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PASCN Discussion Paper No. 2001-11

**Domestic Regulations and the Trade in Services:
The Role of the Commission on Higher Education
(CHED) and the Professional Regulation
Commission (PRC)**

Tereso S. Tullao, Jr.



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Tereso S. Tullao, Jr.
De La Salle University-Manila

January 2002

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EXECUTIVE SUMMARY

I. Introduction

The next round of negotiations under the World Trade Organization (WTO) will focus, among others, on trade in services. While the Philippines has agreed to subject selected industries in the services sector under the rules of General Agreement on Trade in Services (GATS) contingent to certain limitations on market access and national treatment, it did not, however, make any commitment on professional services and a related sub-sector, educational services. Thus, further discussions on liberalization measures in the services sector will put a greater pressure on the Philippines to make commitments in the trade in professional services as well as educational services.

One of the rules of conduct embodied in the General Agreement on Trade in Services is the permission for acceding countries to regulate the provision of any service domestically provided that such domestic regulatory measures are not meant to discriminate against the entry of foreign service providers.

In a liberalized trading environment, domestic regulations are allowed for the promotion of some socially acceptable goals. However, in practice, they may be abused and go beyond what is mandated by the GATS. Thus, the study will provide an analysis and evaluation on the extent government agencies established for the regulation of higher education and professional services are being used in promoting social objectives, protecting consumers' welfare, or protecting the industry's interests.

The study has the following objectives:

- To identify and analyze the basis utilized in formulating the rules on domestic regulations under the General Agreement on Trade in Services (GATS).
- To evaluate the existing disciplines on domestic regulations in certain professions.
- To identify and assess the regulatory functions and powers of the Commission on Higher Education (CHED) in monitoring the operations of higher educational institutions in the Philippines.
- To identify and assess the regulatory functions and powers of the Professional Regulation Commission (PRC) in the practice of various professions in the country.

- To review the regulatory functions of CHED and PRC relative to the principles utilized in the formulation of domestic regulations under GATS.
- To propose various measures that would make the regulatory powers and functions of CHED and PRC consistent with the GATS rules on domestic regulation.
- To propose various measures that would contribute to the development of higher education in the country and improve the global competitiveness of Filipino professionals.

II. Domestic Regulation and International Trade

An important section in the general framework of rules and obligations of the GATS is the article containing Disciplines on Domestic Regulations. Domestic regulations are laws and policies that exist in an economy which recognizes the right of a nation to preserve its sovereignty by influencing activities within its borders especially with regards to matters of public safety and national security. It may also be defined quite broadly to include all microeconomic government interventions, from pollution control policy to implementing licensing procedures and technical standards. While the GATS ultimately aims for the elimination of barriers in the trade of services, these domestic regulations are subject to certain conditions.

Article VII, on the other hand, encourages signatories to enter into mutual recognition agreements. “For the purpose of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of service suppliers...a member may recognize the education or experience obtained, requirements met, or licenses or certification obtained in a particular country.”

Domestic regulation is based on national differences that compel nations to define the way on how they should conduct their economic affairs. In the economic sphere, the overriding reason for government regulation is the failure of the market system due to three major causes: exclusion of markets, asymmetric information, and imperfect competition. Aside from correcting for market failure, another argument supporting domestic regulation is for equity considerations.

In the course of regulating an economic activity, the problem of asymmetric information can occur between the government and its implementing agencies. The objectives and instruments of the regulator are typically analyzed using the principal-agent framework. The model characterizes the principal (government) as capable of defining the required outputs but unable to achieve them by simple fiat. Instead, the

principal has to contract with agents who are self-interested, and may well not share the principal's aims.

At the level of economic transactions, the problem of asymmetric information is particularly serious in the social sectors compared with the other sectors of the economy. In the social sectors consumers tend to be more vulnerable and less informed compared with the well-informed professional providers. Furthermore, difficulties of monitoring providers' behavior imply that contracting systems in social sectors tend to generate higher transactions processing and monitoring costs. Thus, treating situations with asymmetric information, the mandatory disclosures, liability insurance requirements and other labeling techniques may be prescribed to make the information more even to all economic actors. (Rollo and Winters, 1999)

A second relevant problem is the higher level of uncertainties that tends to prevail in the social sectors. These uncertainties are further exacerbated by the presence of high externalities. For these reasons, governments establish rules and policies for licensing and technical standards. Many transactions pose risks for consumers. In an attempt to control such risks, governments will require sellers to be licensed or alternatively, certified or registered.

Thus, domestic regulation is meant to reduce, if not avoid risk, in the light of asymmetric information, high degree of uncertainty, and the presence of externalities. In such a situation, the option of labeling may be considered as an appropriate regulatory measure. While licenses are difficult or costly to employ making them an implicit barrier to entry that limits market competition, increases the price, and reduces consumer choice, it may, on the other hand, serve to enhance service quality.

Government regulation of economic activities is typically divided into three classifications: antitrust policy, economic regulation and social regulation. Antitrust policy aimed at preserving competitive vigor in the economy as a whole; economic regulation, concerned with pricing and output decisions in specific industries; and social regulation, aimed at securing various social goods such as a cleaner environment and safer products and workplaces.

There are several suggestions on strengthening the provision on domestic regulation. Article VI of the GATS provides a basic framework for minimizing the trade restrictions created by domestic regulations. Article VI can be expanded to cover the scope of transparency stated in Article I by requiring members to explicitly state the public policy objective served by a regulation. The inclusion on a new provision in Article VI is recommended that would encourage Members to limit the

scope of regulations to what is necessary to achieve the objective served by the regulation. Another addition to Article VI should include a provision that would encourage countries to adopt performance-oriented regulations rather than regulations that directly seek to establish bureaucratic control over the specific activities carried out by enterprises. Another possible addition could encourage member countries to use market-based incentives and disincentives to achieve desired social objectives with greater economic efficiency than directive regulations that seek to control the behavior of the market participants. Finally, Article VI could encourage self-regulations by industry where that satisfies the achievement of the desired social objective.

Efforts to create sectoral guidelines for the liberalization of trade in professional services have focused on the development of a model agreement for accounting services. The basic goal of these negotiations is to expand on the provisions contained in Article VI (4) of the GATS. Negotiators are focusing, in particular, on three criteria built into this provision. Regulations must be based on objective and transparent criteria, they must not be more burdensome than necessary to ensure the quality of the service, and any licensing procedure in itself must not restrict the supply of the service.

The basic issue for governments in accounting, as in other professional services, is to ensure the professional competence of the individual service provider, monitor professional performance, and discipline any lapses of professionalism. From a trade point of view the key issues are whether the standard and procedures adopted by individual governments constitute unreasonable barriers to the trade.

The best method of ensuring that professional licensing and qualification standard and procedures are not hidden devices that restrict competition is to require full transparency of both the regulatory objectives and the regulations. The rule should also stipulate that regulations achieve their stated objectives in the least burdensome manner.

III. Commission on Higher Education

The Commission on Higher Education (CHED) was created under RA 7722 in 1994 as a separate and independent agency from the Department of Education Culture and Sports (DECS). As an offshoot of the tri-focalization in the educational reforms in the early 1990's, CHED was assigned the responsibility for overseeing the system of higher education in the country and for formulating policies, plans and programs for the development of public and private higher education

institutions. Although an independent agency, it is attached to the Office of the President for administrative purposes.

Under Section 8 of RA 7722, the Commission has the following powers and functions:

- a. Formulate and recommend development plans, policies, priorities, and programs on Higher Education.
- b. Formulate and recommend development plans, policies, priorities, and programs on research.
- c. Recommend to the executive and legislative branches, priorities and grants on higher education and research.
- d. Set minimum standards for program and institution of higher learning recommended by panel of experts in the field and subject to public hearing, and enforce the same.
- e. Monitor and evaluate the performance of programs and institution of higher learning for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution or withdrawal of subsidy, recommendation on the downgrading or withdrawal of the accreditation, program termination or school closure.
- f. Identify support and develop potential centers of excellence in program areas needed for the development of world-class scholarship, nation building and national development.
- g. Recommend to the Department of Budget and Management the budgets of public institutions of higher learning as well as general for the use of their income.
- h. Rationalize programs and institutions of higher learning and set standards, policies and guidelines for the creation of new ones as well as the conversion or elevation of schools to institution of higher learning, subject to budgetary limitations and the number of institutions of higher learning in the province or region where creation, conversion or elevation is sought to be made.
- i. Develop criteria for allocating additional resources such as research and program development grants, scholarship, and other similar programs: Provided that these shall not detract from the fiscal autonomy already enjoyed by colleges and universities.
- j. Direct or redirect purposive research by institution of higher learning to meet the needs of agro-industrialization and development.
- k. Devise and implement resource development schemes.
- l. Administer the Higher Education Development Fund, as described in Section 10 of RA 7722, which will promote their purposes of higher education.

- m. Review the charters of institution of higher learning and state universities and colleges including the chairmanship and membership of their governing bodies and recommend appropriate measures as basis for necessary action.
- n. Promulgate such rules and regulation and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objective of this Act.
- o. Perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth and development of higher education.

Among the powers vested on CHED, a number of them are regulatory in nature including setting minimum standards for programs and institutions, monitoring, evaluating and imposing sanctions on the performance of programs and institutions and setting standards, policies and guidelines on the rationalization of programs and institutions. Some of the specific regulatory powers that may impact on our GATS commitments on trade in professional services include, among others, the entry of foreign students, establishment of foreign linkages, entry of foreign professors, accreditation of academic units, establishment of schools and branches, qualification requirements for foreign students and tuition fees for foreign students.

IV. The Professional Regulation Commission (PRC)

The Professional Regulation Commission (PRC) is a government agency under the Office of the President charged with the regulation and supervision of various professions under its jurisdiction. It was created by Presidential Decree No. 223 in June 22, 1973 and empowered to implement various laws and policies of the government including the technical and ethical standards governing the practice of professions. In December 5, 2000, the Professional Regulation Commission Modernization Act of 2000 (RA8981) was signed into law and repealed the various laws defining the legal basis of the PRC.

The practice of profession is governed by various legislation implemented by boards composed of practicing professionals in the field and subject to the supervision of the Professional Regulation Commission.

Pursuant to its mandate, the PRC carries out regulatory, licensing, and supervisory functions. As such, it formulates, prescribes and promulgates policies, rules and regulations, and standards relative to the admission and practice of professionals. It also administers the licensure examinations for professional practice in cooperation with the various

Professional Regulatory Boards (PRBs). After the licensure examination, the PRC issues certificates of registration to the new professionals. The renewal of professional licenses is another function performed by PRC in conjunction with PRBs. To ensure compliance and professional standards, it conducts periodic inspection of establishments with the cooperation of the PRBs. To assure the global competitiveness and excellence of Filipino professionals, the Commission, in previous years, has enforced compliance with the continuing professional education (CPE) requirements. As a quasi-judicial body, it investigates and adjudicates complaints and cases against professionals.

With the passage of the PRC Modernization Act of 2000, additional powers and functions were granted to the Commission. It can require an examinee, who has failed three times to pass the licensure examination, to take refresher courses. It is also required to provide schools offering courses for licensure examinations with copies of sample test questions on examinations recently conducted by the Commission within six months from the release of the examination results. It has to monitor the performance of schools in licensure examinations by publishing the results of their performance. In addition, it has to adopt and institute a comprehensive rating system of schools on the overall performance of their graduates in licensure examinations. The PRC Modernization Act of 2000 has also repealed the mandatory requirement of continuing professional education (CPE) for the renewal of professional licenses.

Under the direct supervision of the Commission are thirty-eight (38) Professional Regulatory Boards and two (2) Specialty Boards that exercise administrative, quasi-legislative, and quasi-judicial powers over their respective professions. The 40 PRBs which are created by separate enabling laws, perform the following functions subject to review and approval by the Commission.

- Regulate the practice of professions
- Monitor the conditions affecting the practice of the profession
- Recommend the registration of a foreign professional without examination subject to certain conditions
- Recommend the issuance of certificate of registration/license or special temporary permit to foreign professionals subject to certain conditions
- Prepare the contents of licensure examinations
- Score and rate the examination papers of licensure examinations

- Subject to the approval of the Commission determine the appropriate passing average rating in licensure examinations
- Determine, prescribe, and revise the course requirements
- Visit / inspect schools and establishments for feedback
- Adopt and enforce a Code of Ethics for the practice of their respective professions
- Administer oaths and issue Certificate of Registration
- Investigate violations of set professional standards and adjudicate administrative and other cases against erring registrants
- Suspend, revoke, or reissue Certificate of Registration for causes provided by law

In addition to the above functions and powers, the PRC and various Professional Regulatory Boards implement rules on the entry of foreign professional, regulations on recognition, registration, limitations and restrictions on practice and rules on advertising. These domestic regulatory rules will have an effect on the supply mode of transfer of natural persons and will be subjected to the conditions on domestic regulation set under Art. VI of the GATS.

V. Regulatory Functions of CHED and PRC and GATS Principles on Domestic Regulation

The framework on domestic regulation in the GATS operates mainly on three principles: "... each Member shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, and impartial manner." (Art VI:1).

Regulation on the practice of professions facilitates the removal of market inefficiencies and seeks to lessen social costs of consumers by minimizing risks posed by foreign service-providers. Risks are minimized through licensing procedures, requirements and technical standards set by local authorities, all of which should be consistent with GATS provisions on domestic regulations (Art VI, GATS). These standards ensure the quality of service and professional competence of foreign providers.

A major difference is observed in the provision of Article VI:4 and rules governing the employment of foreigners in educational and professional services. According to the labor market test, employment of a foreign professional will only be allowed only after the determination of non-availability of a person in the Philippines who is competent, able

and willing at time of application to perform the services for which the alien is desired.

The labor market test under the Labor Code is one of the main barriers for trade in services. This law is especially posing trade restrictions in the education sector, where foreign professionals may only be allowed to teach in the absence of any other Filipino competent enough to teach the subject where the foreigner specializes in. In addition, the foreign reciprocity rule requires that the country where the foreigner came from must apply the same principle or standard for the entry of Filipino professionals.

Measures to Improve the Quality of Filipino Professionals

a. Enhance the Continuing Professional Education Program

Under this program, professionals undergo enhancement programs to continually upgrade and update their knowledge; competence and awareness of developments in their respective professions brought about by modernization and advances in technology. There is value in requiring professionals to have continuing education as a process of domestic regulation since this is in line with the protection of consumer and the promotion of public interest.

Although the current implementation of this program has been subject of criticism, the importance of CPE should not be underestimated. Thus, proposals of some sectors to eliminate CPE program as a precondition for renewal of license is uncalled for. In fact, the deletion of this requirement under the PRC Modernization Act of 2000 is a wrong move because continuing professional education is one of the pillars of domestic regulation of professionals enshrined under the GATS. What is needed is to restructure the program and its accreditation system towards graduate education, research and inventions away from its current emphasis on attendance of seminars. (Tullao, 1998).

b. Enforce Government Regulations on the Working Environment for Professionals

With the entry of foreign professionals, the PRC should educate the public on consumer education particularly the rights of consumers of professional service and should enjoin professionals to disclose information so that consumers may be guided accordingly. In an environment of asymmetric information, the role of PRC is bridge this information gap by requiring professionals to disclose their professional

competence aside from the licensure from the PRC. However such disclosure may violate the code of ethics of professionals regarding advertising.

c. Focus on the Development of Specialization Among Professionals

Government has critical responsibilities for providing the fundamentals including basic education, national infrastructure, and research in areas of broad national concern. Yet these kinds of generalized efforts produce not so clear impact on the competitive advantage of professional services. Rather, the factors that translate significant effect on competitive advantage are advanced, specialized, and industry-related initiatives. Mechanisms such as specialized apprenticeship programs, research efforts in universities connected with an industry, trade association activities, and, private investments of companies ultimately create the factors that will yield competitive advantage.

d. Create Pressures for Innovation

Firms should seek out pressure and challenge, not avoid them. Part of strategy is to take advantage of the domestic market to create the impetus for innovation. To do that, firms should establish norms that exceed the toughest regulatory hurdles to stimulate upgrading of skills and productivity among professional employees. In addition, adequate incentive schemes should be developed so as to discourage local professionals to migrate and practice their professions overseas.

Measures to Improve Higher Education in the Country

a. Improve the Faculty Qualifications

In the light of poor qualifications of faculty where only one-third of faculty members possess the minimum requirements to teach, there is a need to have a massive faculty development programs to upgrade and retool faculty members in more than 1300 institutions of higher learning all over the country. This should be a continuous long-term program involving various forms of faculty development programs. The core program should be earning of graduate degrees in various fields here and abroad. This measure should be supplemented by attendance in seminars and post-doctoral studies.

b. Expand Research and Improve Graduate Education

Related to the supply constraint mentioned above, there is a need to develop and expand graduate studies beyond programs in education and business. If we have to develop and upgrade our professionals in various fields, all these fields should have excellent quality graduate programs available in the country. Research and graduate education can be improved by limiting graduate education and research to qualified universities through a flagship/consortia system.

c. Rationalization of Higher Educational Institutions

Currently, there are more than 1,300 higher educational institutions all over the country offering various courses to more than 2 million students. There are some 108 state universities and colleges (SUCs) that eat up more than 75 percent of the public funding to higher education. The huge number of both private and public higher educational institutions, their geographic locations and program offerings have to be rationalized because they contribute to a great extent to the poor quality of higher education in the country. This issue of poor quality due to the proliferation of programs in an over-expanded tertiary education is being addressed through a moratorium on the establishment of new programs.

d. Improve the Role of CHED in Information Dissemination

As a government body, the CHED can assist in addressing the problem of asymmetric information between graduates of educational institutions and employers. Upon graduation, institutions should confer meaningful degrees and certificates, perhaps including a warranty, to their graduates. Given this, an employer or parent should be able to trust that a degree signifies bona fide intellectual attainment, and students might be willing to pay for education services more than its worth in the marketplace.

e. Rationalize the Price of Higher Education

In order for the students to realize the value of higher education, a move towards internalizing the true cost of higher education should be undertaken. Public sector schools should start implementing full-cost pricing by charging higher tuition fees, and by increasing the responsibility of local government units in financing SUCs. This prescription is based on the notion that the primary beneficiaries of higher education are the students and therefore they should pay for the

internalized benefits. However, deserving and qualified students who cannot afford to pay must be given assistance in the form of scholarships to address the equity issues.

Reforms in the Regulatory Powers of PRC

Based on a policy paper on regulatory reform on professional services, GATS members should reform their rules and practices to increase economic competition in the professions. In particular, governments, especially competition authorities, should rescind or modify regulations that unjustifiably prevent entry and fix prices, and that prohibit truthful, non-deceptive advertising about prices and service offerings.

Member countries should make competition law applicable to professional business services, subject to safeguards to ensure consumer protection. To do this, governments should rescind or modify exemptions for the professions and their regulatory bodies from the generally applicable competition law, consistent with preserving sufficient oversight to ensure adequate quality of service. This may require action both by national and sub-national (state and provincial) authorities.

Governments should consider developing mutual recognition agreements (MRAs) for various facets of “professional qualifications” such as educational qualifications, competence, and skills.

Reforms in the Regulatory Powers of CHED

With globalization as a backdrop, CHED should not focus on establishing regulatory policies that are restrictive in nature, but rather, more developmental policies that can enhance the competitiveness of Filipino students when they become professionals. In addition, CHED can assist in the transformation of Philippine universities as leading institutions of higher learning in the region.

The role of CHED is to set standards. Although it cannot close down schools it can, however, close down academic programs that do not meet the minimum requirements set by the commission. Another aspect of improving quality through setting of standards is the role of accreditation. Although accreditation is voluntary on the part of HEIs, CHED encourages institutions to undergo accreditation process undertaken by various agencies under the umbrella group of the Federation of Accrediting Agencies of the Philippines (FAAP).

Policy Recommendations

Based on the discussion in the previous sections the following are the recommendations:

- a. There is a need to evaluate the relevance of the labor market test as requirement for allowing foreign professionals to practice in the country.
- b. The domestic regulation governing the practice of professions should be consistent with the over-all competition policy of the country.
- c. There is a need to revisit and review the rule on advertising to make it more as a tool of mandatory disclosure for all professionals.
- d. The Commission on Higher Education should focus on its developmental functions by assisting the development of higher educational institutions in the areas of faculty development, research and graduate education through financial incentives.
- e. The Commission on Higher Education should channel its regulatory functions towards the dissemination of information particularly on the compliance of higher educational institutions in meeting minimum academic requirements, faculty profile, student profile, performance of students, quality of facilities and other educational inputs.
- f. The Professional Regulation Commission should focus on its developmental function by providing avenues for specialization within the profession and by empowering the various professional organizations particularly in the granting of supplemental and secondary professional titles.
- g. As part of the regulatory function of the Professional Regulation Commission, it should expand its information dissemination activities beyond the publication of list of leading and worst performing schools in the production of professionals and move towards information on market access in other countries, avenues for professional development and compliance of establishments on appropriate business environment for professionals.
- h. The Professional Regulation Commission should encourage the formation of outstanding professionals and give monetary incentives to young and promising professionals as well as give recognition to outstanding works, research, and inventions of professionals.
- i. Review the provision of RA 8981 that removed compulsory continuing professional education as a requirement for renewal of professional licenses.

- j. Review the provision of RA 8981 that requires only licensed and registered professionals to teach subjects covered in licensure examinations.

Areas for Future Research

- a. Need to examine the perspectives of trade and professional associations as regards domestic regulation. It would be interesting to know what role do these associations should play in the determination of rules and regulations pertaining to the practice of professions. In a political environment where consultation is taken seriously, should these private organizations play a key role in the formulation of domestic regulation? What then is the implication of their participation on regulatory capture?
- b. Since the basis of domestic regulation is the social risks associated with an unregulated activity in an environment full of uncertainties, there is also a need to study the type and costs of social risks or the threats to public interest that become the basis for domestic regulation including the regulations on the entry of entry of foreign professionals into the country.
- c. Since accession to international agreements may imply internationalization of standards, a study on the social costs of harmonization of standards and its impact on domestic regulation will determine our readiness for harmonization. Is it worth our while to surrender a huge part of our sovereignty in the name of international harmonization?
- d. Since foreign professionals wishing to practice domestically are usually those that bring with them vast professional experience, there is a need to study the feasibility of adopting a separate category for foreign professionals willing to practice with a corresponding set of licensing requirements and sphere of practice. Is such alternative GATS compliant? If, not how do we make it GATS compliant?
- e. A study to evaluate whether indeed regulatory measures are meant to minimize social risks in the light of asymmetry in information or are they domestic walls created to limit the market for professionals for local and foreign aspirants. Is domestic regulation a form of monopolization of the practice of professions?

- f. A study to determine the possible compensating differences that may be considered when granting recognition to foreign professionals wishing to practice domestically.

Domestic Regulation and the Trade in Services: The Role of the Commission on Higher Education (CHED) and the Professional Regulation Commission (PRC)

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Abstract

Domestic regulation is a major element that defines the global trade in services under the rules of GATS. The study traces the various perspectives in the formulation of domestic regulation from market imperfections, exclusion of markets and asymmetric information. It identified the regulatory functions, and assessed the powers of the Commission on Higher Education (CHED) and Professional Regulation Commission (PRC) pertaining to the entry of foreign professionals and service providers. The assessment includes comparison with the GATS prescription that domestic regulation should be reasonable, objective, transparent, not burdensome than necessary and should not be used as restriction on trade. Drawing from the need to address the problem of asymmetric information in the delivery of professional services for public interest and consumer protection, the study recommends various ways of refocusing the regulatory functions of CHED and PRC.

