compliance certificate and can cause delay but may not necessarily affect the decision to issue or deny unless there is threat to life and property • Some public complaints are not valid and politically driven • Public consultation facilitated by the DENR may substitute for local government endorsements • Engineering Geological and Geo-hazard Assessment Report is required for subdivision projects; GIR from the MGB for development or construction projects; baseline study and clearance from the PMRB for mining projects; resolution from the PAMB to indicate approval of projects within protected areas, and clearance from the NCIP for projects in indigenous peoples areas

Table 19. Implementation Issues Raised by the Proponents and DENR-EMB Regional Offices.

EIS Process	Issues Raised By Proponents	Issues Raised by DENR-EMB Regional Offices
Monitoring	<ul style="list-style-type: none"> • Difficulty in establishing Multipartite Monitoring Team because of uncooperative local government • Refusal of local government unit to conduct monitoring although mandated to do so • Unclear guidelines for Multipartite Monitoring Team membership and establishment of cluster Multipartite Monitoring Team • Lack of resources on the side of the DENR • Proponents shouldering the cost of Multipartite Monitoring Team training for them to be familiar with the EIS System and the project • High cost of Multipartite Monitoring Team and quarterly monitoring activities • Proponents are made to shoulder the cost of transportation during site inspection 	<ul style="list-style-type: none"> • Regional offices already implement PEMAPS • Some regional offices have established cluster Multipartite Monitoring Teams • The amount of Environmental Monitoring Fund depends on the type of project or on the Annual Monitoring Plan prepared by the Multipartite Monitoring Team • Honorarium of Multipartite Monitoring Team member is P800-P1,000 per meeting • Some regional offices handle the fund, while in others, the Environmental Monitoring Fund is deposited in the bank by the proponent (initial amount is P50,000 and replenished when used) • Some regional offices delegate monitoring responsibility to CENROs and PENROs • Projects with complaints and issues are prioritized to be monitored • Less than 50% of projects are monitored due to lack of personnel and vehicles • Proponents submit Self-Monitoring Reports due to the penalty imposed (P10,000 per violation or issuance of Notice of Violation)
Sanctions and Penalties	<ul style="list-style-type: none"> • Delayed issuance of Notice of Violation to proponent, i.e. violation was discovered in February but Notice of Violation was issued in July • Non-DENR agencies also issuing Cease and Desist Orders to proponents 	<ul style="list-style-type: none"> • Cease and Desist Orders are issued even without the prior issuance of Notice of Violation • Double penalty is sometimes imposed to the proponent • Not all Notices of Violation result in penalties • Many proponents were issued a Cease and Desist Order not because of threat to life or property, or continuous defiance to the environmental compliance certificate conditions, but because of incomplete documents or permits from other agencies
Environmental Guarantee Fund	<ul style="list-style-type: none"> • Lack legal basis and guidelines for establishing amount of Environmental Guarantee Fund • Very costly on the side of the proponent 	<ul style="list-style-type: none"> • Some regional offices do not fully implement the Environmental Guarantee Fund • Lack of guidelines to determine the amount of Environmental Guarantee Fund • Uses of Environmental Guarantee Fund unclear • Category B projects are required to set up an Environmental Guarantee Fund • Environmental Guarantee Fund is not strictly monitored
General Implementation	<ul style="list-style-type: none"> • Different perspectives of the central office and the regional office on the system 	<ul style="list-style-type: none"> • Proponents object social acceptability criteria on environmental compliance certificate approval • Political pressure to issue/deny environmental compliance certificate • Non-valid complaints from the community • PENRO and CENRO should be tapped in processing of environmental compliance certificate applications • Lack of skilled personnel and resources

CHALLENGES AND RECOMMENDATIONS

8.

8.1 Streamlining the EIS Requirements

Industrial and infrastructure projects, and growth in private businesses are the key to non-natural resource-based job generation which could help mitigate poverty and population pressures on the already heavily-exploited natural resources of the country. However, a parochial approach in environmental assessment streamlining has resulted in more complex requirements. As discussed earlier, the present dynamics of environmental policy making in the Philippines seem strongly in favor of further environmental regulation of the industry and business sectors. This heightened passion for the environment needs to be translated to policies that reflect the realities of the Philippine economy which is characterized by a lackluster industry sector and environmental problems that are basically due to population pressure and chronic lack of employment and livelihood opportunities outside of the natural resource-based livelihood systems. The several rounds of reforms intended to “streamline” the EIS process have resulted in the deepening of business regulation through the environmental compliance certificate/certificate of non-coverage which may have impacted on job creation. According to the 2003-2004 World Economic Forum Global Competitiveness, the Philippines ranks 98th among the 102 countries in terms of regulatory burden; in terms of ease of doing business it ranks 126th among the 175 countries (*Box 14*). The Philippine EIS System must be simplified to reduce its transaction cost to the business sector.

Box 14. Doing Business in the Philippines.

The Philippines continues to slip in the rank of countries in terms of ease of doing business here. In 2006 it slipped from 121st to 126th among 175 countries ranked. The following is a comparison of the number of procedures, time and cost of starting a business and dealing with licenses in the Philippines with international averages.

	Philippines	East Asia Pacific Region Average	OECD Countries Average
Starting a business			
No. of Procedures	11	8.2	6.2
No. of Days	48	46.3	16.6
Cost (as % of income per capita)	18.7	42.8	36.1
Dealing with licenses			
No. of Procedures	23	17.6	14.0
No. of Days	197	147.4	149.5
Costs (as % of income per capita)	113.4	207.2	72.0

Source: World Bank 2006.

Making the EIS System effective and efficient is a great challenge. Some of the possible actions include:

- a. **Improving the Screening Process** - The inclusion of small businesses in the EIS System is creating more problems than intended. One option that may be explored is to exclude projects/business undertakings that are not environmentally critical and whose impacts are known and mitigation measures proven and tested, and are routinely covered by existing laws and ordinances. A categorical exclusion of small businesses and undertakings is recommended. This change should be widely

communicated to the public and not only to regional offices. This could also be complemented by a nationwide mapping of environmentally critical areas to review the EIS coverage of small businesses and to determine if environmental issues for these projects are already covered by other laws, local ordinances or industry standards.

- b. ***Simplifying the Requirements*** – Making other permits a requirement of an environmental compliance certificate results in the difficulty of delineating the role of environmental assessment. Genuine streamlining or simplification of the EIS process and requirements will reduce gestation periods of investments and development projects and lower regulatory hurdles, especially for small to medium enterprises. Thus, there is a need to de-couple the issuance of environmental compliance certificates not just from the requirements of non-environmental laws, but also from the requirements of other specific environmental laws that are, in themselves, binding even without the EIS law²⁵. The environmental compliance certificate should be regarded as a “certificate of good environmental planning” rather than as a stamp of government approval.

If a new environmental assessment law is passed, it must consider requirements of existing laws and abolish or repeal needless interlocking of provisions from other laws and integrating similar requirements into the environmental assessment system in order to avoid duplication and confusion. There are many other project development requirements that have been created by new legislations and government regulations. For example, an Engineering Geological and Geo-hazard Assessment Report has been required for all land development projects. The Indigenous Peoples Rights Act requires projects within ancestral domain to conduct a socio-cultural impact study as part of the requirements for the Free and Prior Informed Consent process. The DOH has drafted the Philippine National Framework and Guidelines for Environmental Health Impact Assessment and is building its own capacity to implement it.

The data and other parameters used in the EIA clearly overlap with these studies. Not only can these studies be woven into the EIA, but the separate processes that these requirements entail can also be subsumed within the EIS process to achieve efficiency. However, there has first to be a review of the coverage of these requirements and evaluate its value in terms of providing useful recommendations to projects and undertakings. For example, Engineering Geological and Geo-hazard Assessment Reports can be examined if they, in fact, provide useful recommendations to project undertakings that are not covered by the EIA or the usual construction and engineering design or building code standards.

- c. ***Reviewing the economic basis of the Environmental Guarantee Fund*** – The review should be based on sector-wide risk assessments and should take into account the risks of potential flight or non-payment of claims of environmental damages as well as the main factor for non-settling actual damage claims. The result of this review

²⁵ On August 21, 2007, the DENR issued a “Revised Procedural Manual of DAO 2003-30” to further promote EIA as a planning and decision-making tool. One of the new features introduced is the segregation/de-coupling from the EIA process the practice of prior submission of permits, clearances, licenses, endorsements, etc. as requirements for the issuance of an environmental compliance certificate. Instead, the EIA findings and the environmental compliance certificate will be used as bases for the government agencies’ issuance of documents under their mandates.

should also provide inputs into the need for mandatory environmental insurance coverage, especially for small business undertakings.

- d. **Simplifying the monitoring system** – There should be only one monitoring scheme. All projects issued with environmental compliance certificates can be required to submit a self-monitoring report and be subject to random or systematic checking by DENR-EMB. For complex and highly sensitive projects, monitoring of a panel of experts could be considered. Investigation can be done based on the self-monitoring report and public complaints. There is also a need to review the need for Multipartite Monitoring Teams based on their tangible contribution to improved enforcement and compliance.

During the course of this review, the DENR had started to address some of the issues (Box 15) including a new EIA review manual which provides guidelines for the evaluation of EIA reports by the Review Committee. The issues which received immediate attention were mostly pertaining to streamlining and rationalization of requirements in the environmental compliance certificate application.

Specifically the new manual tried to address: (i) the lack of focus of the scoping, the professional biases of the EIA Review Committee to require data not relevant to the project, the use of secondary data where available, and the lack of focus on most significant impacts; (ii) the practice of requiring additional information shall be limited to those agreed in the final scoping checklist; (iii) focus on project-induced impacts leaving decisions on natural hazards to the feasibility study; (iv) segregation of issues that are the concern and jurisdiction of other agencies such as DOLE, DOH, traffic; and (v) trivial and very specific recommendations.