I. Introduction

The next round of negotiations under the World Trade Organization (WTO) will focus, among others, on trade in services. While the Philippines has agreed to subject selected industries in the services sector under the rules of General Agreement on Trade in Services (GATS) contingent to certain limitations on market access and national treatment, it did not, however, make any commitment on professional services and a related sub-sector, educational services. Thus, further discussions on liberalization measures in the services sector will put a greater pressure on the Philippines to make commitments in the trade in professional services as well as educational services.

Aside from the stimulus coming from WTO negotiations, developments in the region are putting enough push for the Philippines to review its competitive edge in the trade in professional services and educational services. Some countries in the ASEAN have started to liberalize their trading environment in the services sector including professional services. As part of the current reform measures, they are opening up their educational services and their professional services sector to international competition. In the field of education, they view the entry of foreign schools as a way of augmenting their limited number of colleges and

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universities, lower the cost of overseas education and improve the quality of higher education available locally. In the Philippines, however, these developments may not be well received by the 1,300 institutions of higher learning which view the entry of foreign players as potential threats to their market shares.

One of the rules of conduct embodied in the General Agreement on Trade in Services is the permission for acceding countries to regulate the provision of any service domestically provided that such domestic regulatory measures are not meant to discriminate against the entry of foreign service providers.

In a liberalized trading environment, domestic regulations are allowed for the promotion of some socially acceptable goals. However, in practice, they may be abused and go beyond what is mandated by the GATS. Thus, the study will provide an analysis and evaluation on the extent government agencies established for the regulation of higher education and professional services are being used in promoting social objectives, protecting consumers' welfare, or protecting the industry's interests. Specifically, we want to know whether the existing regulatory measures governing higher education and the practice of professions are consistent with the disciplines allowed by the GATS under domestic regulation. More importantly, we want to investigate whether these domestic regulatory rules facilitate the development of the sectors they are regulating and assist in reaping the benefits of a liberalized trading regime. In addition, we want to investigate whether domestic regulations serve as protective walls to the sectors and hinder their full development to face global competition.

Part of the study is to analyze the various rationales used as basis for formulating the rules on domestic regulation under GATS. In addition, we will review the provisions and disciplines governing the practice of professions, specifically accountancy, consistent with GATS rules and the free trade in services. We will also determine the regulatory functions of CHED in monitoring and directing the operations of institutions of higher learning in the country. In a similar vein, we will specify the regulatory functions of PRC in overseeing the practice of various professions. From these evaluations, we would like to propose measures on how to make the regulatory functions of CHED and PRC consistent with the GATS rules. At the same time these proposed measures should contribute towards the development of higher education in the country and prepare Filipino professionals to face competition in a global trading setting.

1.1. Objectives of the Study

- To identify and analyze the basis utilized in formulating the rules on domestic regulations under the General Agreement on Trade in Services (GATS).
- To evaluate the existing disciplines on domestic regulations in certain professions.
- To identify and assess the regulatory functions and powers of the Commission on Higher Education (CHED) in monitoring the operations of higher educational institutions in the Philippines.
- To identify and assess the regulatory functions and powers of the Professional Regulation Commission (PRC) in the practice of various professions in the country.

- To review the regulatory functions of CHED and PRC relative to the principles utilized in the formulation of domestic regulations under GATS.
- To propose various measures that would make the regulatory powers and functions of CHED and PRC consistent with the GATS rules on domestic regulation.
- To propose various measures that would contribute to the development of higher education in the country and improve the global competitiveness of Filipino professionals.

1.2. Significance of the Study

In investigating the crucial role played by the educational sector in a global environment, one can view it as a supplier of human resources, on one hand, and the as a major player and subject of the liberalization process, on the other hand.

Although GATS rules allow for domestic regulations under a liberalized global flow of services, it is possible that domestic regulations are used not only to safeguard legitimate social interests but more so to protect vested domestic interests. As a consequence, it may create a domestic monopoly in a service provider being regulated. To the extent that the latter consequence occurs, it is also possible that it may lead to slow development of the sector or the professional service.

Thus, it is important to know whether existing policies being pursued by regulatory agencies like CHED and PRC are anti-developmental or counterproductive in the light of a liberalized trading regime in the professional services and educational services. The study can assist our policy makers in aligning these agencies with the country's commitments with GATS. While they pursue legitimate domestic regulatory objectives, these agencies should promote the improvement of higher education, and at the same time contribute in the production of competent Filipino professionals ready to compete with foreign counterparts domestically and internationally.

1.3. Review of Related Literature

Expanding trade in professional services will require measures towards the accreditation of qualifications of service providers in the light of existing differences in training, requirements, standards, licensing mechanisms across countries. These differences, in turn are brought about by various systems of domestic regulations influenced by the socio-economic and cultural milieu operative across countries. In establishing guidelines for harmonization of qualifications, member countries under GATS have different views on which pertinent article of the trade agreement should prevail: Article VI on domestic regulation or Article VII. on recognition of qualifications.

Preference for Article VI is premised on the principle that recognition of qualifications of service providers should operate within the basic right of sovereign nations to regulate their domestic economy. If this view is held, the intention of Art. VI is to prevent the setting up of barriers to trade in services arising from the course of the administration of domestic regulation.

Such domestic disciplines should be objective and transparent, not burdensome than necessary to ensure the quality of service, not inherently restriction on the supply of service. (Tullao, 1999)

In the same study by Tullao, it was pointed out that various alternatives for harmonization of standards are being put forward including the establishment of mutual recognition agreements and other measures but there was no mention on the implications of domestic regulations on the free flow of professional services internationally.

As mentioned earlier, educational reforms are being implemented in various countries in the region. These reform measures have certain implications on the trade in services. In Thailand, some responses to expand and improve the quality of higher education include the private internalization of cost, reduction in government subsidy and the permission for foreign universities to establish branches locally. In Malaysia, they have allowed twinning, partnership, establishment of branches and other forms of linkages to expand the number of school placements domestically. Singapore is currently attracting a number of well-known universities in the United States as their regional site in Asia. (Tullao, 2000a)

In the Philippines, the Commission on Higher Education has initiated programs towards the internationalization of higher education. These include the international business program, academic linkages, internationalization of curriculum, international consortium and global networking. (Tullao, 2000b)

Regulations applied in the professional services have as their primary objective the need to ensure and maintain certain quality of the service and hence to protect the consumers. Most professional services are heavily regulated and for good reasons; but it is also true that regulations can be unnecessary and usually unintended barrier to trade in services. Overly burdensome regulation could have a disproportionately large impact on foreign professionals who wish to enter foreign markets. The existence of unreasonable regulations can impede the development and growth of trade in services.

The movement of foreign professionals and skilled workers across borders on either a temporary or permanent basis is unquestionably an important factor that can contribute to the international competitiveness of many businesses. However, the hiring of foreign professionals can be a grueling process (Bachler, 1996). People have to cope with a thicket of governing regulations that so often seems meaningless, awkward and conflicting (Weston, Chi, Shieh 1996).

The OECD (1996) has conducted a survey and has compiled an inventory of regulations on access to professional services in the OECD member countries.

In the field of trade in accountancy services, the general impediments being cited include among others restrictions on international payments, restriction on the mobility of personnel, impediments on technology and information transfer, public procurement practices, differential taxation treatment, double taxation, monopolies and subsidies. On the other hand, the specific impediments affecting accountancy include nationality requirements,

compartmentalization/scope of practice limitations, restriction on advertising, solicitation and fee setting; quantitative restrictions on international relationships and use of firm names.

In the area of educational services direct restrictions generally take the form of immigration requirement and foreign currency controls. There are also indirect barriers including the absence of objective criteria in determining the equivalent of academic degrees earned abroad. In this regard, the development of agreement on standards for professional training, licensing and accreditation might significantly benefit trade under this mode of supply as foreign earned degrees become more portable. There are, however, international companies, aware of the importance of the qualifications obtained abroad, which dispense on requiring formal certification and or recognition.

There are several potential barriers to trade under the supply mode of commercial presence. These restrictions include the inability to obtain national license (e.g. to be recognized as a degree/certificate granting educational institution), measures limiting direct investment by foreign educational providers (equity ceiling), nationality requirement, need test, restriction in recruiting foreign teachers and the existence of government monopolies and high subsidization for local institution.

In architectural and engineering services, for instance, it has been pointed out that difficulties for foreign professional could normally arise from non-recognition or limited acknowledgement of home country education, qualification or accreditation of licenses. Other barriers include nationality and residency requirements, restriction on incorporation, restricted eligibility for contracts including government procurement contracts, prohibition on advertising. Sometimes, compulsory partnership with local professionals is required.

In the area of health and medical services three types of regulation seem to be particularly relevant as they may directly affect supply and demand. The first set of regulations pertains to qualification and licensing requirements for individual health professionals. The second category refers to approval requirements for institutional suppliers such as clinics and hospitals. The third group includes rules and practices governing reimbursements under mandatory insurance schemes. Since health related quality criteria may differ significantly between individual activities, members scope for operating qualification and licensing requirements under these provisions could be assessed on a case-to-case basis.

Recognition measures applying foreign licenses, qualification or standards may determine the economic value of commitment under the GATS. Such measure could affect the insurance portability or the possibility for the professionals working abroad without undergoing additional test and examinations.

Regulatory barriers to trade in the legal profession consist of the following: nationality requirement, restriction on their movement, restriction on legal forms and restriction on foreign equity. Important national treatment limitation includes restriction on partnership with local professionals, restrictions on the hiring of local professionals, restriction on the use of international and foreign firm names, residency requirements and in general discrimination in the licensing process.

The above discussion gave us the key common barriers that need to be thresh out if trade in services, particularly professional services will have to be expanded. The need to hire foreign workers may be inevitable in global environment. Low unemployment rate, the booming need for workers with special skills (particularly in the information technology industry) and the increasing globalization and integration of multinational companies have all contribute to the need for foreign labor. Given these conditions, employers of all sizes and in any industry may be confronted with the question of how to hire foreign nationals. Hence, looking at these barriers and proposing possible solutions for their reduction and eventual elimination may bring about a better and smoother trade in services.

II. Domestic Regulation and International Trade

2.1. The Role of Domestic Regulation under the General Agreement on Trade in Services (GATS)

The process of liberalizing the services sector has been expanding in recent years as the sector continues to account for more than 50 percent of production and employment in most developed and developing countries. Over the years, the traditional components of the sector such as transport, legal services, banking, insurance and other financial services have been augmented to include new and fast growing ones. Through the improvements in infrastructure and advances in technology the sector has grown considerably with the contributions coming from telecommunications, information and data processing and business services.

Notwithstanding its importance and impact on the economy, the services sector has been neglected in economic analysis in the past due to its inherent characteristics that lend itself difficult to trade internationally compared with merchandise goods. Services are (1) intangible, though often incorporated in tangible products; (2) non-storable; and finally, (3) they involve a simultaneous action between the service provider and the service consumer. (Stephenson, 1999).

Unlike the production of goods, ownership of a service is not transferred during the process of service provision. Thus, services cannot be stored, and this inability means that services are produced and consumed simultaneously. In addition, this characteristic of service transactions impacts on how international transactions in services are conducted. If a service provider in one country can produce a desired service, then he must interact with consumers in other countries to provide it. Thus, the provision of services to foreign markets often necessitates the movement of capital (through foreign direct investments) or labor (personnel to manage such activities or to provide different types of expertise, including basic labor). (Stephenson, 1999)

International transactions in services have been defined according to four modalities. These are (1) through cross border flows in which neither the supplier nor the producer move physically but instead rely upon an intermediate service such as a telecommunications network; (2) through the movement of a consumer to a supplier's country (such as tourism); (3) through the movement of a commercial organization to a consumer's country, which equates with foreign direct investments; and (4) through the movement of an individual service supplier to the consumer's country. (Sampson and Snape, 1985)

It is clear from the categories of international service transactions that trade in services cannot be promoted without the willingness on the part of governments to allow multiple modes of delivery, including the movement across national borders of the services themselves, or service providers, or of consumer of services. (Low, 1995)

Although these qualities have posed difficulties in coming up with a multilateral set of rules similar to that of the GATT in the case of global trade in merchandise goods, the growing importance of the services sector have altered these notions and perceptions. In fact, this shift towards the importance of services is viewed with optimism as a key solution to the growing problem of unemployment and economic growth.

The GATS contained disciplines on policies, rules and regulations that ensured the equitable trading of services across countries. Unlike trade barriers in goods such as tariffs that can be settled at the customs, problems for the suppliers of services usually start beyond the border. The objective of GATS is to progressively liberalize investments and services trading through a multilateral set of agreements mandating to eliminate barriers and allow for a smooth trading environment characterized by the absence of any discriminatory factor.

An important section in the general framework of rules and obligations of the GATS is the article containing Disciplines on Domestic Regulations. Domestic regulations are laws and policies that exist in an economy which recognizes the right of a nation to preserve its sovereignty by influencing activities within its borders especially with regards to matters of public safety and national security. It may also be defined quite broadly to include all microeconomic government interventions, from pollution control policy to implementing licensing procedures and technical standards. While the GATS ultimately aims for the elimination of barriers in the trade of services, these domestic regulations are subject to certain conditions. These regulations should be “a) based on objective and transparent criteria, such as competence and the ability to supply the service; b) not more burdensome than necessary to ensure the quality of the service; and c) in the case of licensing procedures, not in themselves a restriction on the supply of the service. ” (ART VI:4). Article VI further gives special attention to qualification requirements and procedures, technical standards and licensing requirements, all of which should “not constitute unnecessary barriers to trade in services.” (Art VI:4).

Article VII, on the other hand, encourages signatories to enter into mutual recognition agreements. “For the purpose of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of service suppliers... a member may recognize the education or experience obtained, requirements met, or licenses or certification obtained in a particular country.” Presumably, domestic measures that escape the scrutiny of national treatment and Article VI(5) provisions will need to be dealt with through Article VI(4) or Article VII(2). In effect, a strict reading of Article VI could eventually preempt the need for treaty-based recognition.(Nicolaidis and Trachtman, 2000)

2.2 The Basis for Domestic Regulation

Economies vary in many dimensions including political systems, social norms, and the cultural values of their people. It is these national differences that compel nations to define the way on how they should conduct their economic affairs through domestic regulation. In the economic sphere, the overriding reason for government regulation is the failure of the market system due to three major causes: exclusion of markets, asymmetric information, and imperfect competition. Because of market failure, there is a need to regulate the market to arrest the inefficiencies that may result. But such corrections should be viewed together with their corresponding costs. (Rollo and Winters, 1999). Aside from correcting for market failure, another argument supporting domestic regulation is for equity considerations. In the case of social regulation, for example, individual companies may not take into account the full social cost of their actions. Direct regulation represents one approach to the problem of obtaining such information. (Guasch and Hahn, 1997)

From an economic perspective, regulations often limit the number of firms, the number of people employed, the number of distribution outlets, the services that can be sold, prices, marketing practices, and distribution channels. There are regulatory measures that protect incumbent firms from domestic and foreign competition. The rationale often cited for such intervention is the promotion of public interest. Public interest demands that consumers are protected from the shady practices associated with excessive competition, or consumers are assured of a stable supply of a reliable product at reasonable prices. Sometimes public interest is served by protecting consumers from monopolistic element in the market. In some instances, regulation is based on industry rationalization or the capacity that the market to support only a limited number of providers.

Because of the welfare implications of regulating the economy, domestic regulation should be transparent, predictable and non-discriminatory in their objectives and application. These qualities give the policy a certain degree of predictability that economic players can take into consideration in making their decisions. Moreover, it can reduce the scope of corruption in the application of regulatory measures. These qualities can also reduce compliance cost and can enhance the legitimacy of the regulatory agency. Regulatory bodies should be subject to review and free from regulatory capture of interest groups. Predictability also implies that responsibilities for ensuring the desired outcomes are clearly spelled out.

In the course of regulating an economic activity, the problem of asymmetric information can occur between the government and its implementing agencies. The objectives and instruments of the regulator are typically analyzed using the principal-agent framework. This approach models both the internal and external economic relations of the government as the central principal facing decentralized agents, that is, policy departments or “purchasers” contracting with devolved agencies and independent firms.

The model characterizes the principal as capable of defining the required outputs but unable to achieve them by simple fiat. Instead, the principal has to contract with agents who are self-interested, and may well not share the principal’s aims. In most cases the agents know more than the principal does, for example about their costs or how much effort they are putting in and

about the quality of the output they are supplying. There is, therefore, the problem of asymmetric information. The government, being the regulator, has to try to specify incentive contracts to align the motivations of the agent as closely as possible with the regulator's objectives.

At the level of economic transactions, the problem of asymmetric information is particularly serious in the social sectors compared with the other sectors of the economy. For example, in most utilities, consumers and independent monitoring agencies can gather sufficient and pertinent information regarding the service they are getting. In addition, defining what constitute a good service in the sector is a relatively simple activity. However, in the social sectors consumers tend to be more vulnerable and less informed compared with the well-informed professional providers. The extent of addressing this asymmetric information is a matter that can be influenced by policy, but still a substantial amount of information will remain solely in the hands of the service providers. Furthermore, difficulties of monitoring providers' behavior imply that contracting systems in social sectors tend to generate higher transactions processing and monitoring costs. Thus, treating situations with asymmetric information, the mandatory disclosures, liability insurance requirements and other labeling techniques may be prescribed to make the information more even to all economic actors. (Rollo and Winters, 1999)

A second relevant problem is the higher level of uncertainties that tends to prevail in the social sectors. These uncertainties are further exacerbated by the presence of high externalities. For these reasons, governments establish rules and policies for licensing and technical standards.

Many transactions pose risks for consumers. In an attempt to control such risks, governments will require sellers to be licensed or alternatively, certified or registered, by some public or private body. Licensing covers a broad range of regulatory activities with a primary task of setting standards governing the practice of professions to weed out the "unfit" or "unsafe." Specific activities in licensing procedures include among others defining the scope of the license, setting minimum criteria, identifying the best applicant, and determining the length of retaining the license for the best applicant.

Thus, domestic regulation is meant to reduce, if not avoid risk, in the light of asymmetric information, high degree of uncertainty, and the presence of externalities. In such a situation, the option of labeling may be considered as an appropriate regulatory measure. The cost of insurance may be sufficient against loss resulting from taking unwarranted risks and product liability. However, in an environment where there is incomplete information, economic players may take too much or too little risk since the estimate on the probability distribution is less accurate compared with risky activities associated with known probabilities. (Rollo and Winters, 1999)

While licenses are difficult or costly to employ making them an implicit barrier to entry that limits market competition, increases the price, and reduces consumer choice, it may, on the other hand, serve to enhance service quality. One of the most common ways in which a regulatory agency affects the behavior of firms is through formal standards or mandates about how or how much a particular activity may be done. Standards are aimed at objectives as diverse as increasing workplace and product safety, producing a cleaner environment, and providing consumers with better information. They may be enforced through criminal sanctions,

withdrawal of a license, civil fines, or adverse publicity. Performance and specification standards, for example, prescribe some level of attainment for a particular aspect of a service.

Current public discussions on international competitiveness place a new emphasis on the impact of regulatory change on the trade balance. A rise or fall in net exports is treated as a significant advantage or a disadvantage for any regulatory policy. Moreover, domestic regulation is often blamed for the secular decline in trade performance.

The claim that domestic regulation affects trade performance may seem plausible. Much regulation does indeed raise domestic firms' costs. Quality, safety, and environmental regulation, for example, typically require specific capital investment and/or changes in production techniques. Even traditional price and entry regulation, with no direct control over production methods, can involve administrative, legal, and managerial costs, as well as downstream factor input distortions. At least in long run, such regulatory measures result in inward shifts in the cost schedules that may affect the firm's entry international marketplaces. While such shifts may be warranted on grounds of economy-wide domestic optimality, they will tend to hurt the trade of performance of affected firms.

Studies have documented that the indirect impacts of regulations are nontrivial as well as forcing some firms to divert resources from production of tangible output towards making production safer or cleaner or satisfying regulators. To some extent, regulation has contributed to a slowdown in productivity growth; others have blamed it for reductions in the rate of technological innovation.

There are two reasons for inefficient regulation. One is economic and the other is political. The economic reason is that it is difficult for a government authority to regulate because it lacks the necessary information. The firm usually is better informed than the regulator; however, it rarely has an incentive to tell the regulator all it knows. Such information asymmetries imply that economic regulation will rarely achieve an efficient outcome. That does not mean that regulation is not a useful approach for increasing economic efficiency when an industry is subject to increasing returns to scale or there are network externalities. It does mean, however, that the effectiveness of regulation is limited and that it has some serious structural defects. (Guasch and Hahn, 1997)

Similarly, the regulator imposing social recognition must frequently base decisions on very limited information (Lewis, 1996). Political problems with regulation also lead to inefficient economic results. Since regulation redistributes resources and rents, politicians often use it to secure political gains rather than to correct for market failures. A larger array of regular instruments such as quotas, licenses, and subsidies are used to transfer significant amounts of wealth from consumers to small groups of producers. (Guasch and Hahn, 1997)

That regulation is expensive or that it may have important indirect effects does not mean, however, that is "not worth it". In principle, regulation comes with full knowledge that it carries a price often a steep one. But regulation can confer important benefits.

If we lived in a world where we were perfectly and costlessly informed about all the risks that confront us in product or labor markets and if we were capable of flawlessly analyzing all these information, then health and safety regulation would be unnecessary. Consumers and workers would demand compensating differentials before they would bear any risk, and producers and employers would then have incentives to provide services or provide working conditions of optimal safety. In the real world, however, the underproduction of information in markets, information asymmetries, and the bounded rationality of transactions often make such regulation desirable.

2.3 Formulation of Public Policy and Government Regulation

In the continuing debate over the competitiveness of nations, the focus of discussions is on the role of the government in economic activities. Many see government as an essential supporter of industry, employing a host of policies to contribute directly to the competitive performance of strategic or target industries. Others, on the other hand, view that the operation of the economy should be left to the workings of the market and no interference from government.

Both views have their own inadequacies. On one hand, advocates of government support for industry frequently propose policies that would actually hurt companies in the long run and only create the demand for more assistance. On the other hand, advocates of a diminished government presence ignore the legitimate role that government plays in shaping the context and institutional structure surrounding companies and in creating an environment that simulates companies to gain competitive advantage.

Government regulation of economic activities is typically divided into three classifications: antitrust policy, economic regulation and social regulation. Antitrust policy aimed at preserving competitive vigor in the economy as a whole; economic regulation, concerned with pricing and output decisions in specific industries; and social regulation, aimed at securing various social goods such as a cleaner environment and safer products and workplaces.

Antitrust policy applies broadly to all industries, although a few have obtained partial exemptions from its restriction. At its core, antitrust is a consumer protection policy. It seeks to protect consumers (and society) from the consequences of anti competitive or monopolistic behavior: restricted output, prices above costs, and a misallocation of resources. The application or threat of antitrust enforcement can alter the number of firms in a market, affect their pricing and output decisions, alter conditions of market entry or exit, and affect marketing practices.

Economic regulation, on the other hand, has often been motivated by a view that some markets are inherently noncompetitive. It is utilized as an alternative since antitrust policy is not the appropriate corrective measure. Typically, such regulation involves government licensing of a limited number of (private) sellers in exchange for the sellers' submission to the strict price regulation by a (public) commission or an authority. Frequently, such regulation is extended to other dimensions of the product, such a service quality, or even to the sellers' decisions about how to produce the product.

Social regulation is not directly concerned with the pricing or output decisions of firms or industries but with controlling what are seen as undesirable consequences of firm behavior. While economic regulation typically has a massive effect on the firms within one particular industry, social regulation applies to many firms scattered across the whole economy. Social regulation has broad power to alter firm behavior, from hiring practices to production decisions to marketing strategies. Much social regulation is based on the belief that even where competitive pricing prevails, some market outcomes will require correction. Even competitive firms, e.g., may pollute excessively or expose their workers or customers to unnecessary risks.

In the Philippine context, regulation can be viewed in the way laws are formulated, administered and interpreted. In principle, the legislative branch makes law, the executive branch administers and enforces them, and the judiciary interprets laws and gives them meaning. But these generalizations obscure the awesome complexity of the interaction among the branches of government. Each branch affects the behavior of the others, and in many cases, areas of responsibility overlap or conflict. Judges frequently make law as well as interpret it.

Individuals who run agencies in the executive branch must be confirmed, and legislative committees can inquire quite forcefully into performance of these individuals once confirmed. Many acts of Congress, on the other hand, originate from the actions of, or in response to actions of, other branches of government. But this apparent confusion of roles is by design a part of the system of checks and balances that limit the coercive power of each branch. All three branches are heavily involved in the business of regulation.

Administration of economic and social regulation is similarly complex. Most such regulation originates with a congressional statute, but the language of such statute is often quite vague, and it is up to the various federal regulatory agencies (and the courts) to give these statutes practical meaning.

The cost of regulation or the costs of carrying out a given regulatory policy have real economic costs. At their normative best, these costs are akin to market transaction costs. They are the resource expenditures incurred to achieve a resource reallocation through non-market means. At their worst, they represent welfare worsening reallocations and or non-producing rent seeking activities. In either case, they represent social expenditures to be minimized.

2.4. Evaluation of the Rules on Domestic Regulation under the GATS

2.4.1. Strengthening Article VI of the GATS on Regulation

Article VI of the GATS provides a basic framework for minimizing the trade restrictions created by domestic regulations. A strengthening of this article could go a long way in facilitating real market access liberalization by committing countries to the reform of regulations that impede market-oriented competition. Article VI now provides that (a) regulations be administered in a reasonable, objective and impartial manner; (b) countries establish procedures for the review of regulations at the request of service suppliers; (c) regulations be based on objective and transparent criteria, not be more burdensome than necessary to ensure the quality

of the service, and in the case of licensing procedures, not in themselves restrict the supply of the service.

Article VI can be expanded to cover the scope of transparency stated in Article I by requiring members to explicitly state the public policy objective served by a regulation. This would facilitate any examination of whether the regulation is “more burdensome than necessary to ensure the quality of the service,” as provided in Article VI (4) (b).

An interpretation of Article VI could also clarify that the words “quality of service” in VI (4) (b) refers not only to the reliability of the service from the perspective of an individual consumer, but that they also encompass regulations aimed at the achievement of the full range of social objectives, including safety, integrity of networks, providing service to under-served regions or population segments, etc. This broader interpretation of the term quality of service is consistent with the overall thrust of Article VI but is not necessarily clear if the sentence involved is taken by itself, outside the broader context of Article VI as a whole.

The inclusion on a new provision in Article VI is recommended that would encourage Members to limit the scope of regulations to what is necessary to achieve the objective served by the regulation. This would be fully consistent with the spirit of the requirement that regulation not be more burdensome than necessary to ensure the quality of service and would amplify that rule. Countries would be encouraged to regulate only those activities that have a direct bearing on a regulatory objective and not seek to regulate ancillary activities carried out by the same firm. Such a provision, for example, would encourage countries to limit their regulation of infrastructure services to the term of access to physical infrastructures such as pipelines and electric transmission lines, leaving it to competitive suppliers of decide what services to provide over the network at what prices.

Another addition to Article VI should include a provision that would encourage countries to adopt performance-oriented regulations rather than regulations that directly seek to establish bureaucratic control over the specific activities carried out by enterprises. Such a provision would parallel a similar provision embedded in the GATT Code on Technical Barriers to Trade and would also be fully consistent with and amplify GATS Article VI (4) (a), which requires regulations to be based on objective and transparent criteria.

Another possible addition could encourage member countries to use market-based incentives and disincentives to achieve desired social objectives with greater economic efficiency than directive regulations that seek to control the behavior of the market participants. For example, it would be far more efficient in economic terms to allocate scarce resources such as landing slots through an auction than through a system of licensing that benefit the incumbents.

Finally, Article VI could encourage self-regulations by industry where that satisfies the achievement of the desired social objective. At the same time, it should require member governments in such cases to ensure that compulsory private regulator or standard-making activities to open to all service providers, including foreign-service providers.

2.4.2. The Sectoral Negotiations

In some heavily regulated sectors, some degree of international rule making on a sectoral basis is inevitable, particularly where the regulation specifically limit competition or competitive entry, or where the regulations set high performance standard for service providers. Countries where regulations permit open entry and competition are concerned about market access condition in countries that limit competition. Countries with strict performance standard are reluctant to grant open entry to foreign firm that are not required to maintain adequate performance standard by their own governments. International trade and competition in these sectors therefore may require some degree of international understanding on the allowable forms and extent of competition, and of the minimum performance standards that should be met.

It would be a mistake, however, for the WTO to establish highly detailed disciplines. It needs to take to heart the principle of subsidiarity, and avoid excessive rule making. As was the case in the GATT treatment of standards, the WTO should focus on establishing legally binding obligations centered on some key principles and procedures while leaving much of the substantive detail to other international organizations, national governments, and voluntary private bodies. This call for judicious blend of legally binding obligations on key principles, voluntary guidelines that could serve as reference points for international regulatory norms, and references to standards and work carried out in other public and private organizations.

Efforts to create sectoral guidelines for the liberalization of trade in professional services have focused on the development of a model agreement for accounting services. These negotiations are still under way, with a December 1997 target date. The basic goal of these negotiations is to expand on the provisions contained in Article VI (4) of the GATS. Negotiators are focusing, in particular, on three criteria built into this provision. Regulations must be based on objective and transparent criteria, they must not be more burdensome than necessary to ensure the quality of the service, and any licensing procedure in itself must not restrict the supply of the service.

The basic issue for governments in accounting, as in other professional services, is to ensure the professional competence of the individual service provider, monitor professional performance, and disciplines any lapses of professionalism. From a trade point of view the key issues are whether the standard and procedures adopted by individual governments constitute unreasonable barriers to the trade. This can be the case if the standards or procedure establish for evaluating a provider's qualification unnecessarily discriminate against foreign practitioners or unnecessarily restrict entry by both domestic and foreign applicants.

In most cases the qualifications, regulations and procedures establish for the licensing of the country's own professionals cannot be directly transferred to the licensing of foreign professionals. Foreigners do not necessarily enter as apprentices, they may not have acquired a local educational degree, their professionals experience abroad may or may not be directly relevant, and the fact that they may not permanently reside within the country may require alternative approaches for disciplining unprofessional behavior. The establishment of a separate set of regulations and procedures for qualifying and licensing foreign professionals may thus actually facilitate trade. In fact, Article VI(6) directs member to establish procedures to verify the

competence of professionals from other member countries. Thus GATS implicitly recognized the need for a specific procedure to license foreign practitioners. Although this may facilitate trade, it has the potential of violating the principle of national treatment because of separate rules for the domestic service providers and another set for foreign service providers.

The issue from a trade point of view is whether the qualifications, regulations, and procedures establish for foreign professionals are equivalent in their regulatory effect and not more burdensome than the procedures and standard imposed on a country's own professionals. Any rulemaking under the GATS needs to establish basic principles concerning the objectivity and equivalence of both qualifications and procedures establish for licensing foreign professionals. They should not get into substantive details, which are better addressed through bilateral agreements (as provided for in Article VI of the GATS) or international standard developed through appropriate international professional association (as provided for in Article VI(5) (6) of the GATS).

Nondiscriminatory standards and procedures for ensuring the professional competence and professional performance of accountants can over time become barriers to entry if they are used to limit entry into the profession and thereby raise the income of current members. The second issue from a trade point of view, therefore, is whether a country's regulations for the licensing of professionals are an appropriate means to achieving legitimate social objectives and whether they are not more cumbersome or restrictive than necessary to achieve that objective.

The best method of ensuring that professional licensing and qualification standard and procedures are not hidden devices that restrict competition is to require full transparency of both the regulatory objectives and the regulations. The rule should also stipulate that regulations achieve their stated objectives in the least burdensome manner. Transparency will enable anyone to test whether the objectives are legitimate and whether the regulations involved provide the least burdensome and least trade distorting method of accomplishing the objective. It also may be helpful to establish the link to establish international standards in the field by encouraging member to make use of applicable international standards. In most professionals, international professional bodies have emerged for the development of model standards of norms. The GATT Code on Technical Barrier to Trade adopts a similar approach by encouraging countries to adopt international standards where they meet the desired level of performance.

2.5. Disciplines on Domestic Regulation in the Accountancy Sector

2.5.1. Elements, Conditions and Disciplines in the Practice of Accountancy

The creation of the Disciplines on Domestic Regulation in the Accountancy Sector by the Working Party on Professional Services of the WTO marked the beginning of the development of GATS disciplines on the domestic regulation of services. It contains provisions for the trans-border practice of accountancy in accordance to Art IV:4 of the GATS, where regulatory requirements set by host countries should be based on objective and transparent data and should not be more burdensome than necessary to meet regulatory objectives. In addition to objectives and general provisions, the disciplines include detailed guidelines on transparency, licensing and qualification requirements, procedures and technical standards.

With regards to transparency, the disciplines require each member to make all information including the names and addresses of local authorities responsible for the licensing of professionals, and a list of all necessary requirements, procedures and technical standards on how to obtain, renew or retain licenses and other administrative reviews and procedures, available to those concerned. Reasons of such regulations should also be available upon request of other members, whose views regarding these regulations should be accommodated.

Requirements with regards to licensing should be pre-established and objective, based on the provisions set by Art VI:4. The terms and conditions set relating to acquiring or maintaining licenses should be kept at a minimum trade-restricting level taking into consideration factors such as costs and local conditions. When membership to a professional organization is required, the terms and conditions set by members should be reasonable and should not include any pre-condition to meet legitimate objectives. Furthermore, the period of membership required, when it is a prior condition for application of a license, should be kept at a minimum.

Licensing procedures should be pre-established, publicly available and objective, and shall not in themselves constitute a restriction on the supply of the service (Art IX:1, Disciplines on Domestic Regulation on the Accountancy Sector). As provided for in Art VI:4 of the GATS, these procedures "should not be more burdensome than necessary to meet the regulatory objective." Members should ensure that any procedure relating to acquisition of a license should be pursued at the least burdensome manner possible, for instance, documents required by licensing authorities should not exceed the number required necessary to obtain the license, applicants should be given the opportunity to correct for errors made in the completion of applications, authenticated documents should be accepted in place of the original documents, and the process of authenticity by local authorities should be kept at the least burdensome procedure possible. Applicants are to be informed without undue delay when application is incomplete, and reasons for rejection should be available upon request by the unsuccessful applicant.

Qualification requirements should be set on the basis of "... equivalency of education, experience and/or examination requirements." (Art X:1, Disciplines on Domestic Regulation on the Accountancy Sector). Examinations prepared by local authorities are defined only to activities relevant in seeking authorization, these requirements "... may include education, examinations, practical training, experience and language skills." (Art X: , Discipline on Domestic Regulation on the Accountancy Sector). Mutual recognition agreements (MRAs) may be used by members to expedite the process of qualifications verification and in instituting standards for equivalency of education.

Qualifications verification shall take place within six months and applicants shall be informed of additional requirements, if any, should still be acquired. Examinations are to be scheduled at least once a year, and shall be open to all suitable applicants, including foreign and foreign-qualified applicants. Examination fees should represent administrative costs involved, including those for verification of information and processing, and should not in themselves, serve as a restriction. A compromise fees for applicants from developing countries may be adopted.

Technical standards adopted should be utilized only to fulfill legitimate objectives. Internationally recognized standards of relevant international organizations shall take account of these obligations to ensure that they are formulated in accordance to the obligations of each member under the GATS.

2.5.2. Various Perspectives in the Formulation of the Disciplines in the Practice of Accountancy

Some countries have expressed their commentaries on the disciplines. In the case of Japan, it has raised several concerns regarding the contents of the document. For example, in the case where sub-federal governments, such as in provinces or states, have the ability to establish regulations containing different criteria, certain disciplines should be established to encourage Members to harmonize, as far as possible, the regulations of the sub-federal governments by applying the most liberal regulations of those existing.

A more specific concern is the modification of the term “license”. It proposes that it should be modified to read “license or registration” in order to reflect the system or practices of each Member country. In Japan, lawyers (bengoshi) and foreign legal consultants (gaikokuho-jimu-bengoshi) are not subject to licensing procedures, but just the registration system once the qualification requirement has been cleared. The processes required to enable a qualification to be provided entail a bar examination for lawyers (bengoshi) and a simple screening of a foreign legal consultants (gaikokuho-jimu-bengoshi) in view of approval by the Ministry of Justice. As this does not lead to the obtaining of a license, it is not right, as far as Japan is concerned, to use the term “license” when referring to those legal services.

Thus, it is not appropriate to introduce any expression that regards the necessity of an examination as a precondition. In Japan, an examination is not imposed on foreign consultants (gaikokuho-jimu-bengoshi) as a qualification requirement. In addition, Japan does not see the rationale for requiring an individual to be a member of a professional organization before applying for a license.

Moreover, Japan feels that it is not necessary to establish a system “to inform another Member, upon request, of the rationale behind domestic measures.” Once the system of securing transparency of domestic regulations among Member countries has been established this additional obligation may increase the unnecessary administrative burden.

Australia, on the other hand, believes disciplines developed in accordance with Article VI should apply to all sectors, with the effect of those disciplines built up as Member expand the scope of their scheduled commitments.

Members need to establish what would constitute a necessary barrier to trade in services. Article VI:4 does not define legitimate objectives, apart from the reference to “not more burdensome than necessary to ensure the quality of the service”. The accountancy disciplines (in Section II, paragraph 2) specify four legitimate objectives: protection of consumers; the quality of the service; professional competence; and the integrity of the profession. Further work on

legitimate objectives in domestic regulation should build on those definitions. “Quality” could be interpreted broadly enough to cover reliability, efficiency, comprehensiveness, and like concepts.

Other concepts could be added as the Working Party develops its thinking on the subject. The Working Party could, for instance, review the continued use of nationality or permanent residency requirements as a condition for meeting qualification and licensing requirements for service providers. In addition, the Working Party might seek to examine a framework of good administrative practice, possibly by trying to give more specific and practical application to the scope of legitimate public policy objectives in regulatory field.

The United States believes that Members should develop disciplines on transparency in services that are at least as comprehensive as those prevailing in WTO agreements on trade in goods.

Existing GATS obligations on transparency are weaker than similar provisions in the WTO Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Agreements and in the provisionally agreed to Accountancy Disciplines. They do not establish a regular, formal system of notification. Rather they consist only of an obligation to publish (and not necessarily before they are effective) or otherwise make publicly available measures affecting trade in services, and establish inquiry points that will provide, upon request, specific information on a Member’s regulatory measures or other international agreements to which it is a party.

The GATS also contains two exceptions from general transparency obligations. Article IIIbis exempts Members from providing confidential information, the disclosure of which would impede law enforcement, otherwise be contrary to the public interest or which would prejudice the legitimate commercial interest of public or private enterprises. Article XIVbis, paragraph 1(a) exempts Members providing information which they consider would be contrary to essential security interests. Members should note that future disciplines on transparency should not be construed as affecting operation of these articles of the GATS.

With regards to applying regulations, where a license or qualification is required to provide a service, Members should address obligations to specify and make publicly available measures relating to the criteria to obtain such a license or qualification and the terms and conditions under which it is offered or revoked.

Where feasible, it would also be appropriate to make administrative licensing procedures publicly available. Coverage of such procedures could include, by way of example, information specifying the period of time normally required to reach a decision on a complete, uncontested application for a license or authorization to provide a service; descriptions of the nature and extent to disciplinary actions; and the notifications relating to reason for denial or revocation of a license or authorization.

Implementation of these transparency measures also should include making publicly available the names, official addresses and other contact information (including website, telephone, facsimile) of competent authorities.

III. Commission on Higher Education

3.1. Legal Basis

The Commission on Higher Education (CHED) was created under RA 7722 in 1994 as a separate and independent agency from the Department of Education Culture and Sports (DECS). As an offshoot of the tri-focalization in the educational reforms in the early 1990's, CHED was assigned the responsibility for overseeing the system of higher education in the country and for formulating policies, plans and programs for the development of public and private higher education institutions. Although an independent agency, it is attached to the Office of the President for administrative purposes.

The Commission is composed of the following offices: Board of Advisers, Office of the Commissioners, Office of the Executive Director, Regional Field Offices and Technical Panels.

The Board of Advisers is composed of the DECS Secretary as Chairman and the NEDA Director-General as Vice Chairman. The other members are the DOST Secretary, DTI Secretary, DOLE Secretary, President of the Federation of Accrediting Agencies of the Philippines, President of FAPE and additional two members.

The Office of the Commissioners is composed of 5 full-time commissioners with a Chairman and four Commissioners.

The Executive Director heads the commission Secretariat that implements the plans and policies of the Commission. It coordinates the activities and projects of the various offices including Higher Education Development Fund, International Affairs, Administrative and Finance Service, Legal Affairs Service, Programs and Standards, Policy and Planning, Research and Information and Student Services.

There are 15 regional field offices headed by regional directors. These offices are the implementing units of the commission in the different regions of the country.

The technical panels set the standards for various clusters of disciplines. The panels are composed of senior specialist or academicians and experts from the academe, government, industry and professional societies/associations.

Higher education institutions (HEIs) in the country maintain their own internal organizations. The framework of such organization is generally divided into two areas: policy formulation and policy implementation. The formulation and approval of all policies, rules and standards in the institutions is taken care of by their respective Board of Regents or the Board of Trustees; whereas the implementation of policies on the management of the institution is vested on the president or chief executive officer.

Publicly-funded state universities and colleges (SUCs) are established by legislations that define their institutional charters. They are authorized to award degrees or open new courses upon approval of their respective Board of Regents. Because of SUCs autonomous charters,

CHED has no direct supervision and control over them. However, to align the programs of SUCS with CHED's policies and thrusts, the chair of the Board of Regents of all state universities and colleges is given to the Chairman of the Commission of Higher Education or his/her representative as provided for under RA 8292 (1997).

Private higher education institutions, on the other hand, are organized and governed under the Corporation Code. The Commission on Higher Education has extensive power over these private institutions in terms of regulation on the establishment or closure of private schools, program and course offerings, curricular development, the setting of school calendar, building specifications and determination of tuition fees. A degree of freedom is granted to private schools that have attained Level III accreditation.

3.2 Powers and Functions of CHED

Under Section 8 of RA 7722, the Commission has the following powers and functions:

- p. Formulate and recommend development plans, policies, priorities, and programs on Higher Education.
- q. Formulate and recommend development plans, policies, priorities, and programs on research.
- r. Recommend to the executive and legislative branches, priorities and grants on higher education and research.
- s. Set minimum standards for program and institution of higher learning recommended by panel of experts in the field and subject to public hearing, and enforce the same.
- t. Monitor and evaluate the performance of programs and institution of higher learning for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution or withdrawal of subsidy, recommendation on the downgrading or withdrawal of the accreditation, program termination or school closure.
- u. Identify support and develop potential centers of excellence in program areas needed for the development of world-class scholarship, nation building and national development.
- v. Recommend to the Department of Budget and Management the budgets of public institutions of higher learning as well as general for the use of their income.
- w. Rationalize programs and institutions of higher learning and set standards, policies and guidelines for the creation of new ones as well as the conversion or elevation of schools to institution of higher learning, subject to budgetary limitations and the number of institutions of higher learning in the province or region where creation, conversion or elevation is sought to be made.
- x. Develop criteria for allocating additional resources such as research and program development grants, scholarship, and other similar programs: Provided that these shall not detract from the fiscal autonomy already enjoyed by colleges and universities.
- y. Direct or redirect purposive research by institution of higher learning to meet the needs of agro-industrialization and development.
- z. Devise and implement resource development schemes.

- aa. Administer the Higher Education Development Fund, as described in Section 10 of RA 7722, which will promote their purposes of higher education.
- bb. Review the charters of institution of higher learning and state universities and colleges including the chairmanship and membership of their governing bodies and recommend appropriate measures as basis for necessary action.
- cc. Promulgate such rules and regulation and exercise such other powers and functions as may be necessary to carry out effectively the purpose and objective of this Act.
- dd. Perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth and development of higher education.

3.3. Regulatory Powers of CHED

Among the powers vested on CHED, a number of them are regulatory in nature including setting minimum standards for programs and institutions, monitoring, evaluating and imposing sanctions on the performance of programs and institutions and setting standards, policies and guidelines on the rationalization of programs and institutions. Some of the specific regulatory powers that may impact on our GATS commitments on trade in professional services include, among others, the entry of foreign students, establishment of foreign linkages, entry of foreign professors, accreditation of academic units, establishment of schools and branches, qualification requirements for foreign students and tuition fees for foreign students.

3.3.1. Entry of foreign students

The CHED Memorandum Order (CMO) No. 53, series of 1997 dated October 24, 1997 enumerates the procedures for the acceptance of foreign students in tertiary level. The order provides that any Philippine school whose programs are recognized by the CHED and approved by the Commission on Immigration in accordance with Section 69-f of CA NO. 163, as amended by RA Nos. 118, 134, 144, 749, and 827 are authorized to accept foreign students.

On September 2000, EO 285 was issued amending the rules and regulations governing the admission and stay of foreign students in the country. In addition, the executive order was issued to promote the country as a center for education in the Asia-Pacific region. An inter-agency committee on foreign students composed of various agencies including the Commission of Higher Education (CHED), Department of Foreign Affairs (DFA), Bureau of Immigration and Deportation (BID), National Bureau of Investigation (NBI), and the National Intelligence Coordinating Agency (NICA) was tasked to issue a memorandum order on the implementing guidelines of EO 285.

Among the highlights of the implementing order include:

- a. Only schools with programs accredited by the Federation of Accrediting Agencies of the Philippines (FAAP) or with equivalent accreditation by the Commission on Higher Education (CHED) and the Bureau of Immigration and Deportation (BID) are authorized to admit foreign students.
- b. The BID will publish an updated list of schools in consultation with CHED.