Box 15. Recent Initiatives by DENR-EMB to Streamline the EIS Process.	
19 Dec 06	Issued a memorandum (Memorandum Circular 2006-05) providing further guidelines in the implementation of DAO 30-2003, stressing the primary purpose of the EIA as a planning tool and discouraging the imposition of prior clearances and permits for the issuance of the environmental compliance certificate.
22 Dec 06	Developed a template for the environmental compliance certificate and certificate of non-coverage and issued a memorandum mandating its adoption by the regional offices and providing guidelines in the imposition of conditionalities to the environmental compliance certificates or certificates of Non-coverage.
09 Mar 07	Issued a memorandum (Memorandum Circular 2007-01) providing for the EIA Review Manual to guide the evaluation of EIA reports and defining the scope of authority of the Review Committee.
01 Jul 07	Posted a notice informing the public that the construction of family dwellings/residential units and the operation of micro-business enterprises as defined in Republic Act 9178 are not required to acquire an environmental compliance certificate but may obtain a certificate of non-coverage.
13 Jul 07	Issued a memorandum (Memorandum Circular 2007-08) further streamlining the environmental compliance certificate application process and enhance EIA utility as a planning tool by mandating the decoupling of other requirements from agencies from the environmental compliance certificate and certificate of non-coverage and the transmittal of EIA findings to relevant government agencies to provide inputs for their decision-making.

Alternative modalities of the Philippine EIS System should be subjected to a social cost-benefit study or a Regulatory Impact Assessment²⁶ so that the most efficient alternative is considered. The assessment should reflect environmental benefits and true opportunity cost of proposed new regulations. This means the analysis should include impacts of the new regulations on investment decisions. This practice can be institutionalized within the DENR to ensure efficiency and effectiveness of future policies and regulations.

8.2 Decentralizing the EIS System

The centralized administration of the Philippine EIS System may be considered inefficient and violative of the principles of subsidiarity²⁷. It is straining the limited resources of the DENR, limiting EIA's usefulness as a planning tool and unduly exposing projects to extraneous special interests (*Box 16*). It can be made more efficient through decentralization, where decisions can be made at the local government unit levels that possess the competency to carry out the required tasks. Although, the general benefits of decentralized governance are well known (e.g., improved accountability, reduced cost of compliance, responsiveness and bureaucratic efficiency), resistance against decentralization is still quite significant. Among the arguments cited against EIS decentralization include:

- a. ***Handling of spillover effects of projects that go beyond the jurisdiction of one local government unit***– This is a legitimate issue especially at the barangay and municipal local government levels where areas of jurisdiction are small. However, at the provincial level, with bigger areas of coverage, most projects should not have spillover effects with other provinces. Projects that have significant spillover effects on several provinces should continue to be administered by the DENR.
- b. ***Local government units are too small to be able to maintain an EIS capacity*** – The provinces and large cities are sufficiently large entities with sufficiently endowed environment and natural resources offices.
- c. ***Lack of technical capacity of the local government units*** –Local government units appear to have no technical capacity because the environmental assessment was not assigned to them in the first place. But the DENR also lacks technical people as it usually hires the EIA Review Committee to do the technical work, the expenses of which are charged to the proponents. The EIA Review Committee set-up could be adopted in a decentralized system.

²⁶ Many other countries have adopted this measure. The US Clean Air Act, for example, requires the US EPA to assess the costs and benefits of a regulation before promulgating policy. The Regulatory Flexibility Act requires agencies to review proposed regulations to describe the impact of proposed rules. Canada uses regulatory impact analysis as a tool for regulatory reform. It requires that proposed regulations must include cost-benefit analysis and must demonstrate that it is preferred over other policy tools to achieve the same objectives.

²⁷ Subsidiarity is the principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level.

Box 16. Improvements in a Decentralized EIS System.

Decentralization Maximizes the Contribution of the EIS Process to Local Development Planning. The Philippines has instituted reforms so that local communities are empowered and can participate meaningfully in development planning and decision-making. In 1990s, local councils (e.g., Provincial and Municipal Agriculture and Fisheries Councils, Environment and Natural Resources Councils) were formed to provide mechanisms for consultation and coordination of Department of Agriculture and DENR activities with LGUs and the local population. The land use planning was devolved to the local governments. If the decision-making on the EIS is also devolved, it will complement land use planning and facilitate the mainstreaming of environmental and social safeguards into local development efforts. Strategic environmental assessment and programmatic EIA will also be very useful at the local government level.

Decentralization Improves Follow-Up and Monitoring of Projects. There is currently an on-going effort at the DENR to institute a comprehensive monitoring and evaluation system which is centered on projects covered by the EIS system but also includes monitoring of the requirements of other environmental laws and regulations such as the Clean Air Act and the Pollution Control Law. It will be close to impossible to get this system institutionalized at the DENR given the financial, human resources and capacity constraints at EMB and the rapidly growing number of business establishments it plans to monitor. There will be continued lack of interest by central authorities in monitoring data and the actual environmental conditions in the project site. The DENR will tend to be motivated only by its regulatory mandate, as it has no direct accountability to the local population. With decentralized EIS, the monitoring system can be assigned even down to the barangay level under the supervision of the provincial government's Environment and Natural Resources Offices. Review, analysis and decision-making on environmental indicators can occur right at the seat of the local executive hosting the project. Finally, with decentralization, instead of spending resources on organizing and capacitating ad hoc volunteer bodies, such as the multipartite monitoring teams, DENR's effort will be better spent on capacitating the environment and natural resource offices of the local government units, which has a permanent mandate and clear accountability to the local constituents.

Decentralization Minimizes Influence of Extraneous Publics. The processing of EIS at the central government level raises the profile of the project and attracts the attention of well-funded special interest groups operating at the national and international levels, which may not necessarily represent local sentiments. If decision-making occurs at the local level, exposure of the project is minimized and the proponent and the local government can concentrate on satisfying the need of the constituents. Decentralization of the EIS will empower local constituencies resulting in genuine local sentiments weighing more in decision-making rather than extraneous influences.

Decentralized System Provides Flexibility and Encourages Innovation. With general standards or guidelines provided by the DENR, a decentralized environmental assessment system will provide flexibility and enhance responsiveness of the environmental assessment to local conditions and circumstances, resulting in plurality of approaches and eventual emergence and adoption of good practices.

- d. **Corruption and rent-seeking at the local government level** – Strong local ownership and accountability on the projects and their impacts will minimize rent-seeking and corruption. The reduced layer of bureaucracy will also mean fewer opportunities for corruption. Moreover, the diversity of approaches by local governments will mean project proponents will have plenty of choices and corrupt ones will eventually be avoided or exposed. Under a decentralized mode of implementation, the DENR will not be totally out of the picture as it will continue to have an oversight function over the performance and compliance of local governments to EIS norms and standards. This oversight function could now be given focus by the DENR and strengthening measures should be implemented.
- e. **No legal bases for devolving the environmental assessment functions** - There is a concern that devolution of the EA functions to the local government units is not covered under Presidential Decree 1586 and that such functions, which are already devolved by the President to the DENR, cannot be further devolved to local

governments. This concern can be addressed in the long term by the EIA bill that is pending in Congress. However, pending its enactment, the EIS devolution can be addressed by an Executive Order of the President devolving the environmental assessment functions to local governments.

Experience with devolution in other sectors (e.g., health and agricultural services), indicate unpopularity of decentralization among devolved government agency staff and difficulty of the local government units to perform devolved functions due to lack of funds. Expectedly, large Manila-based companies who are used to dealing with the DENR are apprehensive about their projects being held hostage by local politics and rent-seeking citing actual experiences. In contrast, small and medium-scale companies are quite comfortable with the prospect of decentralization.

Related to this is further delegation of some oversight environmental assessment functions to the regional or sub-national agencies. Innovations by area development agencies such as the SBMA have resulted in a much more efficient administration of the environmental assessment system. Even for specialized agencies such as LLDA and the Palawan Council for Sustainable Development, such delegation of environmental assessment functions is expected to reduce duplications of requirements and processes. The challenge is to draw up the optimal design of de-concentration and decentralization taking into consideration these concerns.

A detailed study should be done on what functions are to be devolved to what level of local government and what policies, plans and programs will be done at what levels. Ideally, the DENR-EMB must transform itself into a body in charge of oversight and policy-making, including capacity building, whose clients would be the local government units. The design must also include mechanisms that would enable the DENR to control or sanction the behavior of local government units to conform to the norms and standards set by DENR-EMB. These may include performance-based fiscal incentives, grants and earmarked transfers even as they should be provided with corresponding fiscal means to enable them to implement the EIS. Additional local revenue generation is preferable to financial transfers from the central government. The DENR practice of charging the proponents for the expenses of the EIS process can be adopted by the local governments. The province with an average population of 1 million is sufficiently large enough to be able to support environment and natural resource offices capable of implementing the EIS. Some policies, plans and programs, which transcend provincial boundaries, may be retained within the DENR.

Experiences from other countries, not necessarily on EIS, should provide inputs to the design. Finally, there may be a need to provide safety nets to prevent counterproductive competition among local government units, also known as “race to the bottom” phenomenon.²⁸ The role of local government units in the EIA and EIS process is important in harnessing local level participation in ensuring social and environmental acceptability of a project.

²⁸ “Race to the bottom” is said to occur when competition between countries in attracting investments leads to progressive dismantling or relaxation of regulatory standards. Within a country, a race to the bottom can also occur between local governments as they vie for private investments but it is easily tempered by the presence of the central government which can impose minimum standards. Races to the bottom can be beneficial especially in the early stages when regulations are clearly inefficient.

Whether decentralization pushes through or not, utilizing the EIS as a planning tool should increase its effectiveness. The other effort may be directed towards easing the regulatory burden imposed by the EIS System on businesses, especially the small- and medium-scale ones in the service sector.

8.3 Improving the Quality of Environmental Assessment

The tendency to address the whole spectrum of environmental and social aspects of the projects calls for a more practical type of training, beyond academic qualifications. There is currently no unit at the DENR that focuses on EIS policy review and formulation and training. The DENR has been relying on consultants to formulate EIS policies and to review the EIS. Given that the staff of the Environmental Impact Assessment and Management Division are mostly contractual and those who have experience and proper training are occupying positions that are saddled with administrative chores, there is an obvious dearth of experts in the DENR that can and have the time to continually improve the substantive aspect of the EIS. The guidelines also tend to rely more on the procedural rather than on the substantive matters of the EIS.

- a. ***Developing guidelines for sector-specific EIA, Initial Environmental Examination and Environmental Performance Report and Management Plan Guidelines*** - DENR-EMB should develop sector-specific EIA guidelines focusing on substantive analysis of issues. The sector-specific scoping guidelines that have been developed can be upgraded into full EIS preparation guidelines and be made available on the Internet. The initial environmental examination checklists that have been developed may be reviewed and cleared of irrelevant baseline data and added with an open-ended narrative portion that discusses the main issues of the project and provides clarification and/or proposed solutions.

- b. **Capacity building for sub-national agencies and local government units** - Capacity building should be part of the devolution program. If the EIS is decentralized to local government units, the Environmental Impact Assessment and Management Division must transform itself into an oversight and



Source: World Bank

policy-making body that can also provide training to local government units. Its staff must migrate from the monitoring of projects into the monitoring of local government units' implementation of its policies. This would entail an advanced training program and upgrading of academic backgrounds of key staff. The experience in EIA preparation and review is currently concentrated in the National Capital Region. But trainable manpower is not in short supply in the provinces. There are currently more than 300 state colleges and universities scattered all over the country. If decentralization is pursued, academic professors in the provinces can be easily tapped

as preparers and reviewers of the decentralized EIS. A nationwide training program on EIA preparation and review should be supported. Finally, the local environment and natural resource office staff should be trained on the EIS process implementation, which can be done by DENR-EMB.

- c. ***Improving the disclosure process*** - There is a need to improve formal public disclosure of the EIS reports and establish a framework to facilitate stakeholder participation. DENR should encourage citizen participation by making relevant information easily available and accessible through print or electronic media. DENR may also establish hotlines to support citizen participation and facilitate reporting.
- d. ***Providing a learning and feedback mechanism to improve outcomes on the ground***
– The project monitoring system can be utilized to provide feedback to continuously improve the environmental assessment system. Periodic impact evaluation studies of selected projects may be conducted to provide inputs for further streamlining of the environmental assessment and other environmental regulations.

8.4 Maximizing Use of Environmental Assessment as a Planning Tool

Philippine bureaucracy is very legalistic, hence, even scientific exercises such as the EIA, require very detailed bureaucratic procedures. Rigid procedures waste resources, as it leaves no room for discretion. It also promotes mediocrity in the profession, as staff level bureaucrats will have no need for analytical skills. Proposals that do not fit with the procedure often get bogged down, as no one would dare to deviate from the procedures. As discussed, there are valid reasons for the preference for rigid procedures. The challenge is to allow flexibility to accommodate practical considerations. This may be done by:

- a. ***Providing clear guidelines based on agreed discretions*** - For example, projects whose impacts are well known and the mitigation measures are routinely applied may no longer need to go through full EIA or initial environmental examination. Instead, it can go ahead with the preparation of the environmental management plan, once it has obtained location clearance.
- b. ***Making greater use of Programmatic Environmental Assessment*** - Zoning plans of local governments should be subjected to environmental assessment process and economic zones to programmatic environmental assessment.
- c. ***Introducing and building institutional capacity for Strategic Environmental Assessment*** – Since the formulation of policies, plans and programs invariably involves only the public sector, the Strategic Environmental Assessment system may not necessarily be built inside the EIS System. The existing Philippine Council for Sustainable Development which is chaired by NEDA is an excellent candidate to provide the institutional support for this system. To ensure a holistic treatment, the Strategic Environmental Assessment should be integrated into the socioeconomic impact analysis and/or social cost-benefit analysis of policies, plans and programs.

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List of EIS-related Laws and Brief Descriptions

<i>Year</i>	<i>No.</i>	<i>Title</i>	<i>Regulations, Guidelines and Standards</i>
	Republic Act 4846 (as amended)	Cultural Properties Preservation and Protection Act	<ul style="list-style-type: none"> ▪ Cultural Properties
1932	Act 3983	An Act To Protect Wild Flowers and Plants in the Philippine Islands and To Prescribe Conditions Under Which They May Be Collected, Kept, Sold, Exported, and For Other Purposes.	<ul style="list-style-type: none"> ▪ Wild Flowers
1949	Republic Act 386	Civil Code of the Philippines	<ul style="list-style-type: none"> ▪ Nuisance
1974	BFAO 1-1974	Regulations governing the collecting, gathering and/or disposing marine turtles, turtle eggs and its by-products	<ul style="list-style-type: none"> ▪ Regulations for marine turtles
1975	Presidential Decree 705 (as amended by Presidential Decree 1559, Presidential Decree 865, Presidential Decree 17175, BP 701, BP 83, Republic Act 7161, Executive Order 227 and Executive Order 83)	Revised Forestry Reform Code of the Philippines	<ul style="list-style-type: none"> • Forest protection and management; • Logging projects, logging roads, mining explorations, and other infrastructure in forest lands; • Pasture, recreation and other special land uses; • Reforestation, afforestation, tree farms, agroforestry farms and industrial tree plantations; • Rights of forestland cultivators, squatters, residents and other forest occupants.
1975	Presidential Decree 856	Code on Sanitation of the Philippines	<ul style="list-style-type: none"> ▪ <i>Drinking water standards</i> (National drinking water standards/criteria and prescribed methods of analysis); ▪ <i>Health and Sanitation Standards</i> (e.g., zoning, construction design and structural requirements, potable water supply, waste disposal and handling, vermin control, environmental provisions such as: control of air contaminants, infections agents, sources of radiation, noise, illumination, ventilation; and

<i>Year</i>	<i>No.</i>	<i>Title</i>	<i>Regulations, Guidelines and Standards</i>
1975	Presidential Decree 856	Code on Sanitation of the Philippines	<p>provisions of personal protective equipment; health services, etc.) for establishments, including:</p> <ul style="list-style-type: none"> - Industrial establishments; - Food establishments; - Markets and abattoirs; - Schools; - Public swimming and bathing places; - Rest areas, bus terminals, bus stops and service stations; - Camps and picnic grounds; - Dancing schools, dance halls and night clubs; - Tonsorial and beauty establishments; - Massage clinics and sauna bath; - Hotels, motels, apartments, lodging and boarding houses, condominiums; and, - Ports, airports, vessel and aircraft. <ul style="list-style-type: none"> ▪ <i>Regulations, Control and Prescribed Standards for:</i> <ul style="list-style-type: none"> - Vermin control; - Sewerage collection and disposal; - Excreta disposal; - Drainage; - Refuse disposal; - Disposal of dead persons; ▪ <i>Regulations and Control of Nuisances</i> (e.g. unhealthful premises, breeding places of vermin, animal carcasses, accumulation of refuse, noxious matter or waste water, excessive noise, illegal shanties, etc.) ▪ <i>Regulations and Control of Offensive Trades and Occupations</i> (e.g. soap boiling, guts cleaning, skin curing, manure storing, lye making, lime burning, and manufacturing which uses lead, arsenic or mercury or other poisonous substances, etc.); ▪ <i>Prevention and Control of Pollution of the Environment</i> including: pesticides and heavy metals; food contaminants; non-ionizing

Year	No.	Title	Regulations, Guidelines and Standards
1975	Presidential Decree 856	Code on Sanitation of the Philippines	radiation; noise pollution; biological pollutants; agricultural product contaminants; and other pollutants not covered by Republic Act 3931 and Rules and Regulations of National Pollution Control Commission, Presidential Decree No. 480 and Radiation Health Office of Department of Health. <i>(Note: The law contains only generic provisions. Specific guidelines, standards and requirements are contained in various issuances of the Department of Health and other government agencies tasked to implement the law.)</i>
1976	Presidential Decree 979	Providing for the Revision of Presidential Decree No. 600 Governing Marine Pollution	<ul style="list-style-type: none"> ▪ Marine Pollution
1977	Presidential Decree 1152	Philippine Environment Code	<ul style="list-style-type: none"> • <i>Air Quality Management</i> (Ambient air quality standards, Air emission standards, Community noise standards, Standards for noise-emitting equipment); • <i>Water Quality Management</i> (Classification of water bodies by usage, Water quality standards, Effluent standards); • <i>Land use scheme</i> (National land uses scheme, Location of industries); • <i>Natural resources management and conservation</i> (Management policy for fisheries and aquatic resources, Management policy for wildlife, Management policy for forestry, Use of fertilizers and pesticides, Soil conservation, Measures in flood control, Measures to mitigate destructive effects of calamities, Measures for energy development, Safety measures for energy development, Conservation and utilization of surface and ground waters, and, Management policy of mineral resources); • <i>Waste Management</i> (Solid waste disposal, Liquid waste disposal)

Year	No.	Title	Regulations, Guidelines and Standards
1977	Presidential Decree 1155	Fire Code of the Philippines	<ul style="list-style-type: none"> ▪ <i>Fire safety measures for the manufacture, storage, handling and/or use of hazardous materials</i> (e.g. cellulose nitrate plastics, combustible fibers, cellular materials, flammable and combustible gasses and liquids, corrosive liquids, blasting agents, etc.); ▪ <i>Fire safety measures for hazardous operations or processes</i> (e.g. welding or soldering, industrial baking and drying, waste disposal, pressurized burning equipment, smelting and forging, etc.) ▪ <i>Provision of fire safety construction, protective and warning systems</i> (e.g. fire alarm and sprinkler systems, fire walls, fire exits, etc.)
1977	Presidential Decree 1219	Providing for the Exploration, Exploitation, Utilization and Conservation of Coral Resources	<ul style="list-style-type: none"> ▪ Corals
1978	Presidential Decree 1505	Amending Presidential Decree No. 260, As Amended, By Prohibiting the Unauthorized Modification, Alteration, Repair and Destruction of Original Features of All National Shrines, Monuments, Landmarks and Other Important Historic Edifices	<ul style="list-style-type: none"> ▪ National Shrine
1990	Republic Act 6969	Toxic Substances and Hazardous and Nuclear Waste Control Act	<ul style="list-style-type: none"> ▪ Regulations for the importation, manufacture, processing, handling, transport, sale, distribution, use and disposal of all unregulated chemical substances and mixtures, including the entry, transit, storage and disposal of hazardous and nuclear wastes. ▪ <i>Requirements and standards for specific chemical substance through Chemical Control Order</i> (e.g. reporting, labeling and disclosure requirements, restrictions of use and disposal, handling, storage and management requirements).