- c. Schools authorized to admit foreign students should establish a Foreign Student Unit that will submit reports to CHED regional offices and BI on the enrollment of foreign students and a status report on students that will include those who are missing, have transferred, failed to take the final examination, dropped from the rolls or with derogatory records. Failure to comply is a ground for the cancellation of the authority to admit foreign students.
- d. The information submitted will be used by concerned agencies to monitor the activities of foreign students. The BI shall investigate, apprehend, and prosecute foreign students who violate the country's immigration laws and regulations.
- e. Allowing foreigners holding tourist visa to convert their admission status to student visa or special study permit.
- f. Certain categories of aliens are not required student visa or special student permits including:
 - Tertiary enrollment in Philippine schools of the spouses and unmarried dependent children below 21 years old of permanent foreign resident, aliens with valid working permits, personnel of foreign diplomatic and consular missions residing in the Philippines, personnel of duly accredited international organizations residing in the Philippines, holders of Special Investor's Resident Visa (SIRV) and Special Retirees Resident Visa (SRRV) and foreign students in the Philippines with 47 (a) (2) visa
 - Children of the above mentioned admission category holders who are already enrolled before their marriage and or before reaching the age of 21 shall be allowed to convert their admission category to that of student visa to enable them finish their studies
 - Spouses and children of personnel of foreign diplomatic and consular mission and duly accredited international organizations located in the Philippines who desire to remain in the country to enroll for the first time or finish their studies higher than high school and qualify under prescribed regulations can be allowed to convert their admission category to that of a student visa.

Schools that are not yet accredited are given one-year grace period to apply for accreditation. They are required to have their programs recognized by the CHED. To be recognized they must have achieved the requirements beyond the “permit” authority granted to operate academic programs. Failure to have their programs accredited will force these schools to transfer their foreign students to another accredited institution.

Applicants from other countries follow stringent steps before they are accepted as foreign students.

Once the applicant is admitted into his desired course of study, the school shall issue him A Notice of Acceptance (NOA). The school may, however, require him to submit in advance a Certificate of Eligibility for Admission (CEA) issued by the CHED for certain courses of study, such as medicine and nursing, where restrictions on the enrollment of foreign students may exist due to the shortage of facilities. Once issued, the certificate remains valid for the duration of his course, provided the student attends his classes and receives satisfactory grades.

A foreign student desiring to study in the Philippines shall communicate directly with the Philippine school he/she wishes to enroll and complies with the school institutional requirements, which shall include the submission of the following documents: Original copy of the student's personal history statement; documentary proof of adequate financial support to cover expenses for the student's accommodation and subsistence ,as well as school dues and other incidental expenses; and scholastic records.

The school, satisfied with the student's compliance with its requirements shall issue a Notice of Acceptance (NOA). The required documents should be hand carried to the DFA by the school's designated liaison officer for the issuance of a student visa. The DFA endorses the documents to the Philippine Foreign Service Post located in the student's country of origin or legal residence for the issuance of student's visa after ascertaining the student's identity and admissibility under existing DFA regulations. Upon approval of the issuance of student visa, the DFA, Manila informs the school concerned on the action taken copy furnished CHED. When the foreign students arrive, school assists them in securing Alien Certificate of Registration (ACR) and Certificate of Residence for Temporary Student (CRTS) from the Bureau of Immigration Manila.

There are responsibilities and tasks assigned to schools and government agencies involved in the process of accepting foreign students into the country.

For Higher Educational Institutions (HEIs)

- Accepts and initially evaluates authenticated Transcript of records and Personal History Statements (PHS) of the applicants
- Sends Notice of Admission (NOA) to DFA together with the transcript of Records, Affidavit of Support and Personal History Statement
- Assists foreign students upon arrival in securing Alien Certificate of Registration for Temporary Students (CRTS) form the Bureau of Immigration, Manila
- Submits the necessary regular reports to the CHED and BI on the status and academic performance of accepted foreign students
- Sends reports to the BI and the NBI and the NICA foreign students with derogatory records, those who dropped out or failed to take the final examination for the term and those who have completed their courses, copy furnished CHED.

For the Commission on Higher Education (CHED)

- Prepares at regular intervals an updated list of each school with their corresponding courses under recognition status to be submitted to the members of the inter-agency Committee on Foreign Affairs and the school authorized to admit foreign students
- Issues the Certificate of Eligibility for Acceptance (CEAs) for the courses like dentistry and medicine
- Requires schools to submit enrollment list of foreign students together with a report on promotions and graduates
- Supports NBI, BID and NICA on action taken against foreign students with derogatory records
- Monitors schools with foreign students to countercheck their enrollment list submitted by the school.

For the Department of Foreign Affairs (DFA)

- Accepts recommendations from school for student visa applications
- Approves or denies application based on the documents submitted
- Sends notice of approval/denial to school copy furnished CHED
- Advises student to register with the BI, Manila upon arrival in the country
- Provides CHED, NICA, and BID, with an updated list of foreign students granted student visa at the end of each school term.

For the Bureau of Immigration and Deportation (BID)

- Issues ACR and CRTS to foreign students upon arrival in the Philippines
- Reports to CHED on schools that tolerate the continued stay of foreign students upon arrival in the Philippines
- Investigates, apprehend and prosecutes, if necessary, foreign students who do not comply with or violate Philippine Immigration Laws and regulations.

For the National Intelligence Coordinating Agency (NICA)

- Maintains a list of foreign students in the Philippines as provided by the schools
- Coordinates and checks whenever necessary the activities of other intelligence agencies regarding the activities of foreign students brought to their attention.

For the National Bureau of Investigation (NBI)

- Checks and investigates wherever necessary the activities of foreign students brought to their attention which appear to be inimical to the security of the state
- Apprehends foreign students not complying with the Philippine immigration laws and regulation in coordination with Bureau of Immigration.

A decreasing trend in the number of foreign students has been noted from school year 1994-1995 to 1998-1999. (See Table 3.1) A 10.2% increase was observed in school year 1995-1996 when enrollment reached 5284 students. In subsequent years, foreign student enrollment has steadily declined.

In terms of nationality, Americans outnumber the rest accounting for 24.5 % of the total enrollees for 1998-1999. Other nationalities with significant presence in our higher educational institutions are Koreans (19.23%), Chinese (16.35%), Taiwanese (7.54%) and Indonesians (3.64%).

In terms of academic program, medicine and health related courses appear to be the most popular among foreign students, registering 1,188 enrollees in 1998-1999 or 33.79% of all foreign students. Other popular programs among foreign students are arts and sciences courses (24.94%), graduate studies (12.26%), and business courses (11.49%).

Higher educational institutions located in Metro Manila account for 61.43 % of all foreign students in 1998-99. Other regions with significant foreign students are regions VI, I and III. The University of Sto. Tomas tops all HEIs in the number of accepted foreign students. Other popular schools among foreigners are St. Louis University, De La Salle University-College of St. Benilde and Lyceum of Northwestern Philippines.

It can be implied from the above requirements that the primary basis for the regulation of the entry of foreign students is the protection of national security from foreigners who may enter the country through the numerous educational institutions in the country. Given that country has more than 1,300 HEIs and more than 80 percent of these HEIs are private institutions dependent on tuition fees for their operations, there is a possibility that these institutions would welcome additional students coming from other countries. Since many of our HEIs are not accredited by agencies under the FAAP umbrella, the leniency of their admissions policy for both local and foreign students is not a far-fetch observation. If this is the case, educational institutions can become efficient routes for entering the Philippines to pursue non-educational activities. Because of the potential threat of foreign students on national security an inter-agency committee on the entry of foreign students has been formed composed mainly of agencies of government involved in police and national security matters.

In the past, many foreigners have used educational institutions, specially the non-accredited ones, as base for their entry into the country. Thus, the requirement of accreditation coming from FAAP is very crucial in granting accreditation to schools to accept foreign students. What is the basis then for another accreditation to be conducted by the Bureau of Immigration? In the first place, the purpose of accreditation is merely to determine whether schools have met the minimum standards set by various accrediting agencies. This certification of accreditation coming from FAAP agencies is more than enough for BID to grant the certification of schools to accept foreign students. Is there a need for a second accreditation to be conducted by BID? Does BID have the capability to evaluate the academic qualifications of HEIs to accept foreign students? What is the basis of collecting P10,000 accreditation fee? If the purpose is encourage

foreign students to enter, and make the country an attractive center of education, why do we have to collect fees from students specially those taking short courses in the country?

There are a number of foreign students who enter the country as tourists and take short courses or seminars in learning English as a second language. Given the competitiveness of the tuition fees charged by colleges and universities in the country, foreigners find it convenient to study English here and enter the country via a tourist visa. However, because of the new rules, these tourists may now be considered as foreign students and may be asked to follow the procedures required by the Bureau of Immigration. Such procedures and collection of fees can make the erstwhile competitive academic programs in the country very expensive.

3.3.2. Foreign Linkages

The Philippines has always placed great value on international cooperation programs in education, science and business. As a result exchange agreements between HEIs in the Philippines and universities abroad expanded. Faculty and students exchange programs, joint research, offshore education and teleconferencing paved the way for intercultural understanding and intellectual growth. On January 11, 2000 the Commission on Higher education issued Memorandum Order (CMO) No.1 Series of 2000 containing the policies and guidelines in the implementation of international linkages and twinning programs. The said order aims to achieve the following objectives, to wit:

- to upgrade the present quality of academic programs through collaborative activities, effective exchange of faculty and co-operation in research;
- to strengthen educational, cultural, social, economic and political bonds between the Philippines and foreign institutions;
- to develop a pedagogical reform through international linkages in higher education and research;
- to promote and facilitate international mobility of teaching staff and students as an essential part of quality and relevance of higher education;
- to enhance existing higher educational goals in the country;

The implementation of the international linkages and twinning program shall be the responsibility of the Commission on Higher education in coordination with and assistance from other concerned government agencies, such as the DFA and the BID. Higher educational institutions which are recognized by the CHED, and have attained at least a level II accreditation and foreign institution of higher learning recognized by their respective governments and accredited by their accrediting bodies as quality institutions can be considered partner institutions of this program.

As provided for in this memorandum the twinning program can be done through faculty student exchange; collaborative research, scholarship grants, short and long term training, curriculum development and enhancement, library and laboratory enrichment and cultural exchange. The HEIs in the Philippines shall identify potential partner and should determine the potential fit between themselves and the candidate foreign partner institution. Both partners shall draft the MOA in terms of programs, duration, evaluation and termination of the agreement.

The parties shall review the proposed agreement and submit the same to the Commission on Higher Education which shall determine whether it complies with all the National Laws as well as the CHED's policies. The CHED shall evaluate the following documents containing the objectives and the nature of the twinning program, background of the foreign institution including its recognition from the Ministry of Education and its equivalent, proposed MOA of the contracting party, approval of the proposed MOA by Foreign Ministry and Ministry of Education or its equivalent, certification of accreditation of the contracting parties. As part of the requirement set by CHED, Philippine HEI intending to offer a degree, diploma or certificate to foreign students under the twinning programs shall have at least level II accreditation. Foreign universities and colleges intending to offer a diploma or certificate leading to an undergraduate, graduate or post graduate degrees to Filipino students as represented by their authorized representative in the country should possess the highest level of recognition from their respective government duly authenticated by their respective embassies and consulates in the country.

The CHED encourages the participation of recognized higher education institutions in international networks and consortium is crucial to the understanding of global issues, the development of highly skilled human resource and the overall institutional growth.

Higher education institution obtaining membership in international network and consortium shall at least be recognized by CHED. They shall have the financial mechanism to support the membership in the network.

Philippine higher educational institutions shall seek the approval of the CHED in joining academic consortium and networks with programs leading to awarding of undergraduate, graduate and post graduate degrees. In this case the institution shall be required to submit to CHED the following documents containing the objectives and nature of the consortium /network, memorandum of Understanding /agreement stating the degree to be conferred, certification of recognition of programs, Level II or Level III accreditation of the programs to be awarded.

Recognized higher education institutions in the country desiring to become a part of international consortium and network whose nature does not lead to awarding of an undergraduate, graduate and post graduate degrees may take part freely in this collaborative activities .

In terms of evaluating and validating the program, the Commission on Higher Education shall implement a system that will ensure adherence to the international standards of excellence on international program.

It would be the responsibility of the partner institution to assign authorized officials that will assess and evaluate the implementation of the linkages and the twinning program including the mode of financing and institutional support during the duration of the program. On the other hand the Philippine higher education institutions will be required to submit a report on the status of the international linkage and twinning programs to CHED.

Given that majority of educational institutions in the country are privately-owned, there is a strong motivation for Philippine schools to increase their enrollment by establishing partnership with foreign colleges or universities. The attraction of such partnership is based on a promise that Filipino students will earn foreign degrees while taking courses in the country. However, there are foreign colleges with questionable reputation managed that may use unaccredited Philippine private schools to gain entry and exploit educational market of the country.

It is in this light that the memorandum issued by CHED and the measures adopted therein are meant to protect the public from scrupulous individuals trying to extract commercial gains rather than delivering quality education. The thrust of CHED is part of its standard setting function and not meant to discourage the formation of cooperative partnership between local educational institutions and foreign colleges and universities. Thus, it is required that a Philippine HEI participating such linkages should have at least Level II accreditation. Foreign colleges and universities are likewise required to have accreditation in programs they are offering academic degrees to ensure that academic seriousness takes precedence over commercial considerations.

3.3.3. Entry of Foreign Professors

Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor.

The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time or application to perform the services for which the alien is desired.

In order to secure an Alien Employment permit the applicant is required to write a letter of request addressed to the Regional Director of DOLE. With the letter, the applicant should enclose his/her curriculum vitae, contract of employment, and a photocopy of the passport and visa. For those going to work in higher education, endorsement from CHED must be secured.

In securing an endorsement from CHED, the school informs the CHED of its need to hire foreign professors. After screening the qualifications of a foreign professor, the school attaches a copy of the visa, passport, birth certificate, academic credentials and professorial credential of the foreign professor. Endorsement is issued if the CHED finds the papers in order. In case of doubt, the CHED counterchecks with the embassy of the applicant, this is to assure that the applicant is a registered national.

After the issuance of an employment permit, the alien shall not transfer to another job or change his employer without prior approval of the Secretary of Labor. Any non-resident alien who takes up employment in violation of the law shall be punished accordingly under Articles 289 and 290 of the Labor Code. In addition, any employer employing non-resident foreign

nationals shall submit a list of such nationals to the Secretary of Labor within 30 days after such date indicating their names, citizenship, foreign and local addresses, nature of employment and status of stay in the country.

3.3.4. Accreditation of Academic Units

An important item in facilitating the flow of foreign students in the country is the accreditation of academic units earned in foreign schools. The CHED has adopted several guidelines to be followed in the accreditation of foreign units.

The basic document upon which the said accreditation shall be based is the student's transcript of records or its equivalent duly authenticated by the concerned Philippine Mission Abroad (PMA) or by the student's consulate / embassy in the Philippines. In case of vagueness in certain courses, their descriptions may be requested. Validating examinations may also be required of the students upon the discretion of the academic dean. Similarity of course descriptions shall be the main consideration in accreditation. Substitution of courses may be granted, provided the course contents are at least substantially similar. In case of doubt, the evaluator may refer to the syllabus of the foreign school where the students studied. The number of units to be granted accreditation shall not exceed the number of units earned, nor exceed the residency requirement of CHED or the school. Unused earned units may be credited for any free elective subject.

For subjects requiring pre-requisite, the grant of advanced credit may be allowed on the pre-requisite, upon application of the student on the basis of validating examinations. The required six units of Filipino may be offset by a corresponding number of unused units earned either in the country of origin or in the school where presently enrolled. Only units earned by foreign students in the collegiate level shall be given credits. Units earned in terminal /vocational courses and in the high school shall not be credited. The Commission on Higher Education (CHED) will provide the school with comparative equivalence on foreign educational system as quite for proper evaluation and placement of foreign students.

Foreign students, however who desire to take up medicine, Dentistry, Law and other courses where the government, through the CHED, has imposed restrictions in enrollment due to shortage of facilities, must first have their credentials evaluated by the HEI where they intend to enroll. If the said credentials are in order and the HEI concern deems the student qualified, the said foreign student shall then present his/her notice of Acceptance (NOA) and other pertinent documents to CHED through the Office of Student Services. If found in order, the CHED shall then issue a certificate of Eligibility for Admission (CEA) in accordance with the provision of Executive Order NO. 188 and other laws, rules and regulations on the matter.

However, higher educational institutions are now authorized to determine the eligibility of students for admission to Law, Medicine and Dentistry courses as per CHED Memorandum Order NO. 46 s, 1996 provided the following are met and observed:

Law: The applicant-student must be a graduate of a Bachelor's degree and must have earned 18 units of English, six units of Mathematics and 18 units of Social Science subjects.

Medicine: The applicant-student must be a graduate of bachelor's degree and must have earned at least 15 units of biology, 10 units of chemistry, 9 units of mathematics, 5 units of physics and 12 units of social sciences subjects. The applicant should have taken and passed the National Medical Admission Test (NMAT).

Dentistry: The applicant-student must be a graduate of pre-dentistry course which should include 15 units of English, 3 units of mathematics, 10 units of chemistry, 5 units of botany, 12 units of social sciences subjects, 9 units of Filipino and 3 units of personal and community hygiene.

3.3.5. Establishments of Schools and Branches

Based on the definition given in the Manual of Private Schools and Regulation a foreign school is an institution duly established and authorized by Philippine Law to operate educational programs which principally adhere to either universally accepted and recognized educational policies and standards of a unique and differentially prescribed system of education of a particular country other than the Philippines.

The Manual allows the establishment of foreign school but it also states that no school may cater exclusively to aliens nor may aliens comprise more than 1/3 of the schools enrollment. This prohibition is based on the constitutional provision which Filipinizes not only the ownership, proprietary control and academic administration but also student population. However the Constitution provides for two exceptions:

- (1) Those schools established for foreign diplomatic personnel and their dependents; and
- (2) Those schools provided for other temporary residents, unless otherwise provided by

Law

The first exception may not be repealed by legislation whereas the second is may be repealed. Schools exclusively maintained by foreigners for their own nationals which discriminates against Filipinos are not allowed in this country because such schools "feed divisiveness, bigotry, prejudice and exclusiveness".

CHED Memorandum NO.01 Series of 2000 states that on a case to case basis, and consistent with national and economic development policies, it may authorize the establishment and operation of educational institution with foreign equity in special economic zones to ensure that all services shall be available to foreign investors and their dependents in the said special economic zone. Appropriate procedures and clearances to be obtained from the CHED and SEC shall be followed by the foreign university establishing their branch in the Philippines in consortium with a local university. It is expected that the two contracting parties shall accord mutual help to each other in everything that may be needed in this endeavor and shall develop special agreement in accordance with the laws and regulations of each country .

3.3.6. Qualification Requirements for Foreign Students

To be eligible for admission to a college course, applicants must be graduates of a DECS-approved secondary course. Applicants who do not possess this qualification are not eligible for admission to any college course.

Private schools should publish their standards, requirements, and regulations for admission in the school prospectus or other written materials for the information of applicants. Graduates of foreign high schools who did not entirely satisfy the specific requirements of certain college courses could be admitted into college, but with an entrance deficiency which had to be corrected during their freshman year; this could be done only by taking and passing all of the regular courses offered in that year. If they failed to remove the deficiency before the opening of the second year, their sophomore load would be reduced accordingly. Foreign students who have not graduated from high school but have completed at least 11 curriculum years in elementary and secondary education in other countries may, at the discretion of the admitting school, be accepted into college courses. The Philippine basic education generally consists only of 10 years of schooling ----- six years elementary and four years of high school. Hence, a foreign student who has finished his 11th year of basic education in another country is qualified to enter a Philippine college.

3.3.7. Tuition Fees for Foreign Students

The current deregulation policy on tuition and other standard school fee charges in higher education Institutions (HEIs) is based on the provisions of Batas Pambansa 232, specifically Sec.42 Chapter 5 thereof, which states that " Each private school shall determine its rate of tuition and other school fee or charges. The rate and charges adapted pursuant to this provision shall be collectible and their application or use authorized, subject to rules and regulations promulgated by MECS (now CHED) ".

The Commission on Higher Education (CHED) upon its creation by virtue of RA 7722 in 1994, continued to implement the deregulation of tuition and other standard school fee charges coming up with CMO Nos. 03 and 16 s.1997 latter superseded by CMO 13,s.1998 ,outlining the guidelines and procedures to be followed by HEIs intending to increase tuition fees (see attached CMONO.13 series of 1998).

As of June 15, 2000, a total of 420 private HEIs applied for tuition fee increases, representing about 36% of the 1,167 all over the country. Increases averaged from a low of 10% (Region 11), to a high of 17% (Region VIII and XI) for a national average of 13% . The National capital Region (NCR) recorded the most number with 77 HEIs, out of its 224 ,accounting for about 18.33 of the national total at an average increase of 11% .

As far as foreign students are concerned , there is no existing rules and regulations regarding how much tuition fee should a school charge on foreign students. It has been a practice that foreign students are charged the same fees with that of local students. However, additional charges termed as Developmental fund or foreign students

fund are charged to foreign students. The respective institutions are given the leeway to make their own charges.

IV. The Professional Regulation Commission (PRC)

4.1. Legal Basis

The Professional Regulation Commission (PRC) is a government agency under the Office of the President charged with the regulation and supervision of various professions under its jurisdiction. It was created by Presidential Decree No. 223 in June 22, 1973 and empowered to implement various laws and policies of the government including the technical and ethical standards governing the practice of professions. In December 5, 2000, the Professional Regulation Commission Modernization Act of 2000 (RA8981) was signed into law and repealed the various laws defining the legal basis of the PRC.

In previous years, the practice of various professions was under the supervision of the Office of the Boards of Examiners. However it was misconstrued as nothing but an examination unit. Considering that all professional laws creating the various boards have empowered the boards with the supervision and regulation over professional practice in the Philippines, such power, however, was not clearly known to all. Seeing the need to enforce the laws regulating the various professions, the Professional Regulation Commission (PRC) was created to administer, implement, coordinate and supervise the various boards of examiners.

4.1.1. Laws Governing the Practice of Various Profession

As mentioned earlier, the practice of profession is governed by various legislation implemented by boards composed of practicing professionals in the field and subject to the supervision of the Professional Regulation Commission. The following is an enumeration of the various boards governing the practice of professions and their respective laws that defines the scope of the regulated profession.

The Board of Aeronautical Engineering under supervision of the PRC is in charge with the licensing and regulation of the aeronautical engineering profession. The practice of the profession is regulated by law as defined by Republic Act 1570 otherwise known as the "Philippine Aeronautical Engineering Decree".

The Board of Agricultural Engineering under the supervision of the PRC is in charge with the licensing and regulation of the agricultural engineering profession. The practice of the profession is regulated by law as defined by Republic Act 3927 otherwise known as the "Philippine Agricultural Engineering Law".

The Board for Naval Architecture and Marine Engineering under the PRC is in charged with the licensing and regulation of the naval architecture and marine engineering profession. The practice of the profession is regulated by law as defined in Republic Act 4565, otherwise known as "An Act To Regulate The Practice Of Naval Architecture And Marine Engineering In The Philippines".

The Board of Chemical Engineering under the PRC is in charge with the licensing and regulation of the chemical engineering profession. The practice of the profession is regulated by law as defined in Republic Act 318, otherwise known as the "Chemical Engineering Law".