<i>Year</i>	<i>No.</i>	<i>Title</i>	<i>Regulations, Guidelines and Standards</i>
1990	Department Administrative Order 15-1990	Regulations Governing the Utilization, Development and Management of Mangrove Resources	<ul style="list-style-type: none"> ▪ Mangrove
1991	Department Administrative Order 48-1991	Establishment of a National List of Rare(R), Endangered(E), Threatened(T), Vulnerable(V), Indeterminate(I), and Insufficiently Known (K) species of Philippine Wild Birds, Mammals, and Reptiles.	<ul style="list-style-type: none"> ▪ Biodiversity
1991	Republic Act 7160	The Local Government Code	<ul style="list-style-type: none"> ▪ Consultation
1992	Republic Act 7586	National Integrated Protected Area System Act and its IRR	<ul style="list-style-type: none"> ▪ Land use; ▪ Rights of park occupants; ▪ Rights of IPs.
1992	Republic Act 7279	An Act to Provide to Provide for A Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for Its Implementation, and for Other Purposes	<ul style="list-style-type: none"> ▪ Rights of urban squatters
1992	Republic Act 7638	The Department of Energy Act	<ul style="list-style-type: none"> ▪ Benefits to host communities
1995	Executive Order 263	Adopting Community-based Forest Management as a National Strategy	<ul style="list-style-type: none"> • Access to forestland resources by organized communities and peoples organization
1995	Republic Act 7942 and IRR (Department Administrative Order 54-2004)	The Mining Act	<ul style="list-style-type: none"> ▪ Consultation for Mining Projects ▪ Free and prior inform consent for IPs
1997	Department Administrative Order 05-1997	Procedures in the retention of areas within certain distances along the banks of rivers, streams, and shore of seas, lakes and oceans for environmental protection.	<ul style="list-style-type: none"> ▪ Land use
1997	Republic Act 8345	Agriculture and Fisheries Modernization Act	<ul style="list-style-type: none"> ▪ Land Use Restrictions of National Protected Areas for Agricultural and Agro-Industrial Development
1997	Republic Act 8371	Indigenous Peoples Rights Act	<ul style="list-style-type: none"> ▪ Rights of indigenous peoples; ▪ Free and prior informed consent;
1998	Republic Act 8550	The Philippine Fisheries Code	<ul style="list-style-type: none"> ▪ Fishery resources protection and management; ▪ Land use restrictions for tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations; ▪ Access of fishing communities/peoples

1998	Republic Act 8550	The Philippine Fisheries Code	<ul style="list-style-type: none"> organizations in these areas; ▪ Fishing areas reserves; ▪ Fish refuge and sanctuaries; ▪ Prohibitions of poaching and destructive fishing methods; ▪ Ban on coral exploitation; ▪ Ban on fishing/taking of endangered or threatened species; ▪ Imposition of catch ceilings and close seasons; ▪ Prohibition of activities resulting in aquatic pollution (including dumping/disposal of waste and other marine litters, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances, and other radioactive, noxious or harmful liquid, gaseous or solid substances).
1998	Republic Act 8492	National Museum Act	<ul style="list-style-type: none"> ▪ Cultural properties
1998	Republic Act 6657 (as amended)	Comprehensive Agrarian Reform Law	<ul style="list-style-type: none"> ▪ Land use restrictions
1999	Republic Act 8749 and Department Administrative Order 81-2000 (replaces Department Administrative Order 14-1993 Department Administrative Order 14A-1993)	The Philippine Clean Air Act of 1999	<ul style="list-style-type: none"> ▪ Ambient air quality standards (replacing Department Administrative Order 14-1993) ▪ Emission standards (replacing Department Administrative Order 14-1993)
2001	Republic Act 9003 and IRR	Ecological Solid Waste Management Act	<ul style="list-style-type: none"> ▪ Solid waste management standards
2001	Republic Act 9147	Wildlife Resources Conservation and Protection Act	<ul style="list-style-type: none"> ▪ <i>Conservation and protection of wildlife resources</i> (i.e. rules on: collection, possession, transport of wildlife species, their by-products and derivatives; importation and exportation of wildlife; introduction of exotic species; reintroduction of indigenous species; biosafety; bioprospecting; scientific research, breeding and propagation of wildlife); ▪ <i>Measures to protect endangered</i>

2001	Republic Act 9147	Wildlife Resources Conservation and Protection Act	<i>and threatened species of flora and fauna</i> (e.g. establishment of critical habitat and prohibition of certain activities in declared critical habitats).
2001	Republic Act 9072	An Act To Manage and Protect Caves and Cave Resources and for Other Purposes	<ul style="list-style-type: none"> ▪ Caves and Cave Resources
2004	Republic Act 9275 and Department Administrative Order 10-2005 (retains Department Administrative Order 34-1990 Department Administrative Order 35-1990)	The Philippine Clean Water Act of 2004	<ul style="list-style-type: none"> ▪ Water quality guidelines (in Department Administrative Order 34-1990 as retained by Department Administrative Order 10-2005) ▪ Effluent standards (in Department Administrative Order 35-1990 as retained by Department Administrative Order 10-2005) ▪ Wastewater treatment facilities (in Department Administrative Order 10-2005)

List of Laws Affecting the Institutional Context of the Environmental Assessment

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
Republic Act 6969 – Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990	<p>Department Administrative Order 36-2004 (Procedural Manual for Department Administrative Order 29-1992 on Republic Act 6969) (Pages 1 and 31)</p> <p>(Page 7). Apart from the basic policy rules and regulations of Republic Act 6969, hazardous waste management must also comply with the requirements of other specific environmental laws, such as Presidential Decree 984 (Pollution Control Law), Presidential Decree 1586 (Environmental Impact Assessment System Law), Republic Act 8749 (Clean Air Act) and Republic Act 9003 (Ecological Solid Waste Management Act) and their implementing rules and regulations.</p> <p>(Page 37). "6-3 TSD (<i>transport, storage, disposal</i>) Facility Permit</p> <p>A person who wishes to operate a TSD facility is required to obtain a TSD Facility Permit prior to commencement of operation in conjunction with environmental compliance certificate issued under Department Administrative Order 96-37 (<i>now Department Administrative Order 30-2003</i>). The TSD Facility Permit shall be valid for one (1) year.</p> <p>(A) Requirements for establishing a TSD Facility</p> <p>A person who wishes to establish a TSD facility shall submit the following requirements:</p> <ol style="list-style-type: none"> 1. Environmental compliance certificate (ECC) or Initial Environmental Examination (IEE) under Department Administrative Order 96-37 (<i>now Department Administrative Order 30-2003</i>) for the TSD facility has been secured..." 	Construction and Operation of Transport, Storage and Disposal (TSD) Facility for Toxic and Hazardous Waste
Republic Act 7586 – National Integrated Protected Area System (NIPAS) Act	<p>Republic Act 7586 (NIPAS), Section 2:</p> <p>"SEC 2. Declaration of Policy -- Cognizant of the profound impact of man's activities on all components of the natural environment and recognizing the critical importance of protecting and maintaining the natural biological and physical of diversities of the environment..., it is hereby declared the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution."</p>	Activities outside the scope of the management plan for protected areas

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
<p>Republic Act 7586 – National Integrated Protected Area System (NIPAS) Act</p>	<p>"SEC. 9. Management Plans--- There shall be a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researchers, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as the private sector...</p> <p>"SEC. 12. Environmental Impact Assessment -- Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required environmental compliance certificate (ECC) under the Philippine Impact Assessment (EIA) system. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manners as will minimize any adverse effects and take preventive and remedial action when appropriate..."</p>	
<p>Republic Act 7942 – Philippine Mining Act of 1995</p>	<p>Republic Act 7942 (Mining Act)</p> <p>"SEC. 69. Environmental Protection. --Every contractor shall undertake an environmental protection and enhancement program covering the period of the mineral agreement or permit. Such environmental program shall be incorporated in the work program which the contractor or permittee shall submit as an accompanying document to the application for a mineral agreement or permit. The work program shall include not only plans relative to mining operations but also to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation; and socioeconomic development.</p> <p>"SEC. 70. Environmental Impact assessment (EIA).</p>	<p>Mining Projects</p> <p>Special Requirements:</p> <ul style="list-style-type: none"> ▪ Environmental Protection and Enhancement Program/Plan (EPEP) ▪ Environmental Risk Assessment ▪ Environmental Guarantee Fund (EGF) ▪ Prior Informed Consent from IPs ▪ Involvement of Mines and Geosciences Bureau in the processing of EA Reports

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
<p>Republic Act 7942 – Philippine Mining Act of 1995</p>	<p>--Except during the exploration period of a mineral agreement or financial technical assistance agreement or an exploration permit, an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System including Sections 26 and 27 or the Local Government Code of 1991 which require national government agencies to maintain ecological balance, and prior consultation with the local government units, nongovernmental and people's organizations and other concerned sectors of the community: Provided, That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and nongovernmental organizations shall be allowed and encourage to participate in ensuring that contractors/permittees shall observe all the requirements of environmental protection.</p> <p>"SEC. 71. Rehabilitation. --Contractors and permittees shall technically and biologically rehabilitate the excavated mined-out, tailings covered and disturbed areas to the condition of environmental safety..."</p> <p>Environmental Guarantee Fund</p> <p>Department Administrative Order 96-40 (Mining Act, IRR), Sections 5, 177 and 178: "Section 5. Definition of Terms ... "aa. "Environmental Impact Assessment (EIA)" refers to the process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures. ab. "Environmental Impact Statement (EIS)" refers to the document(s) of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures. ... "ad. "Environmental Protection and Enhancement Program (EPEP)" refers to the comprehensive and strategic environment management plan for the life</p>	

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
<p>Republic Act 7942 – Philippine Mining Act of 1995</p>	<p>of the mining project on which EPEPs are based and implemented to achieve the environmental management objectives, criteria and commitments including protection and rehabilitation the disturbed environment."</p> <p>...</p> <p>"Section 177. Processing of the Environmental Impact Statement (EIS) and the Initial Environmental Examination (IEE). The Environmental management Bureau (DENR-EMB)/Department Regional Office, in coordination with the Bureau (<i>Mines and Geosciences Bureau</i>), shall take primary responsibility for the acceptance, processing, evaluation and monitoring of the Environment Impact Statements (EISs) and Initial Environment Examinations (IEEs). The DENR-EMB/EMPAS shall have the authority to recommend to the Secretary/Regional Executive Director (RED) any appropriate action on the application for and environmental compliance certificate (ECC).</p> <p>"Section 178. EPEP in Relation to environmental compliance certificate. The preparation, submission and approval of EPEP shall be incorporated as a mandatory conditionality in the environmental compliance certificate being issued by the Secretary/RED or their duly authorized representatives to a Contractor/Permit Holder. The environmental compliance certificate shall be the basis in the preparation of EPEP. The Bureau (<i>Mines and Geosciences Bureau</i>) and the DENR-EMB shall enter into a Memorandum of Understanding to harmonize the promulgation of these implementing rules and the regulations and the EIS System.</p>	
<p>Republic Act 8749 – Philippine Clean Air Act of 1999</p>	<p>Chapter I, Article 2, SEC 5. Definitions</p> <p>...</p> <p>g)"Eco-profile" means the geographic-based instrument for planners and decision makers which present an evaluation of the environment quality and carrying capacity of an area. It is the result of the integration of primary data and information on natural resources and anthropogenic activities on the land which were evaluated by various environmental risk assessment and forecasting methodologies that enable the Department to anticipate the type of development control necessary in the planning area.</p> <p>Chapter 2, Article 2...</p> <p>"SEC. 17. Emission Quotas.- The Department may</p>	<p>Airsheds, Programmatic EIS</p> <p>Special requirements: Ecoprofile Environmental Guarantee Fund</p>

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
<p>Republic Act 8749 – Philippine Clean Air Act of 1999</p>	<p>allow each regional industrial center that is designated as special airshed to allocate emission quotas to pollution sources within its jurisdiction that qualify under an environmental impact assessment system programmatic compliance program pursuant to the implementing rules and regulations of Presidential Decree No. 1586.</p> <p>“SEC. 18. Financial Liability for Environmental Rehabilitation.-As part of the Environmental Management Plan attached to the environmental compliance certificate pursuant to Presidential Decree No. 1586 and rules and regulations set therefore, the Department shall require program and project proponents to put up financial guarantee mechanisms to finance the needs for emergency response, clean-up rehabilitation of areas that may be damaged during the program or project’s actual implementation. Liability for damages shall continue even after the termination of a program or project, where such damages are clearly attributable to that program or project and for a definite period to be determined by the Department and incorporated into the environmental compliance certificate...</p>	
<p>Republic Act 9003 – Ecological Solid Waste Management Act of 2000</p>	<p>Republic Act 9003 (Solid Waste Act) “SEC. 38. Permit for Solid Waste Management Facility Construction and Expansion. - No person shall commence operation, including site preparation and construction of a new solid waste management facility or the expansion of an existing facility until said person obtains an Environment Compliance Certificate (ECC) from the Department pursuant to P.D. 1586 and other permits and clearances from concerned agencies. Department Administrative Order 34-2001 (IRR, Solid Waste Act) Rule XVI, Section 1, item d: “3. Enhanced Certification, Permitting and Licensing Processes “The Commission through the Department shall provide support to SWM projects requiring an environmental compliance certificate. It shall thereby hasten the EIA process by formulating a guideline for the specific procedure of EIA for SWM projects. Similarly, the Local SWM Boards/Local SWM Cluster Boards shall establish simplified and efficient procedure for permitting and licensing functions.</p>	<p>Solid Waste Management Facilities such Landfills, Material Recovery and Composting Facilities.</p>
<p>Republic Act 9275 – Philippine Clean Water Act of 2004 Republic Act</p>	<p>Republic Act 9275 (Clean Water Act) “SECTION 15. Financial Liability for Environmental Rehabilitation. - The Department shall require program and project proponents to put up Environmental Guarantee Fund (EGF) as part of the</p>	<p>All projects with effluents; Co-located projects; Economic or Industrial Zones. Environmental Guarantee Fund attached to the Environmental</p>

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
9275 – Philippine Clean Water Act of 2004	<p>Environmental Management Plan attached to the environmental compliance certificate (ECC) pursuant to Presidential Decree No.1586 and its implementing rules and regulations. The EGF shall finance the maintenance of the health of the ecosystems and specially the conservation of watersheds and aquifers affected by the development, and the needs of emergency response, clean-up or rehabilitation of areas that may be damaged during the program's or project's actual implementation. Liability for damages shall continue even after the termination of a program or project and, until the lapse of a given period indicated in the environmental compliance certificate, as determined by the Department. The EGF may be in the form of a trust fund, environmental insurance, surety bonds, letters of credit, self-insurance and any other instruments which may be identified by the Department...</p> <p>"SECTION 17. Programmatic Environmental Impact Assessment. - The Department shall implement programmatic compliance with the environmental impact assessment system, as in the following types of development:</p> <p>a) development consisting of a series of similar projects, or a project subdivided into several phases and/or stages whether situated in a contiguous area or geographically dispersed; and</p> <p>b) development consisting of several components or a cluster of projects co-located in an area such as an industrial estate, an export processing zone, or a development zone identified in a local land use plan.</p> <p>"Programmatic compliance with the environmental impact assessment system shall be guided by carrying capacity assessments determined from ecological profiles. Ecological profiles shall identify environmental constraints and opportunities in programmatic areas. Programmatic assessment shall also take into account cumulative impacts and risks.</p> <p>"Consistent with the provisions of the Local Government Code, the Department may enter into agreement with local government units to incorporate programmatic environmental impact assessment into the preparation, updating or revision of local land use plans and area development plans.</p> <p>"SECTION 18. Environmental Impact Assessment System Programmatic Compliance with Water Quality Standards. - The. Department may allow each regional industrial center established pursuant to Republic Act No.7916 (PEZA law) to allocate</p>	Compliance Certificate

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
Republic Act 9275 – Philippine Clean Water Act of 2004	effluent quotas to pollution sources within its jurisdiction that qualify under an environmental impact assessment system programmatic compliance program in accordance with Presidential Decree No. 1586 and its implementing rules and regulations."	
Department Administrative Order 28-2000 – Engineering, Geological and Geohazard Assessment (EGGA)	Department Administrative Order 28-2000 (EGGAR), Section 3: "All developers/project proponents, public or private, of subdivision, housing and other land development and infrastructure projects falling within the scope of the EIS requirements shall undertake Engineering Geological and Geo-hazard Assessment (EGGA)..."	All land development projects
Republic Act 8550 – The Philippine Fisheries Code	"Section 12. Environmental Impact Statement (EIS). - All government agencies as well as private corporations, firms and entities who intend to undertake activities or projects which will affect the quality of the environment shall be required to prepare a detailed Environmental Impact Statement (EIS) prior to undertaking such development activity. The preparation of the EIS shall form an integral part of the entire planning process pursuant to the provisions of Presidential Decree No. 1586 as well as its implementing rules and regulations. "Section 13. Environmental compliance certificate (ECC). - All Environmental Impact Statements (EIS) shall be submitted to the Department of Environment and Natural Resources (DENR) for review and evaluation. No person, natural or juridical, shall undertake any development project without first securing an environmental compliance certificate (ECC) from the Secretary of the DENR.	All fishery development projects
Republic Act 9147 – Wildlife Resources Conservation and Protection Act	"SEC. 12. Introduction, Reintroduction or Restocking of Indigenous Wildlife. – The reintroduction or restocking of endemic and indigenous wildlife shall be allowed only for population enhancement or recovery purposes subject to prior clearance from the Secretary... "Any proposed introduction shall be subject to a scientific study which shall focus on the bioecology. The proponent shall also conduct public consultations with concerned individuals or entities. "SEC. 13. Introduction of Exotic Wildlife. - No exotic species shall be introduced into the country, unless a clearance from the Secretary or the authorized representative is first obtained. In no case shall exotic species be introduced into protected areas covered by Republic Act No. 7586 and to critical habitats under Section 25 hereof. In cases where introduction is allowed, it shall be subject to environmental impact study which shall	Introduction and breeding of wildlife species

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
<p>Republic Act 9147 – Wildlife Resources Conservation and Protection Act</p>	<p>focus on the bioecology, socioeconomic and related aspects of the area where the species will be introduced. The proponent shall also be required to secure the prior informed consent from the local stakeholders.</p> <p>"SEC. 17. Commercial Breeding or Propagation of Wildlife Resources. -Breeding or propagation of wildlife for commercial purposes shall be allowed by the Secretary or the authorized representative pursuant to Section 6 through the issuance of wildlife farm/culture permit: Provided, That only progenies of wildlife raised, as well as unproductive parent stock shall be utilized for trade: Provided, further, That commercial breeding operations for wildlife, whenever appropriate, shall be subject to an environmental impact study.</p>	
<p>Republic Act 8371 – Indigenous Peoples Rights Act (IPRA)</p>	<p>Chapter II, Section 3</p> <p>g) Free and Prior Informed Consent---as used in this Act shall mean the consensus of all members of the ICCs/IPs to; be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language an process understandable to the community;</p> <p>Chapter III, Section 59</p> <p>Sec. 59. Certification precondition. - all department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP without the free and prior informed and written consent of the ICCs/IPs concerned:... Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.</p>	<p>All projects in ancestral domain areas</p>
<p>NCIP AO 1-1998</p>	<p>Section 5. Procedure and Requirements for Securing ICCs/IPs Consent. The consensus building process of each particular indigenous cultural community shall be adhered to in securing the ICCs/IPs' Free and Prior Informed Consent. ...</p>	