The Board of Civil Engineering under the PRC is in charge with the licensing and regulation of the civil engineering profession. The practice of the profession is regulated by law as defined in Republic Act 1582, otherwise known as "Civil Engineering Law".

The Board of Electronics and Communications Engineering under the PRC is in charge with the licensing and regulation of the electronics and communications engineering profession. The practice of the profession is regulated by law as defined in Republic Act 5734, otherwise known as "The Electronics and Communications Engineering Act of the Philippines".

The Board of Geodetic Engineering under the PRC is in charge with the licensing and regulation of the geodetic engineering profession. The practice of the profession is regulated by law as defined in Republic Act 4374, otherwise known as the "Geodetic Engineering Law".

The Board of Mechanical Engineering under the PRC is in charge with the licensing and regulation of the mechanical engineering profession. The practice of the profession is regulated by law as defined in Republic Act 8495 otherwise known as the "Philippine Mechanical Engineering Act of 1998".

The Board of Mining Engineering under PRC is in charge with the licensing and regulation of the mining engineering profession. The practice of the profession is regulated by law as defined in Republic Act 4274, otherwise known as the "Mining Engineering Law of the Philippines".

The Board of Accountancy under the PRC is in charge with the licensing and regulation of the accountancy profession. The practice of the profession is law as defined in Republic Act 692 otherwise known as "The Revised Accountancy Law".

The Board of Architecture under the PRC is in charge with the licensing and regulation of the architecture profession. The practice of the profession is regulated by law as defined in Republic Act 545, otherwise known as " An Act to Regulate the Practice of Architecture in the Philippines".

The Board of Criminology under the PRC is in charge with the licensing and regulation of the criminology profession. The practice of the profession is regulated by law as defined in Republic Act 6506, otherwise known as " An Act Creating the Board of Examiners for Criminologists in the Philippines and for Other Purposes".

The Board of Dentistry under the PRC is in charge with the licensing and regulation of the dentistry profession. The practice of the profession is regulated by law as defined in Republic Act 4419, otherwise known as " An Act to Regulate the Practice of Dentistry in the Philippines and for Other Purposes ."

The Board of Forester under the PRC is in charge with the licensing and regulation of the practice of forestry. It is regulated by law as defined in Republic Act 6239, otherwise known as "An Act to Regulate the Practice of Forestry in the Philippines".

The Board of Geology under the PRC is in charge with the licensing and regulation of the geology profession. The practice of the profession is regulated by law as defined in Republic Act 6239 otherwise known as "An Act to Regulate the Practice of Geology in the Philippines and to Provide for Licensing and Registration of Geologist".

The Board for Librarians under the PRC is in charge with the licensing and regulation of the practice of librarianship. The practice of the profession is regulated by law as defined in Republic Act 6966 otherwise known as "An Act to Regulate the Practice of Librarianship and Prescribing the Qualifications of Librarians."

The Board of Master Plumbers under the PRC is in charge with the licensing and regulation of the plumbing profession. The practice of the profession is regulated by law as defined in Republic Act 1378, otherwise known as "An Act to Regulate the Trade of Master Plumbers".

The Board of Medical Technology under the PRC is in charge with the licensing and regulation of the medical technology profession. The practice of the profession is regulated by law as defined in Republic Act 5527, otherwise known as "An Act Requiring the Registration of Medical Technologist, Defining their Practice and for Other Purposes".

The Board of Medicine under the PRC is in charge with the licensing and regulation of the medical profession. The practice of the profession is regulated by law as defined in Republic Act 2382, otherwise known as "The Medical Act of 1959."

The Board of Midwifery under the PRC is in charge with the licensing and regulation of the midwifery profession. The practice of the profession is regulated by law as defined in Republic Act 7392, otherwise known as "An Act Revising Republic Act 2644, as Amended", otherwise known as the "Philippine Midwifery Act".

The Board of Nursing under the PRC is in charge with the licensing and regulation of the nursing profession. The practice of the profession is regulated by law as defined in Republic Act 7392, otherwise known as "An Act Regulating the Practice of Nursing in the Philippines".

The Board of Optometry under the PRC is in charge with the licensing and regulation of the optometry profession. The practice of the profession is regulated by law as defined in "Revised Optometry Law of 1995".

The Board of Pharmacy under the PRC is in charge with the licensing and regulation of the practice of pharmacy. The practice of the profession is regulated by law as defined in Republic Act 5921, otherwise known as "An Act Regulating the Practice of Pharmacy and

Setting Standards of Pharmaceutical Education in the Philippines and for Other Purposes”.

The Board for Professional Teachers under the PRC is in charge with the licensing and regulation of the teaching profession. The practice of teaching in elementary and secondary schools regulated by law as defined in Republic Act 7836, otherwise known as " An Act to Strengthen the Regulation and Supervision of the Practice of Teaching in the Philippines and Prescribing a Licensure Examination for Teachers and Other Purposes .”

The Board of Veterinary Medicine under the PRC is in charge with the licensing and regulation of the practice of veterinary medicine. The practice of the profession is regulated by law as defined in Republic Act 382 otherwise known as "An Act to Regulate the Practice of veterinary Medicine ”.

The legal profession on the other hand is not under the supervision of the Professional Regulation Commission. The licensing and regulation of the legal profession is under the Supreme Court of the Philippines.

4.1.2. Powers and Functions of the Professional Regulation Commission (PRC)

Pursuant to its mandate, the PRC carries out regulatory, licensing, and supervisory functions. As such, it formulates, prescribes and promulgates policies, rules and regulations, and standards relative to the admission and practice of professionals. It also administers the licensure examinations for professional practice in cooperation with the various Professional Regulatory Boards (PRBs). After the licensure examination, the PRC issues certificates of registration to the new professionals. Then renewal of professional licenses is another function performed by PRC in conjunction with PRBs. To ensure compliance and professional standards, it conducts periodic inspection of establishments with the cooperation of the PRBs. To assure the global competitiveness and excellence of Filipino professionals, the Commission, in previous years, has enforced compliance with the continuing professional education (CPE) requirements. As a quasi-judicial body, it investigates and adjudicates complaints and cases against professionals.

With the passage of the PRC Modernization Act of 2000, additional powers and functions were granted to the Commission. It can require an examinee, who has failed three times to pass the licensure examination, to take refresher courses. It is also required to provide schools offering courses for licensure examinations with copies of sample test questions on examinations recently conducted by the Commission within six months from the release of the examination results. It has to monitor the performance of schools in licensure examinations by publishing the results of their performance. In addition, it has to adopt and institute a comprehensive rating system of schools on the overall performance of their graduates in licensure examinations. The PRC Modernization Act of 2000 has also repealed the mandatory requirement of continuing professional education (CPE) for the renewal of professional licenses.

Under the direct supervision of the Commission are thirty-eight (38) Professional Regulatory Boards and two (2) Specialty Boards that exercise administrative, quasi-legislative,

and quasi-judicial powers over their respective professions. The 40 PRBs which are created by separate enabling laws, perform the following functions subject to review and approval by the Commission.

- Regulate the practice of professions
- Monitor the conditions affecting the practice of the profession
- Recommend the registration of a foreign professional without examination subject to certain conditions
- Recommend the issuance of certificate of registration/license or special temporary permit to foreign professionals subject to certain conditions
- Prepare the contents of licensure examinations
- Score and rate the examination papers of licensure examinations
- Subject to the approval of the Commission determine the appropriate passing average rating in licensure examinations
- Determine, prescribe, and revise the course requirements
- Visit / inspect schools and establishments for feedback
- Adopt and enforce a Code of Ethics for the practice of their respective professions
- Administer oaths and issue Certificate of Registration
- Investigate violations of set professional standards and adjudicate administrative and other cases against erring registrants
- Suspend, revoke, or reissue Certificate of Registration for causes provided by law

4.2. Rules on the Entry of Foreign Professional

Services provided by accountants, engineers and architects are but some of the fastest-growing sectors in different economies, but the international flow of these professional services remain restricted by a complex set of rules on domestic regulation. In the Philippines the entry and stay of foreign professionals are subject to rigid control and restrictions. These restrictions can be gleaned from the various laws that are being enforced to see to it that entry of foreign professionals is well regulated.

For example, Article XII, Section 14 of the Philippine Constitution provides that the "practice of profession in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law." A profession as defined is a "calling which requires the passing of an appropriate government board or bar examination such as the practice of law, medicine, public accountancy, engineering, and others." This privilege to practice a profession as enshrined in our Constitution is limited only to Filipino citizens. This, however, is not an absolute rule since laws regulating various professions allow certain exceptions. Thus, pursuant to a treaty, or on grounds of reciprocity, or with respect only to certain professions such as medicine, or in favor of a particular foreigner for special reasons, foreigners may be allowed to practice in the Philippines.

This Constitutional mandate is, in turn, is used as basis in various legislation regulating the practice of professions as well as in Article 40 of the Labor Code of the Philippines. The pertinent provision of the Labor Code states that "any alien seeking admission to the Philippines

for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment. The employment permit may be issued to a non resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired."

Although entry of foreign professional is allowed, it is subject to a rigid labor demand test. This test maintains a very strong preference towards the hiring of Filipino professionals. As long as there is an available Filipino professional who can render the services required, entry of foreign professional will not be allowed. After passing the labor market test, a foreign professional has to fulfill the provision of RA 5181 that requires three (3) years of residence in the Philippines before he can practice his profession.

This Constitutional restriction on the entry of foreign professionals can be evaluated either on the basis of public interest or the country's economic philosophy. On the basis of public interest, the practice of profession is allowed only to persons who have undergone the necessary academic preparation and have passed the appropriate government examination and who possess such other special qualifications prescribed by the government. Thus, restriction on the unqualified individuals is understandable in order to protect the general public from the ill effects of any malpractice. However, on what grounds of public interest can we exclude foreign professionals to practice domestically if they are allowed to practice in their home territory? If someone is certified not to inflict harm or threaten public interest in his home country why is he suspect to inflict harm in a foreign country? This is only possible in case when the country of citizenship of the foreign professional is at war with the host country. Otherwise, there is no basis for using public interest as a ground for restricting the entry of foreign professional.

The basis for restriction then will have to be analyzed from the economic philosophy the host country wishes to pursue. There is a strong indication that this is the case since there is a Constitutional provision specifying effective control of the economy by Filipinos. This condition does not only cover economic enterprises but more so the practice of various professions. Although, the intention of this Constitutional mandate is to inculcate the value of patronizing the services of local professionals to assist in the development of local professionals and at the same time save on foreign currency, it has the effect of promoting protectionism.

This economic philosophy of protecting local professionals may have in fact hindered the development of the profession in the country and has affected the quality of service. Unless, we have a superior technology over other nations, one can question the use of nationality differences to determine the quality of service delivery.

4.3. Regulations on Recognition

If nationality is not the crucial issue in restricting the entry of foreign professionals, then public interest demands that some forms of recognition should be bestowed to qualified and certified foreign professionals. As it is, there is no absolute prohibition or restriction on foreigners who intend to practice their professions in the Philippines. Although our domestic

regulations are indeed restrictive, they allow for certain exceptions. A mechanism is provided for that allows foreigners to practice their professions. This route is found in one of the powers of PRC under Section 7 (j) of RA 8981 or The PRC Modernization Act of 2000:

Upon recommendation of the Professional Regulatory Board concerned, to approve the registration of and authorize the issuance of a certificate of registration/license and professional identification card with or without examination to a foreigner who is registered under the laws of his state or country and whose certificate of registration issued therein has not been suspended or revoked: Provided, That the requirements for the registration or licensing in said foreign state or country are substantially the same as those required and contemplated by the laws of the Philippines and that the laws of such foreign country or state allow the citizens of the Philippines to practice the profession on the same basis and grant the same privileges as those enjoyed by the subjects or citizens of such foreign state or country: Provided, further, That the Commission may, upon the recommendation of the Board concerned, authorize the issuance of a certificate of registration/license or a special temporary permit to foreign professionals who desire to practice their professions in the country under reciprocity and other international agreements; consultants in foreign-funded, joint venture or foreign-assisted projects of the government, employees of Philippine or foreign private firms or institutions pursuant to law, or health professionals engaged in humanitarian mission for a limited period of time: Provided, finally, That agencies, organizations or individuals, whether public or private, who secure the services of a foreign professional authorized by law to practice in the Philippines for reasons aforementioned, shall be responsible for securing a special permit from the Professional Regulation Commission (PRC) and the Department of Labor and Employment (DOLE) pursuant to PRC and DOLE rules.

Based on the new law, foreign professionals are not granted unconditional access in our country. The conditions for granting recognition for a foreigner to practice his profession in the Philippines are as follows: similarity in the educational and licensing requirements in other countries, reciprocity and international agreements. Under PD 223, however, international prominence was another condition allowed for foreign professionals to practice in the country. This deleted condition in RA 8981 in fact overrules the other conditions as the test for recognition. In particular the pertinent deleted provision states that “ the Commission may, upon recommendation of the Board concerned, and approval of the President, authorize the issuance of a certificate of registration without examination or a temporary special permit to practice the profession to any foreigner regardless of whether or not reciprocity exists in the practice of his profession between his country and the Philippines and under such conditions as may be determined by the Commission, if such foreigner is internationally known to be an outstanding expert in his chosen profession or a well known specialist in any of its branches, and that his

services are urgently necessary for lack of inadequacy of local experts or if his services will promote the advancement of the profession in the Philippines.” (Section 5 (j) PD 223)

This deleted provision was seen, before, as an avenue that will facilitate country's move towards mutual recognition agreements with other countries in the region without violating our laws. However, there is something subjective in these decisions to grant recognition. They have to be decided by the appropriate Professional Regulatory Board. A lenient board, for example, may allow the free entry and recognition of foreign professionals to practice domestically. However, a board composed of professionals who are protective of their interests, may deny recognition, even if the condition of international prominence, reciprocity and similarity in educational and licensing requirements are fulfilled. Although this provision is a ground for opening up, it is subject to personal interpretation and meant really as an exception rather than the rule. If the recognition of all foreign professionals will have to go through the process and final approval by the President to practice and recognize, the intention of the law is really to limit the entry of foreign professionals.

However, the deletion of this important condition under RA 8981 may further restrict the entry of foreign professionals into the country. The universities and research institutions may be adversely affected by the removal this condition for entry. If in the past, it was difficult to enter, now the entry of distinguished professionals is not even allowed.

In addition, one of the key changes in the PRC Modernization Act of 2000 (RA8981) is the removal of the mandatory requirement of continuing professional education (CPE) for the renewal of a professional license. Although CPE is considered as an integral component of programs on quality assurance that would facilitate the movement of professionals internationally, this dimension has been overlooked during the discussions in the formulation of RA 8981. The contentious issues during the deliberations of the new law were focused on the abuses in the provision of CPE and the selection of CPE providers. CPE as practiced in this country has become too commercialized and deviated from its real objective professional updating towards maintaining the quality of professionals for global competition. Moreover, the problem of selecting and accrediting CPE providers turn into a turf war among competing professional organizations. Instead of competing in terms of the quality of providing CPE services some have gone to the extent of questioning their competitors' existence in courts. Because of this pressing domestic problem, our legislators as well as professional organizations failed to recognize that continuing professional education is an integral part of the disciplines in the regulation of professions consistent with the provisions of the GATS.

Because of the removal of this requirement, the only determinant of professional competence to practice in this country is based on a single examination. However, international standards on the practice of professions go beyond the initial licensure examination. Other succeeding activities and measures of professional growth and advancement should also be included. Here meaningful experience and continuing professional education become very critical components of the quality and competence of

the professionals. Thus, the removal of this mandatory requirement was indeed a disservice to our professionals and may threaten our initial commitments with GATS.

In the light of the removal of CPE as a mandatory requirement, several options may be implemented. A system of accreditation and promotion in the professional ranks may be instituted by professional organizations. Elevation to ranks may require more competencies as evidenced by acceptable outputs. In addition, linking the development of research and graduate education in higher educational institutions, on one hand, and the improvement of CPE programs, on the other hand, can also be explored. Another avenue is to adopt the best practices of the private sector in conducting continuing professional education programs for their employees. Moreover, the program of giving awards for best technical papers, research and outstanding young scientists can be integrated with the current practice of PRC and various professional organizations in giving outstanding professional awards. (Tullao, 1999)

4.4. Regulations on Registration

In our economy registration or licensing of professionals usually requires compliance with certain standards. To be registered as professional in our country membership in a professional body is not required. However, prospective applicants must pass the examination given by the Professional Regulatory Board and meet the requirements prescribed laws governing professional practice and other laws pertaining to their profession. No certificate of registration shall be issued to any candidate convicted by a court of competent jurisdiction of any offense involving moral turpitude, or to any candidate found guilty of immoral or dishonorable conduct, and to any candidate of unsound mind. However for reason of equity and justice, the Commission may issue such certificate of registration upon recommendation of the Board. But this can only be done after the lapse of two years. The certificate of registration shall show the full name of the registrant with a serial number and shall be signed by all the Members of the Board and the Chairman of the Commission.

Taking a professional oath in the form prescribed by the Commission before any person authorized to administer the same is also required. In addition to this a successful examinee is required to pay the registration fee as provided for by Law. This annual registration fee shall be charged to every practicing professionals. Failure to pay this fee for five continuous years shall be sufficient cause for the suspension of his registration certificate. The license shall be valid for three years. Under the RA 8981, the previous compliance with continuing professional education (CPE) program for the renewal of certificate of registration has been removed as a requirement.

4.5. Limitations and Restrictions on Practice

A survey of the laws governing various professions would indicate the presence of specific provisions limiting and imposing restrictions on the practice of professions. The most common limitation specified in the laws governing the practice of a profession is the absence of a valid certificate of registration that would be the evidence of the person's capacity

to render professional services. Without such valid certificate of registration no one is legally allowed to practice. For example, Section 25 of PD 692 provides that “xxx all partners of partnership organized for the practice of public accountancy shall be registered public accountants in the Philippines. The Commissioner of the Securities and Exchange Commission shall not register any corporation organized for the practice of public accountancy.”

On the other hand, Section 13 of RA 545 provides that “Unless exempt from registration, no person shall practice or offer to practice architecture in the Philippines without having previously obtained a certificate of registration from the Board of Examiners for Architects. It shall be unlawful for any architect, to seek to avoid the provisions of this act by the use of any other than the title “architect’ and no person shall practice architecture in this country, or present themselves as qualified for such practice, unless and until they have qualified and been registered as provided in this act.”

Similar provision can be found in Section 11 of RA 318 wherein it provides that “unless exempt from registration, no person shall practice or offer to practice chemical engineering in the Philippines as defined in the Act without having previously obtained a certificate of registration from the Board of Examiners for Chemical Engineers created under this act.”

Section 28 of PD 1570 considers it unlawful for any person to practice or offer to practice aeronautical engineering, or use the title aeronautical engineer, or use any word, figure or letter or sign, that would convey he is an aeronautical engineer, if he was not able to obtain a valid certificate of registration. Further, any firm or company engage in designing, planning, construction, installation, alteration, manufacture or marketing of any aircraft and its components, accessories, instruments, equipment and supply without the certification, supervision, without the certification, supervision or guidance of an aeronautical engineer.

These provisions are meant to define the meaning and application of a professional. This is not meant to exclude foreigners but covers the citizens of the country who are not licensed to practice the profession. Here public interest is the basis for the exclusivity of the profession.

Another restrictive provision on the practice of the profession is the requirement that only licensed and registered professionals can teach subjects for licensure examinations. Under Section 11 of RA 8981, “ all subjects fore licensure examinations shall be taught by persons who are holders of valid certificates of registration and valid professional licenses of the profession and who comply with the other requirements of the CHED.”

This provision has been questioned on only on its restrictive effects but its impact on the development of higher education. For example, a doctoral degree holder in mathematics cannot teach mathematics for engineering students because mathematics is a subject covered in licensure examination. In the same light, who is better prepared to teach auditing or accounting, a non-CPA but with a Ph.D in accountancy or a graduate of BSA with a professional license in public accounting?

4.6. Rules on Advertising

A perusal of the various laws governing the practice of professions reveals that there are certain laws that in details specify the restrictions on advertising. However, similar provisions cannot be found in the laws governing other professions. Section 10, of the Code of Ethics for Accountancy provides “that a CPA shall not advertise, or cause or allow to be advertised, his professional attainment or services except in stating qualifications in applications for employment. However, publication of authorship of book, technical reports and studies lectures or papers delivered in conferences and seminars and similar activities which are beneficial to the profession as a whole are not considered advertising.”

Section 20 of the Code of Ethics for Dentist, provides for a more detailed and specific prohibitions and restrictions on advertising. The dentist or the dental clinic is not allowed to have more than one window or building sign per exposure. The letters in the sign should not be more than 8 cm. by 8 cm. in size and it should show only the name of the dentist, the term dentist or dentistry. Terms such as “X-ray”, “Gas”, “Air –abrasive”, “dental laboratory”, “Air -conditioned”, or any technical term must not appear in the card, stationeries, office doors and signboards of the dentist. He may use professional cards to identify himself but the card must be of traditional type and size .

There are also restrictions on advertising imposed on Architects in the practice of their profession. An architect is not allowed to use paid advertisement nor use self –laudatory, exaggerated or misleading publicity. However, the presentation of factual materials, verbal or visual of the aims, standards and progress of the profession through literature or by industrious application of his work or services which tend to dignify the professional or advance public knowledge of the architect’s function in society may be presented through any public communication media. The architect shall not misled the public through advertisement, signs or printed matter citing his professional specialization unless such qualifications are well known facts or sanctioned by professional consensus and years of experience .

In the field of engineering restrictions on advertising focuses mostly on restrictions against self-laudation. There is no restriction on advertising for an agricultural engineer. However, a chemical engineer shall not indulge in self –laudatory advertisement nor make exaggerated untrue, or misleading statements in media or any public forum. On the other hand, civil engineers and mechanical engineers are prohibited to advertise in self-laudatory language, or in any other manner derogatory to the dignity of the profession. For an electrical engineer he is required to advertise only his work or merit in simple manner and avoid any practice that will discredit or do injury to the dignity and honor of his profession. There is a prohibition against self –laudation in advertisement and make false statements with respect to his qualifications and experience. The mining engineer may publish or disseminate professional calling cards or advertise his expertise provided that the content and information is true and not exaggerated. For geodetic, metallurgical electronics and communication engineer the law is silent as far as restrictions on advertising is concerned.

Although the reasons cited for regulating advertisement for professionals may be reasonable since they prohibit self-laudatory, untrue, derogatory and misleading information, this

should not be interpreted as a general prohibition on advertising. Even in other countries, the ethics on advertising for professionals has been revised to exclude false advertising. But since advertising is a form of disclosure it can enhance information being relayed to potential clients. Thus, advertising should be treated as means of addressing asymmetries in information between the customers and the professional service providers that lead to the formation of the right decision for the clients. But since everyone is free to organize and present this information to the public, it can lead to false advertising. What can be done by the PRC and PRBs is to present to the professionals a template of what information that they should disclose to the public instead of focusing on the various limitations on advertising. In this way every one is required to disclosure the same information that would benefit the consumers without the unnecessary derogatory and false information that may threaten the dignity of the profession.