<i>Law</i>	<i>Provisions Affecting the EIS</i>	<i>Projects/Activities Addressed</i>
NCIP AO 1-1998	<p>The following minimum requirements shall be strictly complied with:</p> <p>e) Any alternative proposal shall be subject to the Free and Prior Informed Consent of the ICCs/IPs in accordance with the foregoing procedures and requirements.</p> <p>Section 6. Obligations of the Proponent. The proponent of any policy, program, project, or activity requiring the Free and Prior Informed Consent of the ICCs/IPs community shall:</p> <ul style="list-style-type: none"> a) Submit to the IP community an undertaking written in a language spoken and understood by the community concerned that it shall commit itself to full disclosure of records and information relevant to the policy, program, project or activity, and allow full access to records, documents, material information and facilities pertinent to the same; b) Submit to the IP community and the NCIP in a language understandable to the concerned community an Environmental and Socio-cultural Impact Statement, detailing all the possible impact of the policy, program, project or activity upon the ecological, economic, social and cultural aspect of the community as a whole. Such document shall clearly indicate how adverse impacts can be avoided or mitigated; c) Submit an undertaking in writing to answer for damages which the ICCs/IPs may suffer on account of the policy, program, project, plan or activity and deposit a cash bond or post a surety bond with the NCIP when required by the community equivalent to a percentage of its investments... 	

Proposed Congressional Bill to Amend the Philippine EIS System

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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13th Congress
First Regular Session

House Bill No. ____
(Substitute Bill to House Bill No. 3253)

Introduced by Hon. Gilbert C. Remulla

AN ACT TO ESTABLISH THE PHILIPPINE ENVIRONMENTAL
ASSESSMENT SYSTEM, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Title I
Chapter One

GENERAL PROVISIONS

Section 1. *Short Title.* This Act shall be known and referred to as the “Philippine Environmental Assessment Act of 2005.”

Sec. 2. *Declaration of Policy.* The State shall adhere to the principles of sustainable development. To this end, balanced consideration of environmental protection, human health, and socio-economic developments shall be ensured by government through the assessment of significant environmental impacts of policies, plans, programs and projects and the prescription of appropriate protection and control measures. The implementation of this State policy shall be guided by the following principles:

- a) A systems-oriented and integrated approach in the analysis and solution to environmental concerns vis-à-vis national development programs;
- b) Maintenance and enhancement of vital ecosystem functions in all phases of development activity;
- c) Promotion of public participation in environmental assessment system;
- d) Adoption of efficient system of decentralization of environmental assessment implementation;

- e) Integration of environmental assessment process in the formulation of policies, plans, programs and projects;
- f) Strengthening environmental monitoring and audit mechanisms;
- g) Development and institutionalization of local environmental expertise;
- h) Implementation of a transparent environmental assessment system; and,
- i) Establishment of a mechanism to sustain the environmental assessment system.

Chapter Two

DEFINITION OF TERMS

Sec. 3. *Definition of Terms.* For the purposes of this Act, the following terms shall be defined as stated below:

A. *Agency concerned* shall refer to government agency, including government owned and controlled corporation, that has jurisdiction or mandate over the preparation, evaluation, approval, implementation or monitoring of a policy, plan, program or project.

B. *Bureau* shall refer to the Environmental Management Bureau (DENR-EMB);

C. *Co-located projects* shall refer to projects, or series of similar projects or a project subdivided to several phases and/or stages by the same proponent, located in contiguous areas;

D. *Critical project* shall refer to a project or activity that has high potential for significant negative environmental impact or located within an area delineated as environmentally sensitive such that significant environmental impacts are expected if the project or program is located, developed or implemented in it.

E. *Department* shall refer to the Department of Environment and Natural Resources;

F. *Environmental assessment* shall refer to a process of systematic analysis, evaluation and management of the potential environmental and social effects of policy, plan, program or project prior to a decision being made.

G. *Environmental Impact Assessment (EIA)* shall refer to the environmental assessment of a project which involves evaluating and predicting the likely impacts of the project on the environment during construction, commissioning, operation and abandonment.

H. *EIA Report* shall refer to the document of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIA Report may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the appropriate mitigating and enhancement measures to address the identified environmental impacts.

I. *Environmental Compliance Certificate (ECC)* shall refer to the document issued by the Department Secretary or the Bureau Director certifying that based on the representations of the proponent and the EIA report preparers, as reviewed and validated by the Review Committee,

the proposed project or undertaking will not cause a significant negative environmental impact in consideration of the mitigation measures as proposed, the proponent has complied with all the requirements of the EIA and has committed to implement its approved Environmental Management Plan (EMP).

The Environmental Compliance Certificate shall contain the scope and limitations of the approved operations, conditions to address critical environmental issues with regard to the project, the condition on the compliance to the approved EMP and the setting up of a financial guarantee mechanism, and the timeframe until permitting agencies take over the monitoring of projects during full scale operation.

J. *Environmental impact* shall refer to any change that the policy, plan, program or project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by indigenous peoples, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

K. *Environmental Management Plan/Program (EMP)* – shall refer to a section in the EIA Report that details the prevention, mitigation, compensation, contingency and monitoring measures to enhance positive impacts and minimize negative impacts of a proposed project or undertaking. For operating projects, the EMP can also be derived from an environmental management system.

L. *Existing project* shall refer to one that is currently operating or has temporarily stopped but may be planned for revival or expansion;

M. *Policy, Plan or Program* shall refer to strategies, policies, plans or programs, including their modifications and those co-financed by international organizations, submitted to an Agency Head or the local chief executive of the local government unit for approval.

N. *Proponent* shall refer to any person seeking to implement a relevant policy, plan, program or project. This includes government agencies, government owned and controlled corporations, local government units or private entities.

O. *Preliminary scan* shall refer to the process of quickly identifying potential significant environmental effects, whether they are positive or negative

P. *Scoping* – shall refer to the stage in the EAS where information and assessment requirements are established to provide the proponent with the scope of work and terms of reference for the EIA Report;

Q. *SEA Report* shall refer to the document of studies on the environmental impacts of a policy, plan or program including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity.

R. *Single or Stand-Alone Project* shall refer to a project located separately from similar or unrelated projects;

S. *Strategic Environmental Assessment (SEA)* shall refer to the systematic process for evaluating the environmental consequences of proposed policy, plan or program initiatives in order to ensure they are fully included and appropriately addressed at the earliest appropriate stage of decision-making on par with economic and social considerations.

TITLE II ENVIRONMENTAL ASSESSMENT SYSTEM

Chapter One

GENERAL PROVISIONS

Sec. 4. Environmental Assessment System. - The Environmental Assessment System (EAS) is hereby established which shall cover Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). The EAS shall be implemented for purposes of identifying, analyzing, evaluating and managing the direct and indirect impacts of a policy, plan, program or project on the biophysico-chemical environment, health and socio-economic issues and ensuring that these impacts are addressed by appropriate environmental protection and enhancement measures. It shall help identify the most practicable alternatives for achieving positive outcomes and minimizing potentially adverse effects of policies, plans, programs and projects.

Sec. 5. Coverage of the Environmental Assessment System. - Any policy, plan, program or project which may have significant impact on the environment shall be covered by the EAS.

Chapter Two

STRATEGIC ENVIRONMENTAL ASSESSMENT

Sec. 6. Applicability of the SEA. The SEA shall be required for a policy, plan or program proposal when all of the following conditions exist:

- a) the proposal relates, but not be limited, to agriculture, forestry, fisheries, energy, health, manufacturing, resource exploration and extraction, infrastructure, transport, waste management, water management, telecommunications, tourism, coastal zone management, national, regional, provincial and municipal/city development planning or land use; and
- b) implementation of the proposal may result in important adverse environmental implications, including health impact, as determined in the preliminary scan.

Sec. 7. Exemptions from the SEA. SEA shall not be required for policy, plan or program in the following cases:

- a. Proposals prepared in response to a clear emergency where time is insufficient to undertake a strategic environmental assessment. In such cases, every effort should be

made to undertake an SEA once the policy, plan, or program proposal has been approved, as well as on any implementation plan or strategy resulting from the proposal; or,

- b. Proposals involving national security;

Sec. 8. *Notification.* – Within a reasonable time before the beginning of the planning process, proponents who intend to formulate policy, plan or program referred to Section 6 shall notify the head of the concerned agency or the chief executive of the concerned local government unit with the following information:

- a. The identified objectives of the envisaged policy, plan or program, its territorial and temporal scope and activities to be proposed;
- b. Degree to which the envisaged policy, plan or program is likely to set a framework for other proposal or projects;
- c. Environmental, including health, issues that are considered as relevant to the envisaged policy, plan or program and description of how the same shall be addressed during its formulation.

Sec. 9. *Preliminary Scan* – Upon notification, the concerned agency or local government unit shall conduct a preliminary scan based on the notification referred to in Section 8 for purposes of determining whether the envisaged policy, plan or program may have significant environmental effects. The preliminary scan shall consider the following factors:

- a. The relevance of the policy, plan or program to the integration of environmental, and health considerations and promotion of sustainable development.
- b. The degree to which the policy, plan or program will affect environmental critical areas.
- c. The nature of the environmental and health effects and risks such as probability, duration, frequency, reversibility, magnitude, extent and population likely to be affected.