V. Regulatory Functions of CHED and PRC and GATS Principles on Domestic Regulation

5.1 Framework in Domestic Regulation in the GATS and the Disciplines on the Practice of Professions

The framework on domestic regulation in the GATS operates mainly on three principles: "... each Member shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, and impartial manner." (Art VI:1). The extent at which domestic regulation is pursued extends to cover professional services. At its core, Article VI lays down guidelines on licensing requirements, procedures and technical standards to be adopted by members to be enforced to foreign service providers which should be based according to Art VI: 4 on objective and transparent data, procedures set should not be more burdensome than necessary to meet regulatory objectives and licensing requirements/procedures should not in themselves constitute as barriers in the practice of professions. The establishment of domestic regulations as provided for in the GATS ensures each member that trans-border trade in services will be as less restrictive as possible, while observing transparent and nondiscriminatory standards.

Regulation on the practice of professions facilitates the removal of market inefficiencies and seeks to lessen social costs of consumers by minimizing risks posed by foreign service-providers. Risks are minimized through licensing procedures, requirements and technical standards set by local authorities, all of which should be consistent with GATS provisions on domestic regulations (Art VI, GATS). These standards ensure the quality of service and professional competence of foreign providers.

5.2 Comparative Analysis

5.2.1 Congruence and Differences on the Practice of Domestic Regulation on Educational Services and Professional Services with the Criteria Set by GATS

The Working Party on Professional Services (recently replaced by the Working Party on Domestic Regulation through the Decision on Domestic Regulation adopted by the Council for Trade in Services last April 26, 1999) has so far, covered only the accountancy sector in terms of forming sectoral disciplines for each profession. The following analyses of congruence and differences on the practice of domestic regulation on educational services and professional services and the criteria set by the GATS is based on the general provisions of Article VI of the GATS.

On Article VI:2, " Each member shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies firm administrative decisions affecting trade in services." If we apply this provision for educational services, parallel bodies are established in educational institutions and they are unique for each institution. Schools are authorized by CHED to admit foreign students are required to establish a Foreign Students' Unit within their organization. This unit is the one coordinating with various government agencies involved in the processing of the application of a foreign student. In addition, the CHED is empowered to approve the establishment and operation of educational institutions with foreign equity.

For professional services, on the other hand, part of the powers and functions of the various professional regulatory boards together with the Professional Regulation Commission are congruent with the provision of this article (Sec. 9, RA 8981). Moreover, administrative investigation that may affect the practice of the profession services are carried out by the relevant professional regulatory board.

Article VI:3 states that "where authorization is required for the supply of a service on which a specific commitment has been made, the competent authorities of a Member shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application." We observe a matching of the current practice affecting the entry of foreign students with the spirit of this provision. For example, graduates of foreign schools who did not entirely satisfy the specific requirements of certain college courses could be admitted into college but with an entrance deficiency that has to be corrected during their freshmen year. This could be done while taking and passing all of the regular courses offered in that year. If they failed to remove the deficiency before the opening of the second year, their sophomore load will be reduced accordingly. For professional services, this provision can be compared with the rules and regulations governing the practice of professionals. For establishment and operation of educational institutions with foreign equity, appropriate procedures and clearances should be followed and secured by the foreign university and its local partner from CHED and SEC.

Article VI:4 of the GATS defines the commitments relating to the qualification requirements and procedures, technical standards and licensing requirements. They must be " a) based on objective and transparent criteria, such as competence and the ability to supply the service; b) not more than burdensome than necessary to ensure the quality of the service and c) in the case of licensing procedures, not in themselves a restriction on the supply of the service."

We see the similarity of this provision with the requirements set in admitting foreign students. For example, foreign students who have not graduated from high school but have completed at least 11 curriculum years in elementary and secondary education in other countries may, at the discretion of the admitting school be accepted into college courses. The CHED will provide the school a comparative equivalence on foreign education systems as basis for proper education and placements of foreign students. No existing rules and regulations regarding how much tuition fee a school should charge on foreign students.

A major difference is observed in the provision of Article VI:4 and rules governing the employment of foreigners in educational and professional services. According to the labor market test, employment of a foreign professional will only be allowed only after the determination of non-availability of a person in the Philippines who is competent, able and willing at time or application to perform the services for which the alien is desired.

5.2.2 Regulatory Powers of CHED and PRC and their Impact on Trade in Services

Based on the similarities and differences presented in the previous section, the regulatory powers of CHED and PRC may prevent the entry of foreign professionals.

The labor market test under the Labor Code is one of the main barriers for trade in services. This law is especially posing trade restrictions in the education sector, where foreign professionals may only be allowed to teach in the absence of any other Filipino competent enough to teach the subject where the foreigner specializes in. In addition, the foreign reciprocity rule requires that the country where the foreigner came from must apply the same principle or standard for the entry of Filipino professionals. This restriction can serve, to some extent, a factor contributing to deterioration of the quality of education provided here in the Philippines. In fact, as mentioned earlier, the deletion of “international prominence” as a condition for entry of foreign professionals under RA 8981 may also adversely affect the development of higher education in the country.

Allowing foreign professors to teach here in the Philippines should be looked upon as an opportunity rather than as a disadvantage to local professional in the academe. Given the state of higher education of the Philippines and the quality of instruction and research, their talents can serve as resources, which can be tapped for development of graduate education as well as the expansion of research activities in many educational institutions. Foreign professors, in the first place, cannot be viewed as displacing the domestic professors since the compensation package and the teaching conditions are enough disincentives for the foreigner to come and teach in the country. But barring professionals from entry even if they are willing to take the compensation package is a disservice to the development of the educational system.

Moreover, the restriction posed by the labor market test and the foreign reciprocity requirement creates a major challenge for the country's effort in establishing a more conducive environment for foreign investment. How can the Philippines attract foreign companies to do business in our country if there are restrictions in the entry of professionals needed for these businesses? We know that the quality of professionals, both domestic and foreign, is a major

ingredient for success of any foreign investment in the country. However, this concern has been addressed, to some extent, by RA 8981 by allowing the granting of special temporary permit to foreign professionals who are employees of foreign private firms or institutions.

On the other hand, there are those who view labor market test as a route for the development of Filipino understudies. According to this perspective, foreign professionals will only be allowed to work in the country not only because of the absence of local expertise but also to develop local professionals. Thus, the labor market test should not be seen as a restrictive condition against foreign professionals but as a pro-active measure towards the development of Filipino professionals.

5.3 Measures for the Development of Higher Education and the Improvement of Global Competitiveness of Filipino Professionals

5.3.1 Measures to Improve the Quality of Filipino Professionals

5.3.1.1 Enhance the Continuing Professional Education Program

The Continuing Professional Education (CPE) is one of the flagship programs of the Commission aimed at raising and enhancing the professionals' level of competence to ensure their competitiveness anywhere in the world. Under this program, professionals undergo enhancement programs to continually upgrade and update their knowledge; competence and awareness of developments in their respective professions brought about by modernization and advances in technology. There is value in requiring professionals to have continuing education as a process of domestic regulation since this is in line with the protection of consumer and the promotion of public interest.

Although the current implementation of this program has been subject of criticism, the importance of CPE should not be underestimated. Thus, proposals of some sectors to eliminate CPE program as a precondition for renewal of license is uncalled for. In fact, the deletion of this requirement under the PRC Modernization Act of 2000 is a wrong move because continuing professional education is one of the pillars of domestic regulation of professionals enshrined under the GATS. What is needed is to restructure the program and its accreditation system towards graduate education, research and inventions away from its current emphasis on attendance of seminars. (Tullao, 1998).

To make continuing professional education a more relevant program beyond a requirement for the renewal of a professional license, there is a need to empower professional organizations in granting titles and hierarchical ranks to licensed professionals as a way of recognizing their enhanced knowledge, skills and competencies in the profession. Under this scheme, the Professional Regulation Commission together with the appropriate professional regulatory board will continue to be in charge of the process of licensing the professional. However, the granting of supplemental or secondary titles beyond what is given in a professional licensure examination should be the responsibility of accredited professional organizations. The practice of various medical associations serves as a good example in recognizing differential qualifications of its members by giving titles as fellow, diplomate and others.

Although replication of this practice can be done in other professions, there are some problems regarding its implementation. For example, when there are several professional organizations within a profession, the question of accreditation and recognition on which organization that should grant the titles or even give continuing professional education to its members is somewhat controversial. The problem is aggravated when these professional organizations are competing with each other. The title and rank given by one profession may be questioned by the competing organization and may diminish the value of the title and professional rank granted. In addition, there are difficulties in granting differentiated titles based on ranking compared to titles based on professional specialization.

5.3.1.2 Enforce Government Regulations on the Working Environment for Professionals

When tough regulations anticipate standards that will spread internationally, they give the nation's professionals a head start in developing services that will be valuable elsewhere. These strict regulations come with recognizing the fact that they will promote competitive advantage by stimulating and upgrading the quality of services provided by professionals. To give value to the professions, the PRC together with the appropriate professional regulatory board can inform the public and the professionals which companies and establishments are complying with the requirements of providing working environment conducive to the practice of a profession.

Another important task of a regulatory body is the generation and dissemination of information to the public. Instead of being viewed as a protectionist agency shielding Filipino professionals from foreign competition, the PRC can project a truly regulatory body of protecting consumer interest by publishing the leading schools producing the best professionals in various fields. This measure has been integrated in the PRC Modernization Act of 2000. It should also give regular awards to outstanding professionals and cite them for their accomplishments in the development of the profession. Together with the professional regulatory boards, it should encourage the public in investigating malpractice and violations of the code of ethics of professionals.

With the entry of foreign professionals, the PRC should educate the public on consumer education particularly the rights of consumers of professional service and should enjoin professionals to disclose information so that consumers may be guided accordingly. In this light, the PRC together with the professional regulatory boards should review the guidelines in advertising and explore this as an avenue for disclosure.

In an environment of asymmetric information, the role of PRC is bridge this information gap by requiring professionals to disclose their professional competence aside from the licensure from the PRC. However such disclosure may violate the code of ethics of professionals regarding advertising. Thus, there is a need to review the role of advertising in marketing professional services. Is marketing meant to market the services of professional that undermine his professional stature or is it a legitimate means of disclosing information to the public about the capabilities of a professional?

5.3.1.3 Focus on the Development of Specialization Among Professionals

Government has critical responsibilities for providing the fundamentals including basic education, national infrastructure, and research in areas of broad national concern. Yet these kinds of generalized efforts produce not so clear impact on the competitive advantage of professional services. Rather, the factors that translate significant effect on competitive advantage are advanced, specialized, and industry-related initiatives. Mechanisms such as specialized apprenticeship programs, research efforts in universities connected with an industry, trade association activities, and, private investments of companies ultimately create the factors that will yield competitive advantage.

Part of this task of professional improvement and specialization is included in continuing professional education programs particularly research, graduate education and industry linkages. Thus, there is need to emphasize the significant role played by research and graduate education in developing specialized professionals. Given the potential market for graduate education among the huge number of Filipino professionals, the CPE program can usher the development of graduate studies in various fields in our universities. The tie-up of the development of professionals with the development of higher educational institutions can become an ideal symbiotic relationship. The growth and development of one sector will depend on the other sector. The presence of strong graduate programs in universities is a precondition for the development of our professionals. On the other hand, professionals who are seriously pursuing their continuing education programs towards the development of specialized professionals are major factors for the development of strong graduate programs.

5.3.1.4 Create Pressures for Innovation

A design that can significantly facilitate the flow of professional service providers internationally is through mutual recognition arrangement. The discussion towards a mutual recognition arrangement is focused on the details of recognition mechanism, implementation, rules and procedures on licensing and safeguards. But the main concern of local professionals and professional organizations in these discussions is the reality of the benefits liberalization can bring to them as practicing professionals. It has been argued that liberalization can improve the quality of services from accountancy to taxation services but individual professionals are more often than not apprehensive of the free entry of foreign competition.

Firms should seek out pressure and challenge, not avoid them. Part of strategy is to take advantage of the domestic market to create the impetus for innovation. To do that, firms should establish norms that exceed the toughest regulatory hurdles to stimulate upgrading of skills and productivity among professional employees. In addition, adequate incentive schemes should be developed so as to discourage local professionals to migrate and practice their professions overseas. For example, giving annual awards in recognition for the outstanding performance of professionals should help in institutionalizing this incentive scheme together with the provision of financial resources for research, inventions and other scientific activities of professionals. To do this, there is a need to strengthen the pivotal role played by professional organizations in making professionals more competitive, productive and innovative.

Monetary incentives, good working environment and avenues for professional growth are necessary for professionals to become innovative and key agents of change in the economy. Empowering professionals is another key factor in keeping them in the country instead of migrating abroad.

5.3.2 Measures to Improve Higher Education in the Country

5.3.2.1. Improve the Faculty Qualifications

In the light of poor qualifications of faculty where only one-third of faculty members possess the minimum requirements to teach, there is a need to have a massive faculty development programs to upgrade and retool faculty members in more than 1300 institutions of higher learning all over the country. This should be a continuous long-term program involving various forms of faculty development programs. The core program should be earning of graduate degrees in various fields here and abroad. This measure should be supplemented by attendance in seminars and post-doctoral studies.

There are major obstacles, however, to be hurdled in addressing this problem. First, financial resources should be available to finance the cost of sending faculty members to graduate schools. It should pay for the explicit direct cost of education as well as the implicit opportunity cost of studying. Second, the supply of quality graduate programs in various fields should be ready to meet the huge demand for faculty development.

However, given that a sizable portion of students are enrolled in private educational institutions relying mostly on student fees for operation, the private schools cannot be expected to finance this ambitious faculty development program. Because of the huge financial constraints, higher education institutions will have to be supported to some extent by CHED together with a substantial participation from local and international funding agencies in financing this long-term project. In addition, alternative measures of delivering graduate education by the key institutions of higher learning should be explored together with other programs that will yield lower costs and minimum displacement of faculty members.

5.3.2.2. Expand Research and Improve Graduate Education

Related to the supply constraint mentioned above, there is a need to develop and expand graduate studies beyond programs in education and business. If we have to develop and upgrade our professionals in various fields, all these fields should have excellent quality graduate programs available in the country. Research and graduate education can be improved by limiting graduate education and research to qualified universities through a flagship/consortia system. In addition, financial incentives should be given to centers of excellence on the promotion of research and improvement of graduate education.

Towards this end, the identification and selection of CHED of the centers of excellence among HEIs in various disciplines can contribute towards the enhancement of graduate

education in the country. The roles and responsibilities of the identified centers is to meet international academic standards by focusing on research undertakings in order to further update and improve the system. These institutions will be asked to extend their services to other HEIs through technology transfer, industry linkages, sharing of expertise, technical assistance, training and scholarships.

A common concern in graduate school in the Philippines, however, is the length of time to complete a program, quality and efficiency of academic courses, thesis and research. This problem involves several issues including among others the academic load of faculty members, inadequate support for departmental research teams, underdeveloped culture of mentoring, lack of funds for research and graduate scholarship. Given the complexity of the problem, some leading educators have suggested the formation of consortium agreements and cooperate towards the development quality graduate programs similar to the experience of the UP Ateneo DLSU consortium in science and math education. In addition, the expertise of foreign experts should also be tapped to assist in improving the quality and efficiency of our graduate programs. (Nebres, 1998).

5.3.2.3 Rationalization of Higher Educational Institutions

Currently, there are more than 1,300 higher educational institutions all over the country offering various courses to more than 2 million students. There are some 108 state universities and colleges (SUCs) that eat up more than 75 percent of the public funding to higher education. The huge number of both private and public higher educational institutions, their geographic locations and program offerings have be rationalized because they contribute to a great extent to the poor quality of higher education in the country.

This issue of poor quality due to the proliferation of programs in an over-expanded tertiary education is being addressed through a moratorium on the establishment of new programs. However, even with this policy prescription, there is a continuous proliferation of higher educational institutions, particularly the conversion of overgrown high schools into state colleges and the conversion of state colleges into state universities.

An alternative avenue in rationalizing the number and spatial distribution of higher educational institutions in the country is through the flagship approach that would identify a university that would be the national leader-institution in a given discipline. Zonal universities, possibly one each in Luzon, Visayas and Mindanao, could be identified and assigned responsibilities for training the prospective scientists and senior experts. Regional universities would be expected to produce professionals in the numbers needed by the region. Provincial institutes would be identified for purposes of training skilled workers.

5.3.2.4. Improve the Role of CHED in Information Dissemination

As a government body, the CHED can assist in addressing the problem of asymmetric information between graduates of educational institutions and employers. Upon graduation, institutions should confer meaningful degrees and certificates, perhaps including a warranty, to

their graduates. Given this, an employer or parent should be able to trust that a degree signifies bona fide intellectual attainment, and students might be willing to pay for education services more than its worth in the marketplace.

To make these credentials meaningful, the CHED using its regulatory power can require each school to adopt a reliable academic assessment system. Some of that assessment should be common across multiple institutions and handled externally, as kind of academic audit. This would give customers reliable information about the quality, effectiveness, and market value of various campuses, and would help various stakeholders including students, parents, government agencies, funding agencies, foundations and private philanthropists gauge the quality of educational institutions. Given this information, stakeholders can make the appropriate decisions regarding the school. Information dissemination as part of the regulatory functions of CHED is a legitimate one since it addresses the imperfections of the market instead of interfering with the market.

5.3.2.5 Rationalize the Price of Higher Education

In higher education, more than 80 percent of the students are enrolled in over 1200 private HEIs charging full cost of education in their tuition and other fees. There is wide variability in tuition across programs and schools. Almost all private HEIs source their funds for school operations from tuition and other student fees. With limited state support and inadequate external sources of funds, private financing of higher education has been cited as one of the main factors for the low quality of academic programs, lack of research activities, faculty with heavy teaching loads and low faculty compensation in many private educational institutions. In increasing tuition fees, private schools have to make proper consultations with their publics. Seventy percent of the proceeds from the tuition increases are used for salary increases, 20 percent for facilities upgrading, and 10 percent as return on investment for school owners.

In public higher education, the increase in the number of SUCs to 108 has resulted to a significant increase in the budgetary allocation for higher education. More than three-fourths of the government budgetary allocation to higher education goes to the operations of SUCs whose students account for not more than 20 percent of total enrolment in higher educational institutions. The wide variation of the cost per student in many SUCs is a manifestation of the inefficient use of government funds in the delivery of public higher educational services. In addition, the authority granted to SUCs to establish autonomous branches is another avenue for them to increase their demand for more budgetary allocations and may threaten the viability of existing private educational institutions. For these reasons, there is a need to rationalize the SUCs particularly in the use of limited government funds.

Proposals for the rationalization of SUCs include among others a moratorium on the creation and expansion of SUCs, increase the internalization of cost of education except for disadvantaged students, and expansion of the role of LGUs in financing and supporting the operations of SUCs. Because of the huge amount of budget given to SUCs and the variability of cost per student across the country, there is a need to rationalize government support to public HEIs taking into account efficiency and equity considerations.

Thus, in order for the students to realize the value of higher education, a move towards internalizing the true cost of higher education should be undertaken. Public sector schools should start implementing full-cost pricing by charging higher tuition fees, and by increasing the responsibility of local government units in financing SUCs. This prescription is based on the notion that the primary beneficiaries of higher education are the students and therefore they should pay for the internalized benefits. However, deserving and qualified students who cannot afford to pay must be given assistance in the form of scholarships to address the equity issues. However, the socialized scheme of charging tuition fees in many SUCs may not be politically feasible at this point in time except for the University of the Philippines System.

5.4. Reforms in the Regulatory Powers of PRC

Based on a policy paper on regulatory reform on professional services, GATS members should reform their rules and practices to increase economic competition in the professions. In particular, governments, especially competition authorities, should rescind or modify regulations that unjustifiably prevent entry and fix prices, and that prohibit truthful, non-deceptive advertising about prices and service offerings.

Member countries should make competition law applicable to professional business services, subject to safeguards to ensure consumer protection. To do this, governments should rescind or modify exemptions for the professions and their regulatory bodies from the generally applicable competition law, consistent with preserving sufficient oversight to ensure adequate quality of service. This may require action both by national and sub-national (state and provincial) authorities.

Especially for services to individual clients, consumer protection is still necessary. To achieve it, Member countries should develop innovative regulatory approaches. When they revise restrictions on entry, affiliation, and business form, regulator should adopt alternative approaches, such as insurance, bonding, client restitution funds, or disciplinary control at the point of original licensing that provide protection while permitting greater competition. Member countries may also consider revising rules that unduly restrict the freedom of professionals to associate with other practitioners and to opt innovative, more efficient organizational forms.

Advancing the liberalization of international trade and investment in professional services is an important component of regulatory reform. Member countries should implement the policy recommendations reached at the Third OECD Workshop on Professional Services held in February 1997: (a) professional service providers should be free to choose the form of establishment, including incorporation, on a national treatment basis, because alternative measures are available to safeguard personal liability, accountability, and independence of professional service providers; (b) restrictions on partnerships of foreign professionals with locally-licensed professionals should be removed, starting with restriction on the right to temporary associations for specific projects; (c) restriction on foreign participation in ownership of professional services firms should n foreign participation in ownership of professional services firms should be reviewed and relaxed, (e) local presence requirements should be reviewed and relaxed subject to availability of professional liability guarantees or other mechanisms for client protection; and (f) national regulatory bodies should cooperate to promote

recognition of foreign qualifications and competence and develop arrangements from upholding ethical standards.

Governments should consider developing mutual recognition agreements (MRAs) for various facets of “professional qualifications” such as educational qualifications, competence, and skills. Care must be taken that MRAs do not inhibit pro-competitive national reforms by indirectly reinforcing an unsatisfactory status quo. Multilateral consideration could also be given to development and adoption of core requirements regulating access to services and activities, which, if widely used, could increase transparency, reduce user costs, and stimulate competition. The OECD could play a role in these processes.

5.5 Reforms in the Regulatory Powers of CHED

Today’s universities have three key missions: generating new knowledge; transferring knowledge to future generations; and serving the needs of industry and the community. However, these missions receive varying emphasis in different types of universities, which influence their impact on local economic development.

Universities are no longer the detached institutions. Instead, they make an active and positive contribution to local economic development both as external income generators and through their contributions to image enhancement, inward investment, spin-out new firm formation, improving the skills base, and technology and non-technology transfer as well as the quality of life through their social and cultural provision. The problem, however, is that aspect of the external and internal policy environments within which universities operate mitigate against closer links being forged whither one locates. The challenge facing universities is to transcend to the notion that they must either ‘think globally’ or ‘act locally’ and to develop new ways in which they can do both at the same time. Unless this is achieved, they will be unable to retain their three key missions of generating new knowledge, transferring knowledge and serving their local community, and will under-perform as catalysts for local economic development.

With globalization as a backdrop, CHED should not focus on establishing regulatory policies that are restrictive in nature, but rather, more developmental policies that can enhance the competitiveness of Filipino students when they become professionals. In addition, CHED can assist in the transformation of Philippine universities as leading institutions of higher learning in the region.

The CHED, for example, should monitor colleges and universities in the various professional fields. This can be made possible through the help of the different regulatory boards who will be responsible for proper accreditation of these different higher education institutions. If financial support cannot be given to universities in the light of budget constraints, the CHED protect the various stakeholders of education by disseminating information regarding the status of schools on compliance on minimum standards of teaching, facilities and other educational inputs. Disclosure of such compliance serves two purposes. On one hand, it serves as a protection for students and their parents and on the other hand, it can motivate and pressure educational institutions to improve.

More and more, CHED is veering away from its regulatory image and moving towards implementing its developmental role as envisioned by the Higher Education Act of 1994. It has organized technical panels that assist the commission in the review, revision and improvement of curriculum in various disciplines. At a lower level, the approval of academic degree programs is granted upon the recommendation of a Quality Assurance Team composed of experts in the field drawn from the both public and private HEIs.

The role of CHED is to set standards. Although it cannot close down schools it can, however, close down academic programs that do not meet the minimum requirements set by the commission. The key officials of CHED do recognize the importance of its developmental function. However, other personnel both in the central and regional offices do not share the same view. It should be noted that over 95 percent of CHED personnel were drawn from the erstwhile Bureau of Higher Education of DECS where the regulatory functions of government agency was stressed. This is being changed, albeit slowly, through the process of recruitment and human resource development.

The task of the central office is to set standards through the cooperation of various technical panels. It delegates the major tasks of implementation of these standards to the regions. For example, the implementation of the scholarship program has been decentralized using accredited institutions in identifying the potential scholars. Another area where CHED can relax or even remove its rule is the issuance of SO (Special Order) to students who have finished and academic degree as a requirement for graduation.

Another aspect of improving quality through setting of standards is the role of accreditation. Although accreditation is voluntary on the part of HEIs, CHED encourages institutions to undergo accreditation process undertaken by various agencies under the umbrella group of the Federation of Accrediting Agencies of the Philippines (FAAP). Accreditation is an important factor considered by various technical panels in awarding the centers of excellence/development to institutions to its programs. It is also a major input in exempting institutions in some of the requirements set by CHED in establishing new academic programs. Because of the importance of accreditation and to fine tune the process of accreditation, the Presidential Commission on Educational Reforms (PCER) has recommended the formation of accrediting bodies for various disciplines.

5.6. Policy Recommendations

Based on the discussion in the previous sections the following are the recommendations:

- k. There is a need to evaluate the relevance of the labor market test as requirement for allowing foreign professionals to practice in the country.
- l. The domestic regulation governing the practice of professions should be consistent with the over-all competition policy of the country.
- m. There is a need to revisit and review the rule on advertising to make it more as a tool of mandatory disclosure for all professionals.

- n. The Commission on Higher Education should focus on its developmental functions by assisting the development of higher educational institutions in the areas of faculty development, research and graduate education through financial incentives.
- o. The Commission on Higher Education should channel its regulatory functions towards the dissemination of information particularly on the compliance of higher educational institutions in meeting minimum academic requirements, faculty profile, student profile, performance of students, quality of facilities and other educational inputs.
- p. The Professional Regulation Commission should focus on its developmental function by providing avenues for specialization within the profession and by empowering the various professional organizations particularly in the granting of supplemental and secondary professional titles.
- q. As part of the regulatory function of the Professional Regulation Commission, it should expand its information dissemination activities beyond the publication of list of leading and worst performing schools in the production of professionals and move towards information on market access in other countries, avenues for professional development and compliance of establishments on appropriate business environment for professionals.
- r. The Professional Regulation Commission should encourage the formation of outstanding professionals and give monetary incentives to young and promising professionals as well as give recognition to outstanding works, research, and inventions of professionals.
- s. The PRC together with CHED they should sponsor and finance research projects in various disciplines.
- t. Review the rule on the entry of foreign professionals. There is a need to adopt a more liberal rule on the entry of professors as a contribution towards the development of research culture and graduate education in our higher educational institutions.
- u. Review the rules on entry of foreign students. Foreign students can be a stimulus in the development of private schools as a source of foreign exchange. The export potentials of short term courses in English, information technology, business and entrepreneurship and medical arts should be explored.
- v. Review the provision of RA 8981 that removed compulsory continuing professional education as a requirement for renewal of professional licenses.
- w. Review the provision of RA 8981 that requires only licensed and registered professionals to teach subjects covered in licensure examinations.

5.7 Areas for Future Research

- g. Need to examine the perspectives of trade and professional associations as regards domestic regulation. It would be interesting to know what role do these associations should play in the determination of rules and regulations pertaining to the practice of professions. In a political environment where consultation is taken seriously, should these private organizations play a key role in the formulation of domestic regulation? What then is the implication of their participation on regulatory capture?

- h. Since the basis of domestic regulation is the social risks associated with an unregulated activity in an environment full of uncertainties, there is also a need to study the type and costs of social risks or the threats to public interest that become the basis for domestic regulation including the regulations on the entry of entry of foreign professionals into the country.
- i. Since accession to international agreements may imply internationalization of standards, a study on the social costs of harmonization of standards and its impact on domestic regulation will determine our readiness for harmonization. Is it worth our while to surrender a huge part of our sovereignty in the name of international harmonization?
- j. Since foreign professionals wishing to practice domestically are usually those that bring with them vast professional experience, there is a need to study the feasibility of adopting a separate category for foreign professionals willing to practice with a corresponding set of licensing requirements and sphere of practice. Is such alternative GATS compliant? If, not how do we make it GATS compliant?
- k. A study to evaluate whether indeed regulatory measures are meant to minimize social risks in the light of asymmetry in information or are they domestic walls created to limit the market for professionals for local and foreign aspirants. Is domestic regulation a form of monopolization of the practice of professions?
- l. A study to determine the possible compensating differences that may be considered when granting recognition to foreign professionals wishing to practice domestically.

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Exhibit A

DOCUMENTARY REQUIREMENTS FOR THE ISSUANCE OF VARIOUS PERMITS TO FOREIGN STUDENTS

A. 9(F) STUDENT VISA UNDER EO 423 FOR FOREIGN STUDENTS:

(To be submitted in two (2) copies: Original and Photocopy)

1. **Notice of Acceptance** (NOA) from the school containing a clear impression of the school's official seal, addressed to the student;
2. **Letter from the School Registrar** requesting issuance of a 9(f) student visa applicant addressed to:

The Director

Visa Division – *Office of Consular Affairs*

Department of Foreign Affairs

3. Five (5) copies of the 1998 Revised **Original Personal History Statement (PHS)** duly signed by the applicant in English and in national alphabet, accompanied by personal seal, if any, original left and hand prints on PHS and original photos
4. **Transcript of records/Scholastic records**, duly authenticated by the Philippine Embassy or Consulate in the applicant's country of origin or legal residence. "SEEN and NOTED" stamp is not acceptable;
5. **A notarized Affidavit of Support and proof of adequate financial support** to cover expenses for student's accommodation and subsistence, school dues and other incidental expenses
6. Xerox copy **Passport pages** where name, photo, birth date and birthplace appear; and
7. Certified true copy of the Certificate of Eligibility for Admission (CEA) for students of Dentistry and Medicine.

In addition to the documents submitted to the DFA, the student shall submit the following requirements to the Consular Officer at the Philippine Foreign Service Post upon notice of interview:

- a. ORIGINAL copy of the **school's Notice of Acceptance (NOA)** containing a clear impression of the school's dry seal, addressed to the student;

- b. ORIGINAL copy of the *Certificate of Eligibility for Admission (CEA)* issued by the CHED, if enrolled in courses or programs where restrictions may exist due to shortage of facilities, as in Medicine or Dentistry.
- c. *Police Clearance* issued by the national police authorities in the student's country of origin or legal residence, authenticated by the Philippine Foreign Service Post having consular jurisdictions over the place; and
- d. *Medical Health Certificate* issued by an authorized physician including standard size chest x-ray.

B. CERTIFICATE OF ELIGIBILITY FOR ADMISSION TO THE DENTAL COURSE OF FOREIGN STUDENTS (CED)

- 1. *Transcript of Records*
- 2. *Birth/Baptismal Certificate/Photocopies of passport, ACR & ICR*
- 3. *Letter of Acceptance indicating the quota of the College of Dentistry of Accepting HEI and quota number of student*
- 4. *Application Fee in the amount of Sixty Pesos (P60.00)*

C. CERTIFICATE OF ELIGIBILITY FOR ADMISSION TO THE MEDICAL COURSE OF FOREIGN STUDENTS (CEM)

- 1. Transcript of Records showing completion of a degree course
- 2. Copy of Diploma or a certification of graduation authenticated by the Registrar where he/she graduated
- 3. NMAT
- 4. Birth/Baptismal Certificate/Photocopies of Passport, ACR & ICR and Certificate of good moral character from two (2) professors in college
- 5. Letter of Acceptance indicating the quota of the College of Medicine of Accepting HEI and quota number of student
- 6. Application Fee in the amount of Sixty Pesos (P60.00)

D. CERTIFICATE AUTHENTICATION/VERIFICATION (CAV)

(This is a CHEDRO delegated function but for purpose of accommodating students from far flung regions, OSS issues CAV)

- 1. *Transcript of Records*
- 2. *Diploma (xerox or photocopy)*
- 3. *Certification of Clinical Experience (For Nursing Only)*
- 4. *Certification of Graduation and Special Order No.*
- 5. Application Fee of P30.00

Exhibit B

Various Rules Governing the Practice of Professions Accountancy, Architecture, Civil Engineering and Electrical Engineering

	ACCOUNTANCY	ARCHITECTURE	CIVIL ENGINEERING	ELECTRICAL ENGINEERING
A. Rules on the Entry of Professionals	<p>No foreign accountant shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Board of Accountancy law unless the country of which he is a citizen specifically permits Filipino accountants to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>The entry and stay of professionals are subject to the labor market tests and other restrictions, to wit;</p>	<p>No architect shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Architecture Law unless the country of which he is a citizen specifically permits Filipino architects to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14 of the Philippine Constitution provides that the practice of profession in the Philippines shall be</p>	<p>No foreign civil engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Civil engineering law unless the country of which he is a citizen specifically permits Filipino civil engineer to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14. of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p>	<p>No foreign electrical engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Board of Electrical Engineering law unless the country of which he is a citizen specifically permits Filipino electrical engineers to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>The entry and stay of professionals are subject to the labor market tests and other restrictions, to wit:</p> <p>Article XII, Sec. 14 of the Philippine Constitution</p>

	<p>Article XII, Sec. 14. of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions Article 40 of the Labor Code, as amended, provides that: "Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of</p>	<p>limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform</p>	<p>by law.</p> <p>To operationalize these Constitutional provisions, article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of</p>	<p>provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the</p>
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<p>Regulations on Recognition</p>	<p>the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired."</p> <p>Republic Act No, 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>The mechanisms to take account of qualifications, experience, expertise acquired by foreign professionals in another economy are the provision on reciprocity. Under PD 692, "The Revised Accountancy Law", specifically Sec 23 on Foreign Reciprocity provides: "No foreigner shall be admitted to the</p>	<p>the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>No person who is not a citizen of the Philippines at the time he applies to take the examination shall be allowed to take it unless he can prove in a manner provided by the Rules of Court that, by specific provision of law, the country of which he is a citizen, subject, or national either admits citizens of the Philippines to the</p>	<p>residence in the Philippines before a foreigner can practice his profession.</p> <p>No person who is not a citizen of the Philippines at the time he applies to take the examination shall be allowed to take it unless he can prove in the manner provided by the Rules of Court that, by specific provision of law, the country of which he is a citizen, subject or national either admits citizens of the Philippines to the practice of the same profession without</p>	<p>services for which the alien is desired.</p> <p>Republic Act No, 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>No foreign engineer shall be admitted to take a board examination, be given a certificate of Registration, or be entitled to any of the rights and privileges under this Act unless the country of which he is a subject or a citizen specifically permits Filipino engineers to practice within its territorial limits on the same basis as the subjects</p>
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	<p>examination or be registered as Certified Public Accountant unless he proves in the manner provided for by the Professional Regulation Commission that, by specific provision of law, the country of which he is a citizen, subject or national, allows citizens of the Philippines to the practice of accountancy profession after an examination on terms of strict and absolute equality with the citizens, subjects or nationals of said country, including the unconditional recognition of prerequisite degrees issued by the institutions of learning duly recognized by the government of the Republic of the Philippines.</p>	<p>practice of the same profession without restriction or allows them to practice it after an examination on terms of strict and absolute equality with citizens, subjects, or nationals of the country concerned including the unconditional recognition of degrees issued by institution of learning duly recognized for the purpose by the Government of the Philippines: Provided, That if he is not a citizen of the Philippines, and was admitted to the practice of the profession in the Philippines after December 8, 1941, his active practice in that profession either in the Philippines or in the state or country where he was practicing his profession, shall not have been interrupted for a period of two</p>	<p>restriction or allows them to practice it after an examination on terms of strict and absolute equality with citizens, subjects or nationals of the country concerned, including the unconditional recognition of degrees issued by institutions of learning duly recognized for the purpose by the Government of the Philippines: Provided, That if he is not a citizen of the Philippines, and was admitted to the practice of a profession in the Philippines after December 8, 1941, his active practice in that profession, either in the Philippines or in the state or country where he was practicing his profession, shall not have been interrupted for a period of two years or more prior to July 4, 1946, and that the country or state from which he comes allows the citizens of the Philippines by specific provision of</p>	<p>or citizens of such country. (Section 38, RA No. 7920)</p> <p><i>Exemption from Examination and Registration</i></p> <p>Examination and registration shall not be required of foreign electrical engineers, erection/commissioning/guarantee engineers employed as technical consultants by the Philippine government or by private firms, for which the pertinent professional society certifies that no qualified Filipino professional is available, or foreign electrical installers for the erection and installation of a special project or for any other specialized work, subject to the following conditions:</p> <p style="text-align: center;">That the above-mentioned foreign professionals are legally</p>
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	<p>There are no automatic recognition or mutual recognition agreements between the professional bodies and their counterparts in other economies.</p>	<p>years or more prior to July 4,1946, and that the country or state from which he comes allows the citizens of the Philippines by specific provision of law, to practice the same profession without restriction or on terms of strict and absolute equality with citizens, subjects or nationals of the country or state concerned. (Section 35, RA No. 545)</p>	<p>law, to practice the same profession without restriction or on terms of strict and absolute equality with citizens, subjects or nationals of the country or state concerned.(Section 25, RA No. 1582)</p>	<p>qualified to practice their profession in their own country in which the requirements are qualifications of obtaining a license or certificate of registration are not lower than those specified in this Act;</p> <p>That the scope of work to be performed by said foreign professionals shall be limited only to the particular work for which they were contracted;</p> <p>That prior to commencing work, the foreign professional shall secure a special permit from the PRC;</p> <p>That said foreign professional shall not engage in private practice on their own account;</p> <p>That for every foreign professional contracted pursuant to this section, one Filipino understudy who is registered under the provisions of this Act</p>
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<p>B. Regulations on Registration</p>	<p>Membership in a professional body is not a requirement for licensing or registration.</p> <p><i>Issuance of Certificate of</i></p>	<p>Membership in a professional body is not a requirement for licensing or registration.</p>	<p>Registration shall not be required of the following persons:</p> <p>Officers or enlisted men of the United States and Philippine Armed Forces, and civilian</p>	<p>shall be employed by the private firm utilizing the services of such foreign professional for at least the duration of the alien expert's tenure with said firm: and</p> <p>That the exemption herein granted shall be good only for six(6) months; renewable for another six(6) months at the discretion of the Board: Provided, That in case the foreign professional ceases to be employed in accordance with this section and engages in an occupation requiring registration as electrical engineer, such professional must be registered under the provisions of this Act.</p> <p>As prerequisite for registration as professional electrical engineer, registered electrical engineer, and registered master electrician, the applicant registered shall</p>
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	<p><i>Certificate of Registration</i></p> <p>A Certificate of Registration as CPA shall be issued by the Board of Accountancy to those who have satisfactorily passed the examination prescribed or otherwise complied with the requirements of the Board.</p> <p>All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by all the members of the Board and the Chairman of the Professional Regulation Commission and attested by the official seal of the Board.</p> <p>A certificate of registration shall not be issued to any</p>	<p><i>Issuance of Certificate of registration</i></p> <p>- The Professional Regulation Commission shall upon recommendation of the Board, issue a certificate of registration upon payment of the registration fee as provided in this Act to any applicant who, in the opinion of the Board and after approval by the Professional Regulation Commission has satisfactorily met all the requirements specified in this Act.</p> <p>- All certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by all the members of the</p>	<p>Forces, and civilian employees of the Government of the United States stationed in the Philippines while rendering civil engineering services for the United States and/or Philippines.</p> <p>Civil engineers or experts called in by the Philippine Government for consultation, or specific design and construction of fixed structures as defined under this Act, provided that their practice shall be limited to such work.</p> <p>Membership in a professional body is not a requirement for licensing or registration.</p> <p><i>Issuance of Certificate of registration</i></p> <p>A certificate of Registration for civil engineer shall be issued to any applicant who passes the examination after the approval of his ratings and upon payment of the</p>	<p>comply with the following requirements:</p> <p><i>a. Professional Electrical Engineer</i></p> <p>For the purpose of confirming the service record and clarifying the technical report submitted by the applicant for registration as a professional electrical engineer, an oral examination or interview shall be conducted on the following documents to be submitted to the Board:</p> <p>Certified experience record from the date applicant took oath as a registered electrical engineer indicating the inclusive dates, companies work for, description of specific responsibilities, significant accomplishments as well as the name position of immediate supervisors;</p> <p>Technical paper covering an evaluation, an</p>
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	<p>candidate who has been convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or has been found guilty of immoral or dishonorable conduct after due investigation by the Board of Accountancy, or has been declared to be of unsound mind.</p> <p><i>Period of validity of a Professional License</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three (3) years and/or compliance with the Continuing</p>	<p>Board, and the Professional Regulation Commission and shall be attested by the official seal of the same Board.</p> <p>- The issuance of a certificate of registration by the Board to the registrant shall be evidence that the person named therein is entitled to all the rights and privileges of a registered architect, while said certificate remains unrevoked and unsuspended.</p> <p>- All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer this, before commencing the practice of the profession.</p>	<p>required fees.</p> <p>Every certificate of registration shall show the full name of the registrant with a serial number, and shall be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>The Board for Civil Engineers may refuse to issue a certificate to any person convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or to any person guilty of immoral or dishonorable conduct, or to any person of unsound mind.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p>	<p>analysis or a critical discussion of an electrical engineering project or subject, on one or several technical aspects such as: design, construction, installation, commissioning, testing, operation, maintenance, repair, research and the like. The technical paper shall be supported by engineering principles and data. Published or unpublished scientific paper or treatise on electrical engineering theories and applications may be considered as complying with the requirement;</p> <p>Three(3) certifications signed by three(3) professional electrical engineers to the effect that the experience record submitted by the applicant is factual and that the technical paper submitted was actually prepared by the applicant.</p>
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	<p>Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are provided for by the APO'S.</p>	<p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three (3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the</p>	<p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and</p>	<p>The applicant must obtain passing marks on the experience record and on the technical report in order to qualify for registration as a professional electrical engineer.</p> <p><i>b. Registered Electrical Engineer</i></p> <p>The applicant shall pass a written examination on different subject or group of subjects as follows:</p> <p>Mathematics Engineering Science and Allied subject Electrical Engineering professional subjects</p> <p>The passing general weighted average rating shall be seventy percent(70%) with no grade below fifty percent(50%) in any group of subjects listed above.</p> <p>The examination question</p>
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	APO'S.	respective accredited professional organization (APO). Qualification and requirements for membership are provided for by the APO's.	requirements for membership are provided for by the APO's.	<p>on the foregoing subject shall cover only basic theories and principles, and shall exclude question based on experience and trade practices. The number of questions shall be such the examinations can be finished in three (3) consecutive eight-hour days.</p> <p>c. Registered Master Electrician</p> <p>The applicant shall pass a written examination on the different subjects or group of subjects as follows:</p> <p>Technical Subjects Philippine Electrical Code, Parts 1 & 2</p> <p><i>Issuance of Certificate of Registration</i></p> <p>The registration of professional electrical engineer, registered electrical engineer and master electrician commences from the date</p>
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				<p>his name is entered into the roll of registrants or licensees for his profession. Every registrant who satisfactorily met all the requirements specified in this Act, upon payment of the registration fee, shall be issued a certificate of registration. The certificate shall remain in full force and effect until withdrawn, suspended or revoked in accordance with law.</p> <p>Every certificate of registration shall show the full name of the registrant with a serial number, and shall be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p>
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				<p>of the profession.</p> <p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three (3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited</p>
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				<p>professional organization (APO). Qualification and requirements for membership are provided by the APO's.</p> <p>The practice of electrical engineering is a professional service admission to which is based on individual and personal qualifications. Hence, no firm or corporation may be registered or licensed as such for the practice of electrical engineering.</p> <p>However, persons properly qualified and licensed as professional electrical engineers may, among themselves, form a partnership, association and collectively render electrical engineering service. Individual members of such partnerships or associations shall be responsible for their own respective acts. (Section 35, RA No. 7920)</p>
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<p>Regulations of professional Firms</p>	<p>Professional firms are regulated by another government agency specifically the Securities and Exchange Commission and not by the Professional Regulations Commission (PRC). However, under the Revised Accountancy Law, it provides that all partners of partnership organized for the practice of public accountancy shall be registered public accountants in the Philippines. The Commissioner of Securities and Exchange Commission shall not register any corporation organized for the practice of accountancy. The following is the outline for the scope of entitlement to the practice of</p>	<p>The practice of architecture is a professional service, admission to which shall be determined upon the basis of individual, personal qualifications. No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of architecture: Provided, however, that persons properly registered and licensed as architects may, among themselves and with a person or persons properly registered and licensed as civil engineers, form and obtain registration of, a firm, partnership, or association using the term "Architects" or "Architects and Engineers," but, nobody shall be a member or partner of</p>	<p>The practice of civil engineering is a professional service, admission to which must be determined upon individual and personal qualifications. No firm , partnership, corporation, association or corporation may be registered or licensed as such for the practice of geodetic engineering: Provided , however, That persons properly registered and licensed as civil engineers may, among themselves or with a person or persons properly registered and licensed as architects, form and obtain registration of, a firm, partnership or association using the term "Engineers" or "Engineers and Architects," but , nobody shall be a member or partner of such firm, partnership or association unless he is duly licensed civil engineer or architect, and the members who are</p>	<p>35, RA No. 7920)</p> <p>Professional firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>
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	<p>Accountancy, to wit:</p> <p>A. Corporation</p> <p>No corporate practice of Accountancy is allowed</p> <p>B. Partnerships</p> <p>Must be registered with the Board of Accountancy/ Professional Regulation Commission</p> <p>All partners must be Certified Public accountants (CPAs) registered with Board of Accountancy/ PRC</p> <p>C. Sole Proprietorships</p> <p>Must be CPAs registered with the Board of Accountancy/ PRC</p>	<p>such firm, partnership or association unless he is a duly registered or licensed architect or civil engineer, and the members who are architects shall only render work or services proper for an Architect as defined in this Act, and members who are civil engineers shall also render work and services which are proper for a civil engineer as defined under the law regulating the practice of civil engineering, individual members of such firm, partnership or association shall be responsible for their respective acts. (Sec. 34, RA No. 545)</p> <p>Professional firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the</p>	<p>civil engineers shall only render work and services proper for a civil engineer, as defined in this Act, and the members who are architects shall also only render work and services proper for an architect, as defined in the law regulating the practice of architecture; individual member of such firms, partnership or association shall be responsible for their own respective acts. (Section 24,RA No. 1582)</p> <p>Professional Firms are regulated by another agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>	
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<p>C. Limitations and Restrictions on Practice (Marketing Solicitation, and Advertising)</p>	<p>If with staff composed of CPAs, must be registered with the Board of Accountancy/PRC</p> <p>A CPA shall not advertise, or cause or allow to be advertised, his professional attainments or service, except in stating qualifications in applications for employment. However, publication of authorship of books, technical reports and studies, lectures or papers delivered in conferences and seminars and similar activities which are</p>	<p>Professional Regulation Commission</p> <p>Not applicable</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission</p> <p>The Architect shall not use paid advertisement nor use self-laudatory, exaggerated or misleading publicity. However, the presentation of factual materials, verbal or visual of the aims, standards and progress of the profession through literature or by industrious application of his work or services which tend to dignify the professional or advance public</p>	<p>He shall not advertise in self-laudatory language, or in any other manner derogatory to the dignity of the Profession.</p>	<p>An electrical engineer should only advertise his work or merit in a simple manner and avoid any practice that will discredit or do injury to the dignity and honor of his profession.</p>
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	<p>beneficial to the profession as a whole are not considered advertising.</p> <p>A CPA in public accounting shall not seek to obtain clients by solicitation.</p> <p>Advertising is a form of solicitation. Publication of an announcement is permitted only for the opening of a new office, change in partners, change in office location or telephone number(s), or reorganization of firm or practice, provided it contains basic information essential to the announcement and is of reasonable size.</p>	<p>knowledge of the Architect's function in society may be presented through any public communication media.</p> <p>The Architect shall not solicit nor permit to solicit his name, advertisements or other solicit in his name, advertisements or other support towards the cost of any publication presenting his work. He should refrain from taking part in paid advertisement endorsing any materials of construction or building equipment.</p> <p>The Architect shall not mislead the public through advertisements, signs or printed matter citing his professional specializations unless such qualifications are well known facts or sanctioned by</p>		
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<p>Restrictions on Fee Setting</p>	<p>The restriction on fee-setting provides that a CPA in public accounting shall not offer or render professional service under an arrangement whereby no fee will be charged unless a specified finding or result is attained, or where the fee is otherwise contingent upon the findings or results of such services. However, a CPA's fees may vary depending on the complexity of the services rendered.</p> <p>Fees are not regarded as being contingent if fined by courts or other public authorities as in the tax matters, or if determined based on the results of judicial proceedings or the</p>	<p>professional consensus and years of experience.</p> <p>The Architect shall charge his client for services rendered, a professional fee commensurate with the work involved and with his professional standing and experience based upon the Basic Minimum Fee prescribed under the "Standards of Professional Practice" of the "Architects National Code".</p> <p>The architect shall not undertake, under a fixed contract sum agreement, the construction of any project based on plans prepared by him.</p> <p>The Architect shall be compensated for his services solely through his professional fee charged directly to the client. He shall not</p>	<p>He shall not participate in competitive bidding on a price basis to secure a professional engagement.</p> <p>He shall not to compete with another Engineer for employment on the basis of professional charges by reducing his usual charges and in this manner attempting to underbid after being informed of the charges named by another.</p>	<p>An electrical engineer should not accept compensation from more than one interested party for the same professional service pertaining to the same work, without the consent of all affected party.</p> <p>An electrical engineer should not be financially interested in the bids of a contractor on competitive work for which he expects to be employed as an engineer, unless he has the consent of his client of employer.</p> <p>An electrical engineer should not compete with another Engineer on the basis of compensation for particular work by means of underbidding, after the results of a public bidding are announced.</p>
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	findings of the governmental agencies.	client. He shall not accept nor ask for any other returns in whatever form from any interested source other than the Client.		
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Exhibit C