Where the preliminary scan indicates that implementation of the proposed policy, plan or program will result in significant environmental effects, SEA shall be undertaken by the proponent upon determination of the scope of the SEA by the concerned agency or local government unit in accordance with Section 10 of this Act.

Where the preliminary scan indicates that the implementation of the proposed policy, plan or program will not result in important environmental effects, the concerned agency or local government unit shall determine environmental issues that shall be considered in the formulation

and implementation of the policy, plan or program.

The results of the preliminary scan shall be accessible to the public.

Sec. 10. Scope of the SEA. The scope of the SEA to be undertaken shall specify, but not be limited to, the following:

- a. relevant environmental objectives that should be considered within the SEA,
- b. specific environmental impacts that should be analyzed
- c. period of time needed to be covered
- d. study areas and future development trends that should be considered
- e. options and alternatives
- f. recommended depth of the assessment to be conducted
- g. recommended consultations with relevant agencies and the public during SEA

Sec. 11. Undertaking SEA. The proponent shall conduct the SEA as part of the formulation of the policy, plan or program for the purpose of identifying the most practicable alternatives for achieving positive outcomes and minimizing potentially adverse effects of the policy, plan or program. SEA may be carried out in stages corresponding to the stages of policy, plan or program formulation and may involve sequential assessments of various components of the policy, plan or program.

Sec. 12. SEA Report. The SEA report shall be consistent with the guidelines that shall be formulated by the DENR in coordination with NEDA-ICC pursuant to this Act and scoping advice referred to in Section 10. Provided, that the SEA report shall provide, but not be limited to, the following information which may be reasonably required giving the nature and the level of detail of the policy, plan or program:

- a. Summary of the proposal: Main objectives of the proposal, its link with other PPPs and an outline of the reasons for selecting the alternatives dealt with;
- b. Summary of the SEA: Main issues addressed in the SEA (with reference to any recommendations from preceding assessments), inputs provided to the proponent during elaboration of the proposal and summary of key outstanding issues for consideration;
- c. Relevant trends in the state of the environment, including health, and the likely evolution thereof should the proposal not be implemented;
- d. Environmental objectives and targets established at international, national and other levels which are relevant to the proposal, and estimated positive and negative attribution of the proposal and its alternatives to their attainment;
- e. Specific impacts of the proposal and its alternatives, direct, indirect, cumulative, synergistic, short-, medium- and long-term, permanent and temporary, positive and negative impacts;
- f. Difficulties encountered in the SEA such as lack of data, unknown future trends or lack of knowledge;

- g. Environmentally preferred option and measures proposed to prevent, reduce or mitigate any significant adverse effects of the future on the environment which may result from the implementation of the proposal;
- h. Recommended focus of any subsequent SEAs or EIAs; and,
- i. Measures for monitoring environmental effects of the implementation of the proposal;

Sec. 13. Integration of SEA results in the policy, plan or program. Any policy, plan or program subject to SEA shall be approved and implemented only upon integration of the SEA results. The SEA report shall be disclosed to the public by the proponent.

Sec.. 14. SEA Monitoring and Evaluation. The concerned agency or local government unit shall undertake monitoring and evaluation of the implementation of the policy, plan or program in accordance with the recommended measures in the SEA report. The monitoring and evaluation shall include the following:

- a. Checking of assumptions;
- b. Monitoring the progress of measures recommended in SEA ensuring their implementation;
- c. Defining additional measures if necessary based on updated information;
- d. Allowing provision of feedback to higher levels of review;
- e. Ensuring reviews or further assessments be triggered if real situations significantly different from previous assumptions adopted

Chapter Three

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR SPECIFIC PROJECT

SEC. 15. *Applicability of EIA*. Critical projects, as determined by the Department in accordance with this Act, shall undertake an EIA for specific project. These critical projects are presumed to pose significant negative impacts on the environment. For purposes of determining critical projects, the Department shall consider the nature of the project and its potential to cause significant negative environmental impacts, and the sensitivity or vulnerability of environmental resources in the project area. Projects that are deemed unlikely to pose significant negative impacts on the environment are exempt from the coverage of the EAS and shall not undertake EIA for specific project.

Sec. 16. *Projects exempt from EIA*. Upon review and evaluation of the SEA report by the Bureau, all component projects and activities of policy, plan or program that have passed through the SEA process shall not be required to undergo the project EIA process. Provided, that upon evaluation of the SEA report, the Bureau may require otherwise on the ground that environmental impacts of said projects have not been adequately addressed in the SEA.

Sec. 17. EIA Requirements. The determination of EIA requirements to facilitate the review, assessment and evaluation of projects required to undertake EIA shall be based on the nature, characteristic and location of the project, among others. All existing and new information on the nature or characteristics of a project and its potential to generate adverse environmental impacts and the sensitivity or vulnerability of environmental resources in the project area shall be primarily considered. Provided, that health and social impacts shall also be taken into consideration.

New and existing projects that are considered critical projects under this section shall undergo an EIA prior to any development or further activity.

Sec. 18. *EIA Preparation and Review*. The EIA process shall include screening, scoping, baseline data gathering and impact assessment, and review by the Bureau.

For purposes of scoping, the proponent in coordination with the Department may conduct formal consultations upon due notice to stakeholders. The Department, however, may, *moto proprio*, conduct scoping, where appropriate. Information on the proposal, including environmental impacts, shall be disseminated in a manner and language understandable to the public. Issues and problems raised by various sectors potentially affected by the environmental impact of the proposal shall be formally recognized through the scoping process. All legitimate issues and concerns raised during scoping shall be addressed in the EIA and the resolution of such issues shall be used by the Department as basis for evaluating the acceptability of the EIA report.

Sec. 19. *Environmental Impact Assessment Preparer and Reviewer*. In order to ensure the quality of environmental assessments and reports required under this Chapter, proponents shall undertake EIA with qualified environment professionals who are registered with the Bureau. The Bureau shall develop a registration procedure and prepare, update and publish, or otherwise make available to the public, a register of environment professionals and their respective contact information.

Sec. 20. *Review Committee*. – Where necessary, the Department shall organize Review Committees composed of experts in the environmental sciences and management and relevant fields of expertise whose main task shall be to assist the Department in the evaluation of the environmental impact assessment reports. The substantive review of the reports' technical merits by the Review Committee shall be taken into consideration by the Department for the issuance of the Environmental Compliance Certificate. The EIA report review shall be guided by two general criteria: (1) conformity of the EIS with the outcomes of scoping and the established and accepted environmental assessment practices inclusive of protocols and relevant methodologies; and, (2) sufficiency of considered alternatives and effectiveness of proposed mitigation measures and Environmental Management Plan. The Review Committee shall additionally ensure the environmental soundness and validity of the EIA report inclusive of its appropriateness in

addressing social and health consequences. The Review Committee after the review of the EIA report shall recommend to the Department the issuance or non-issuance of an Environmental Compliance Certificate for a project.

Sec. 21. *Consultation and Public Participation.* – All proponents of projects shall inform and consult the local government units and communities that will be potentially affected by the development activity subject of the EIA process at the earliest possible time to ensure that environmentally relevant concerns are taken into consideration in the EIA study and the formulation of the management plan. Proponents may use various forms of consultation and direct public participation in the EIA process in order to enhance understanding and acceptance of the proposal. All public consultations or other alternative dispute resolution processes conducted are to be documented and shall form part of the records of the EIA process.

The Department may require locally appropriate consultations or other alternative dispute resolution processes prior to the issuance of an Environmental Compliance Certificate.

Sec. 22. *Issuance of an Environmental Compliance Certificate (ECC).* – An Environmental Compliance Certificate shall be issued by the Secretary of the Department, or his/her authorized representative, only after a thorough assessment of impacts taking into consideration (i) the significance of environmental impacts and risks; (ii) the carrying capacity of the environment; (iii) equity issues with respect to the use of natural resources; and (iv) the proponent's commitment to institute effective environmental management measures within a reasonable time. Projects covered under this Chapter shall not be implemented without first securing an Environmental Compliance Certificate. The issuance of an Environmental Compliance Certificate does not exempt the proponent from securing other government permits and clearances as required by other applicable laws.

Sec. 23. *EIA for Co-located Projects.* Co-located projects shall be required to conduct an EIA that shall consider the cumulative environmental impacts prior to the issuance of a single Environmental Compliance Certificate covering all co-located projects.

Sec. 24. *Environmental Monitoring Evaluation and Audit System.* – The Department shall require the establishment of an environmental monitoring, evaluation and audit system including the creation of multi-partite monitoring bodies to monitor compliance of proponents with the requirements in the Environmental Compliance Certificate, to monitor the implementation of the Environmental Management Plan (EMP) and to serve as focal group to handle complaints from stakeholders at the local level. The cost of the monitoring of specific projects shall be borne by the proponent. The Department shall formulate guidelines for the formulation and operationalization of such multi-partite monitoring bodies within a year from the effectivity of this Act. Ad-hoc monitoring bodies already created under existing Environmental Compliance Certificates shall conform to these guidelines.

Sec. 25 Financial Liability for Environmental Rehabilitation. – The proponent shall take full responsibility for environmental damage caused by the implementation of the project unless the damage is caused by fortuitous event or force majeure. As part of the Environmental Compliance Certificate requirements, the Department may require project proponents to put up financial guarantee mechanisms to respond to the need for clean-up or rehabilitation of areas that may be damaged during project implementation or even after termination when such damages are attributable to the project or the proponent.

Provisions for financial liability shall ensure just and timely compensation for any adverse effect which project implementation may directly or indirectly cause on the environment or the community.

The instruments acceptable for compliance with this provision are trust funds, environmental insurance, cash funds, financial test mechanism, self-insurance and other guarantee instruments. The choice of guarantee mechanisms, or of combinations thereof, shall depend primarily on: a) the probability and magnitude of the risks involved, as culled from new and existing information and determined through environmental and health risk assessment, and b) the financial capability of the proponent; *Provided*, that such proponent shall show proof of compliance with the requirement for contingent liability by furnishing the Department with evidence of availment of such mechanism.

TITLE III MISCELLANEOUS PROVISIONS

Chapter One

FINES AND PENALTIES

Sec. 26. Sanctions for Violations. – Any critical projects which shall operate without the required Environmental Compliance Certificate shall face closure, suspension of development or construction or cessation of operations until such time that proper environmental safeguards are put in place and the necessary Environmental Compliance Certificate has been issued; *Provided*, that the project proponent shall be fined an amount not less than One Hundred Fifty Thousand Pesos (Php100,000.00) but not more than Twenty Million Pesos (Php20,000,000.00) depending on the magnitude of the environmental risks and upon the final decision of the Bureau. *Provided also*, that the chief operating or executive officer of the proponent firm shall be held criminally liable and shall be imprisoned for a period not less than two (2) years but not more than ten (10) years, at the discretion of the Court.

Any project proponent found in violation of the conditions of the Environmental Compliance Certificate shall be fined a minimum of Fifty Thousand Pesos (Php50,000.00) for every violation, depending upon the type and impact of the violation, a maximum 10 percent of

project cost or Two Hundred Thousand Pesos (Php200,000.00) per violation, whichever is higher, plus cost of damages, shall be imposed at the discretion of the Bureau.

Any government official tasked with the implementation of the EAS or any of its components who fails to enforce the provisions of this Section shall be charged administratively and, if found guilty, be subject either to suspension from duty for a minimum period of one (1) year without pay or to separation from service without benefits, subject to existing civil service laws. Further, the violator shall be held criminally liable and shall be imprisoned for a period not less than two (2) years but not more than five (5) years, at the discretion of the Court.

Chapter Two

INSTITUTIONAL ARRANGEMENT

Sec. 27. Lead Agency. - The Department shall serve as the primary implementing agency in the implementation of the EAS, evaluation of EIA reports and the issuance of Environmental Compliance Certificates. It may secure the assistance of environmental units of other government agencies, academic and research institutions and environment professionals in undertaking its responsibilities under this Act.

In order to facilitate economic development within an ecological framework, the Department shall undertake such review and updating of the technical implementing guidelines of the EAS in coordination with the Department of Trade and Industry and other concerned government agencies.

Sec. 28. Establishment of Appropriate Permanent Structures. - The key implementors of the EAS shall be the Bureau and the Regional Offices of the Department and other government agencies performing EA functions pursuant to this Act. For this purpose, concerned government agencies shall establish appropriate permanent structures and systems to address the requirements of the EAS.

Where the proponent is a private entity, the same shall be provided technical assistance and relevant data by the Bureau and other concerned government agencies .

Sec. 29. Devolution of Functions. - The Department shall, within one (1) year from the effectivity of this Act, develop guidelines for the decentralization of functions of the Bureau under this Act to the Regional Offices, the Provincial Environment Officers (PENROs), and the Community Environment Officers (CENROs) of the Department.

The Department, in coordination with the Department of Interior and Local Government (DILG), shall, within two (2) years from the effectivity of this Act, provide technical resources and leadership to assist local government units and entities in acquiring capacity and expertise for rational and effective devolution of functions under the EAS. The devolution of functions shall be made after the concerned local government units and entities have been assessed to be technically capable of such functions.

Sec. 30. *Local Capacity Building in Environmental Assessment System.* – The Department, through the Bureau, shall, in consultation and coordination with the DILG, lead the development and implementation of a national capacity building program in environmental assessment, including, among others, capacity to conduct preliminary scans and scoping. To ensure the rational devolution of functions mandated in Section 29 hereof, the program shall be operational within two (2) years from the effectivity of this Act.

The national program for capacity building shall identify target entities as well as functions for devolution and prepare the target entities for the local implementation of the EAS or its components in accordance with the objectives of this Act.

Sec. 31. *Database Management System.* The Bureau shall establish a database management system for purposes of gathering, keeping, disseminating and updating all information relative to the implementation of the EAS. As part of the database management system, the Bureau shall create a public registry of all Environmental Compliance Certificates issued.

Sec. 32. *Public accessibility to information.* All outcomes of preliminary scans, SEA reports, EIA reports, Environmental Compliance Certificates, Environmental Management Plans, monitoring and evaluation reports and other documents generated as part of the EAS shall be accessible to the public upon request at anytime.

Chapter Three

ESTABLISHMENT OF AN EAS MANAGEMENT FUND

Sec. 33. *Creation of an EAS Management Fund.* - There is hereby established a trust fund to be known as the EAS Management Fund, or the EAS Fund as it shall be referred to hereinafter. The EAS Fund shall be used primarily as a revolving fund for defraying administrative expenses, equipment purchases or leases and other program costs directly incurred in the review, assessment and monitoring of the EAS. The EAS Fund may be sourced from donations, endowments and grants in the form of contributions. Such endowments shall be exempt from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision, instrumentality or agency. It shall also include funds to be provided by proponents for the review of specific projects. All income likewise generated from fees, fines and penalties directly related to the implementation of the EAS shall accrue to the EAS Fund and may be utilized directly by the Department for the above purposes. This authority is a specific exception to the requirement, otherwise operative, under Presidential Decree 1234 that such charges and fees must revert to the National Treasury.

All information regarding the EAS Fund, including, but not limited to, its transactions and its status shall be accessible to the public at any time; *Provided*, That all fund transactions shall be subject to the usual auditing procedures in accordance with existing laws; *Provided*

further, That in addition to the regular annual audit, an audit of the EAS Fund shall be conducted by an independent auditor immediately upon the assumption of office of a new head of the Department; *Provided finally*, That a report of such audit shall be submitted to the Office of the President no later than three (3) months after completion of the audit.

Sec. 34. *Sharing Scheme*. – With the establishment of the Fund, a sharing scheme among national, local and other concerned agencies shall be established and based upon a formula that takes into consideration the responsibilities of such entities in the implementation of this Act; *Provided*, That the Department shall develop, in a fully participative manner, with other appropriate government entities, such a sharing system to apportion the economic and financial benefits for the promotion of environmental enhancement among the major participants.

Sec. 35. *Appropriations*. An amount of One Hundred Million Pesos (P100,000,000.00) shall be appropriated for the initial implementation of this Act.

Sec. 36. *Implementing Rules and Regulations*. The Department, in coordination with the Committees on Environment and Ecology of the Senate and the House of Representatives, respectively, and other concerned agencies, shall promulgate the implementing rules and regulations of this Act, within one (1) year after its effectivity.

Sec. 36. *Joint Congressional Oversight Committee*. There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of the Act. The Committee shall be composed of five (5) Senators and five (5) Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall be co-chaired by a Senator and a Representative designated by the Senate President and the Speaker of the House of Representatives, respectively.

Chapter Four

FINAL PROVISIONS

Sec. 37. *Separability Clause*. – Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or legality of the other provisions of this Act.

Sec. 38. *Repealing Clause*. – Presidential Decree 1586 and Presidential Proclamation No. 2146 are hereby repealed. All laws, orders, rules and regulations or any part thereof which are inconsistent with the provisions of this Act are hereby amended or modified accordingly.

Sec. 39. *Date of Effectivity*. – This Act shall take effect fifteen (15) days after its publication in the official Gazette or in two (2) newspapers of general circulation.

Approved.

International Treaties on Environment in which the Philippines is a Signatory

Date Signed	Date Entry Into Force	Title
	August 10, 1981	International Convention for the Regulation of Whaling
June 12, 1951	December 30, 1953	International Plant Protection Convention
	February 19, 1964	International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended in 1962 and 1969
	June 11, 1962	Plant Protection Agreement for the Asia and Pacific Region
May 23, 1969	January 27, 1980	Vienna Convention on the Law of Treaties
May 21, 1963		Optional Protocol Concerning the Compulsory Settlement of Disputes
August 8, 1963	November 10, 1965	Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water
December 29, 1972	August 30, 1975	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
	August 10, 1981	Protocol to the International Convention for the Regulation of Whaling
March 3, 1973	November 16, 1981	Convention on International Trade in Endangered Species of Wild Fauna and Flora
June 20, 1980	February 1, 1994	Convention on the Conservation of Migratory Species of Wild Animals
	December 9, 1985	Convention Concerning the Protection of the World Cultural and Natural Heritage
	November 8, 1994	Convention on Wetlands of International Importance Especially as Waterfowl Habitat
October 12, 1982	November 16, 1994	United Nations Convention on the Law of the Sea
	March 11, 1979	Amendments to Annexes to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter Concerning Incineration at Sea
March 31, 1985	April 1, 1985	International Tropical Timber Agreement
September 7, 1985		ASEAN Agreement on the Conservation of Nature and Natural Resources
	October 15, 1991	Convention for the Protection of the Ozone Layer
September 14, 1988	October 15, 1991	Protocol on Substances that Deplete the Ozone Layer
March 22, 1989	January 19, 1994	Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
	November 7, 1993	Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer
November 30, 1990		International Convention on Oil Pollution Preparedness, Response and Cooperation
December 6, 1992	October 31, 1994	Framework Convention on Climate Change
December 6, 1992	January 6, 1994	Convention on Biological Diversity
November 15, 1994	July 28, 1996	Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of December 10, 1982

August 30, 1996		Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
October 6, 1958	October 4, 1967	Convention on the Recognition and Enforcement of Foreign Arbitral Awards
December 19, 1966	January 3, 1976	International Covenant on Economic, Social and Cultural Rights
October 5, 1972	March 26, 1975	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
	August 16, 1969	Amendment of the Plant Protection Agreement for the Asia and Pacific Region
	December 15, 1983	Statutes of the International Centre for the Study of the Preservation and Restoration of Cultural Property
	March 11, 1981	Amendments to the Annexes to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
	November 8, 1994	Protocol to Amend the Convention on Wetlands of International Importance Especially as Waterfowl Habitat
September 29, 1995	January 1, 1997	International Tropical Timber Agreement
October 14, 1994		Convention on Nuclear Safety



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