Various Rules Governing the Practice of Professions Aeronautical Engineering, Agricultural Engineering, Chemical Engineering and Electronics & Communications Engineering

	AERONAUTICAL ENGINEERING	AGRICULTURAL ENGINEERING	CHEMICAL ENGINEERING	ELECTRONICS & COMMUNICATIONS ENGINEERING
Rules on the Entry of Professionals	<p>No foreign aeronautical engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Aeronautical engineering law unless the country of which he is a citizen specifically permits Filipino aeronautical engineer to practice within its territorial limits on the same basis or citizens of such country. (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14 of the Philippine Constitution provides</p>	<p>No foreign agricultural engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Agricultural engineering law unless the country of which he is a citizen specifically permits Filipino agricultural engineer to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14. Of the Philippine Constitution provides that the practice of</p>	<p>The entry and stay of professionals are subject to the labor market tests and other restrictions, to wit:</p> <p>"Article XII, Section 14 of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law."</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code of the Philippines, as amended, provides that: "Any alien seeking admission to the Philippines for employment purposes</p>	<p>The entry and stay of professionals are subject to the labor market tests and other restrictions, to wit:</p> <p>"Article XII, Section 14 of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law."</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code of the Philippines, as amended, provides that:</p> <p>"Any alien seeking admission to the Philippines for employment purposes and</p>

	<p>that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is</p>	<p>profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law. To operationalize these constitutional provisions Article 40 of the Labor Code ,as amended provides that :admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform</p>	<p>and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment. The employment permit may be issued to a non resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired."</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p>	<p>any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment. The employment permit may be issued to a non resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired."</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p>
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<p>Rules on Registration</p>	<p>competent, able and willing at the time of application to perform the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>Membership in a professional body is not a requirement for licensing or registration.</p> <p>A certificate of Registration for aeronautical engineer shall be issued to any applicant who passes the examination after the approval of his ratings and upon payment of the required fees.</p> <p>Every certificate of registration shall show the full name of the registrant with a</p>	<p>the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>Membership in a professional body is not a requirement for licensing or registration.</p> <p>A certificate of Registration for agricultural engineer shall be issued to any applicant who passes the examination after the approval of his ratings and upon payment of the required fees.</p> <p>Every certificate of registration shall show the full name of the registrant with a serial Number, and shall</p>	<p>Membership of a professional body is not a requirement for licensing or registration.</p> <p>The Board of Chemical Engineers shall, within one year after the approval of Republic Act No. 318, issue certificates of registration as chemical engineer to any applicant who on the date of the approval of Republic Act No. 318 is:</p> <p>A Filipino citizen; At least 25 years</p>	<p>Membership of a professional body is not a requirement for licensing or registration.</p> <p>Registration</p> <p>A Certificate of Registration as Registered Electronics and Communications Engineer shall be issued to any applicant who passes the examination hereinafter provided upon payment of</p>
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	<p>serial Number , and shall be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>The Board may refuse to issue certificate of registration to any person convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or to any person guilty of unprofessional, unethical, immoral or dishonorable conduct, or to any person of unsound mind.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p>	<p>be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>The Board may refuse to issue certificate of registration to any person convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or to any person guilty of unprofessional, unethical, immoral or dishonorable conduct, or to any person of unsound mind.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p> <p>The statement of the period of validity of the professional license</p>	<p>of age;</p> <p>Of good moral character; and</p> <p>A holder of a certificate of registration as chemical engineer under Act Numbered Two Thousand Nine Hundred and Eighty Five, as amended; or a holder of the degree of Bachelor of Science in Chemical Engineering (B.S.Ch.E) or its equivalent, and has practiced the profession as defined in this Act for a period of not less than five years.</p> <p>Provided, however, That persons who on the date of the approval of Republic Act No. 318 are employed in industrial plants and have been engaged in the practice of chemical engineering service for a period of at least five years without serious accident as certified to by their employers may</p>	<p>the required fees:</p> <p>Provided, That, the first Board may issue within a period not exceeding two years from the composition of the said Board, a certificate of registration as electronics and communications engineer, without the necessity of undergoing the examination herein prescribed to its members and to any applicant who, with his application for registration as electronics and communications engineer, shall present evidence or other proof satisfactory to the Board showing (a) that he has a specific record of at least ten years of active practice in electronics and/or communications engineering, (b) that he is of a responsible character indicating that he may be entrusted to perform or render professional electronics/communications engineering service as defined in R.A. No. 5734,</p>
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	<p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO).</p>	<p>declares the payment of the annual registration fees for three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are</p>	<p>be granted, upon application within one year after the approval hereof and in the discretion of the Board, a certificate of proficiency in that branch of chemical engineering wherein he had been practicing. Such certificate shall entitle the holder to practice in that branch of chemical engineering for which he has qualified.</p> <p>Every certificate of registration shall show the full name of the registrant, have a serial number, and be signed by the members of the Board, the Chairman of the Professional Regulation Commission and shall be authenticated by the official seal of the Board.</p> <p>A Certificate of Registration as Chemical Engineer shall be issued</p>	<p>and (c) who is a bona fide member of any officially registered association of electronics and communications engineers in the Philippines. Every certificate or registration shall show the full name of the registrant with a serial number, and shall be signed by the members of the Board, attested to by the Secretary of the Board of Examiners and duly authenticated by the official seal of the Board. The certificate of registration issued by the Board to the registrant shall be evidence that the person named therein is entitled to the rights and privileges of a registered electronics and communications engineer while said certificate remains in force or unrevoked. All applicants must be filed with the Professional Regulation Commission and shall be subject to the</p>
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	<p>Qualification and requirements for membership are provided for by the APO's.</p> <p>Professional Firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>	<p>provided for by the APO's.</p> <p>Professional Firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulations Commission.</p>	<p>to any applicant who passes the examination hereinafter provided upon payment of the required fees.</p> <p>All applicants must be filed with the Professional Regulation Commission and shall be subject to the payment of the fees prescribed by the Professional Regulation Commission.</p> <p>The regulated activities can not be carried out by holders of a foreign license except, in cases where such foreign professional have been granted Special Temporary Permit by the Board of Chemical Engineering and by the PRC.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional</p>	<p>payment of the fees prescribed by the Professional Regulation Commission.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualifications and requirements for membership are provided for by the APO's.</p> <p>. Professional firms are regulated by another government agency specially the Securities and Exchange Commission (SEC) and not by the Professional Regulations Commission (PRC).</p> <p>The use of international or foreign names are regulated by the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p>
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			<p>organization (APO). Qualifications and requirements for membership are provided for by the APO's.</p> <p>Yes. Professional firms are regulated by another government agency specially the Securities and Exchange Commission (SEC) and not by the Professional Regulations Commission (PRC). However, under the Chemical Engineering Law, it provides that a firm, co-partnership, company, corporation, or association can engage in the practice of chemical engineering in the Philippines, provided only that such practice is carried out by chemical engineers holding valid certificates of registration and in the regular employ of said firm, co-partnership, company, corporation or</p>	
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			<p>association, or by persons holding valid certificates of proficiency issued by the Board for the particular branch of chemical engineering involved in such practice.</p> <p>In case of a firm, co-partnership, company, corporation or association, the manager, administrator or the person who has charge of the management or administration of the business shall be held personally liable for any violation of R.A. No. 318.</p> <p>The use of international or foreign names are regulated by the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p>	
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		<p><i>Exemption from Registration -</i> Registration for practice as agricultural engineers shall not be required of the following:</p> <p>Agricultural engineers from other countries called in consultation only and exclusively in specific cases. And those who are attached and organizations and assigned to perform certain definite work in the Philippines, provided they do not engaged in private practice on their own accounts agricultural engineers in the Philippines; Agricultural engineers</p>	<p>The mechanism to take account of qualifications, experience, expertise acquired by foreign professionals in another economy is the provision on reciprocity. Under Republic Act No. 318, "Chemical Engineering Law" specifically Section 26 on Foreign Reciprocity provides: "Except in the case of persons otherwise exempt under the provisions of this Act, no foreign chemical engineer shall be granted any of the rights or privileges under this Act, unless the country of which he is a subject or citizen permits Filipino chemical engineers to practice within its territorial limits on the same basis as the subjects or citizens of such country.</p> <p>Exemption from Registration: Registration shall not</p>	
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<p>Rules on Recognition</p>	<p>Upon application and payment of the required fee, and subject to approval of the Commission, the following may be granted temporary certificates of registration as aeronautical engineering in the Philippines;</p> <p>Aeronautical engineers from foreign countries called for consultation or for a specific design, construction or project, whose services in the Philippines shall be</p>	<p>attached to the Armed Forces of the United States stationed in the Philippines whose rendering services as such only for the said armed forces and within the limits of their territorial jurisdiction; and Foreign agricultural engineers employed as exchange professors or instructors in recognized local schools, institutes, colleges or universities where a regular course in agricultural engineering is taught. (Sec. 10 R.A. No. 3927)</p> <p><i>Foreign Reciprocity - Notwithstanding the requirement of section 12 of R.A. No. 3927, that the applicant for examination for the practice of agricultural engineer must be a Filipino citizen, any foreigner who meets</i></p>	<p>be required of the following classes of persons upon proper application for exemption with the Board of Chemical Engineering:</p> <p>Foreign chemical engineers called in by the Republic of the Philippines for consultation or for a specific design or installation, or project: Provided, That their practice shall be confined to such work: And provided, further, That said engineers are legally qualified to practice chemical engineering in their own state or country and that the requirements and qualifications for obtaining a certificate of registration in said state or country are not lower than those specified in Republic Act No. 318.</p> <p>Foreigners employed as technical officers, professors, or</p>	<p>The mechanism to take account of qualifications, experience, expertise acquired by foreign professionals in another economy is the provision on reciprocity. Under R.A. No. 5734, "The Electronics and Communications Engineering Act of the Philippines" specifically Section 23 on Foreign Reciprocity provides: "No foreigner shall be admitted to an examination or registration as electronics and communications engineer under this Act unless he proves in the manner as provided by the Board that, by specific provisions of law, the country, state or province of which he is a citizen, subject, or national admits Filipino citizens to the practice of electronics and</p>
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	<p>limited only to such particular work, and such engineers are legally or technically qualified to practice aeronautical engineering in their own country, and</p> <p>Any person from foreign countries employed as technical officers or professors in such specialized branches of aeronautical engineering as may, in the judgement of the Commission be necessary and indispensable for the country.</p> <p>Subject to approval of the Commission, the Board may issue a special permit, renewable every year, to any person specified under this section who shall file with it an application for the issuance of such permit, accompanied by</p>	<p>other requirements of said Act may be admitted for examination if he proves to the satisfaction of the Board, that by specific provision of law, the country of which he is a citizen, either admits Filipino citizen to the practice of agricultural engineering without restriction or allows them to practice agricultural engineering after passing and examination on terms of strict and absolute equality with citizens, subjects, or nationals of said country, including the unconditional recognition of pre-requisite degrees granted by institutions of learning duly recognized by the Government of the Philippines. (Sec.26 R.A. 3927)</p>	<p>consultants in such special branches of chemical engineering as may, upon the recommendation of the Board and in the judgment of the Chairman of the Professional Regulation Commission (PRC), be necessary and indispensable for the country: Provided, however, That they do not engage in private practice at their own account as chemical engineers.</p> <p>Foreigners who, on the date of the approval of Republic Act No. 318, had been in the actual and bona fide practice of chemical engineering for at least five (5) years in the Philippines as certified by the Chairman of the Professional</p>	<p>communications engineering after an examination on terms of strict and absolute equality with the citizens, subjects, or national of said country, including the unconditional recognition of pre-requisite degrees issued by institutions of learning duly recognized by the Government of the Philippines.</p>
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	<p>evidence or other proof satisfactory to the Board showing that the applicant is competent to perform the service or activity for which said permit is sought, and that the issuance of such permit will not jeopardize the interest of any citizen of the Philippines duly registered as aeronautical engineer under this Decree: Provided, that such permit shall be subject to the rules and regulations of the Board, and may be suspended, revoked, or reissued by the Board in the manner prescribed for the suspension, revocation and reissuance of the certificate of registration. (Section 21, RA No. 1570)</p> <p>The Commission may, upon recommendation of the Board concerned, approve the registration</p>		<p>Regulation Commission.</p> <p>Foreigners who, on the date of the approval of Republic Act No. 318, had been in the actual and bona fide practice of chemical engineering in their respective countries for at least five (5) years: Provided, That no foreign chemical engineer shall be allowed to practice his profession in the Philippines unless the country of which he is a citizen or subject permits Filipino chemical engineers to practice their profession within its territorial limits</p>	
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	<p>and authorize the issuance of a certificate of registration with or without examination to a foreigner who is registered under the laws of his country: Provided, That the requirements for the registration or licensing in said foreign state or country are substantially the same as those required and contemplated by the laws of the Philippines and that the laws of such foreign country or state allow the citizens of the Philippines to practice the profession on the same basis and grant the same privileges as the subjects or citizens of such foreign state or country: Provided, further, That the applicant shall submit competent and conclusive documentary evidence, confirmed by the Department of Foreign Affairs showing</p>			
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	<p>that his country's existing laws permit citizens of the Philippine to practice the profession under the rules and regulations governing citizens thereof: Provided, finally, That the Commission may, upon recommendation of the Board concerned, and approval of the President, authorize the issuance of a certificate of registration without examination or a temporary special permit to practice the profession to any foreigner regardless of whether or not reciprocity exists in the practice of his profession between his country and the Philippines and under such conditions as may be determined by the Commission, if such foreigner is internationally known to be an outstanding expert</p>	<p>There is no restriction on advertising ,soliciting and marketing</p>		
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<p>Limitations and restrictions on the Practice of Profession</p>	<p>in his chosen profession or a well known specialist in any of its branches, and that his services are urgently necessary either for lack of inadequacy of local experts or if his services will promote the advancement of the profession in the Philippines. (Section 5 (j), Presidential Decree No. 223)</p> <p>Restriction on Advertising</p> <p>- He shall be dignified in explaining and discussing his work and shall refrain from self-laudatory advertising or propaganda.</p>	<p>He should, in the public interest and to maintain the standards of the profession, observe the principles of reasonable or adequate compensation for those engaged in agricultural engineering work, including those employed in subordinate capacities (Sec. 5 c Code of Ethics)</p> <p>He should not take away from another engineer a prospective employment after</p>	<p>A Chemical Engineer shall not indulge in self-laudatory advertisement nor make exaggerated untrue, or misleading statements in media or any public forum.</p>	<p>An Electronics and Communications Engineer shall not accept any other compensation, financial or otherwise, except from one interested party for a particular service or other services related therewith without the consent of all parties concerned.</p> <p>An Electronics and Communications Engineer shall not accept</p>
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<p>Restriction on Fee setting</p>	<p>He shall uphold the principle of appropriate and adequate compensation for those engaged in engineering profession, including those in the subordinate capabilities in the interest of public service and maintain the standards of profession.</p>	<p>becoming aware that definite steps have been taken by the latter toward consummation. (Sec. 5 g Code of Ethics)</p> <p>He should not resort to unfair competition by underbidding or reducing the usual fees after acquiring information as to the fees offered by the other engineers from similar services. (Sec. 5 h Code of Ethics)</p>	<p>A Chemical Engineer shall not accept compensation, financial or otherwise from more than one client or employer who is in the same line of business or has conflicting interest with the others, without the consent of all parties;</p>	<p>commissions or allowances directly or indirectly, from contractors, suppliers and all other parties dealing with his clients and/or employers in connection with the work for which he is responsible</p> <p>An Electronics and Communications Engineer shall not be financially interested in the bid or bids of contractors, suppliers and other interested parties participating in a competitive work or job on which he has been employed as engineer without full knowledge and consent of his clients or employers.</p> <p>Electronics and Communications Engineer shall uphold the principle of appropriate and adequate compensation for those engaged in the engineering profession, including those in the subordinate capacities, in the interest of public service and</p>
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	<p>He shall not compete, by underbidding through reduction in his normal fees on the basis of charges for work, after having been informed of the charges submitted by another engineer.</p>		<p>- He shall not accept compensation directly or indirectly from parties dealing with his client or employer except with the consent of his client or employer.</p> <p>- Fees are not regarded as being contingent if fined by courts or other public authorities as in the tax matters, or if determined based on the results of judicial proceedings or the findings of the governmental agencies.</p>	<p>maintenance of the standards of the profession.</p> <p>An Electronics and Communications Engineer shall not compete, by underbidding, through reduction in his normal fees on the basis of charges for work, after having been informed of the charges submitted by another engineer.</p> <p>Fees are not regarded as being contingent if fined by courts or other public authorities as in the tax matters, or if determined based</p>
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Exhibit D
Various Rules Governing the Practice of Professions Geodetic Engineering, Mechanical Engineering, Metallurgical Engineering, and Mining Engineering

	GEODETIC ENGINEERING	MECHANICAL ENGINEERING	METALLURGICAL ENGINEERING	MINING ENGINEERING
Rules on the Entry of Professionals	<p>No foreign geodetic engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Board of Geodetic Engineering law unless the country of which he is a citizen specifically permits Filipino geodetic engineers to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>The entry and stay of professionals are subject to the labor market tests and other</p>	<p>No foreign mechanical engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Board of Mechanical Engineering law unless the country of which he is a citizen specifically permits Filipino mechanical engineers to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>The entry and stay of professionals are subject to the labor market tests and other restrictions, to wit:</p> <p>Article XII, Sec. 14. Of the Philippine Constitution provides that the practice of profession in the</p>	<p>No foreign metallurgical engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Metallurgical engineering law unless the country of which he is a citizen specifically permits Filipino metallurgical engineer to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14. Of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these</p>	<p>No foreign mining engineer shall be admitted to examination, be given a certificate of registration or be entitled to any of the rights or privileges under the Mining Engineering Law of the Philippines unless the country of which he is a citizen specifically permits Filipino mining engineer to practice within its territorial limits on the same basis or citizens of such country (Section 42 CA 294 on Foreign Reciprocity).</p> <p>Article XII, Sec. 14. Of the Philippine Constitution provides that the practice of profession in the</p>

	<p>restrictions, to wit:</p> <p>"Article XII, Section 14 of the Philippine Constitution provides that the practice of profession in the Philippines shall be limited to Filipino citizens save in cases prescribed by law."</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code of the Philippines, as amended, provides that:</p> <p>"Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment. The</p>	<p>Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions ,Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired.</p> <p>Republic Act No, 5181 requires three (3) years of</p>	<p>Constitutional provisions, Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p>	<p>Philippines shall be limited to Filipino citizens save in cases prescribed by law.</p> <p>To operationalize these Constitutional provisions, Article 40 of the Labor Code, as amended, provides that: Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the department of Labor and Employment. The employment permit may be issued to a non-resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of</p>
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<p>Regulations on Recognition</p>	<p>employment permit may be issued to a non resident alien or to the applicant employer after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired."</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>No foreigner shall be admitted to examination or registration as geodetic engineer under this Act unless he proves in the manner provided for by the Rules of Court</p>	<p>residence in the Philippines before a foreigner can practice his profession.</p> <p>No foreign mechanical engineer or mechanic shall be allowed to practice mechanical engineering or be given a certificate of registration or be entitled to any of the privileges under this Act unless he can prove in the manner provided by the</p>	<p>Registration shall be required of the following classes of persons upon proper application for exemption with the Board of Metallurgical Engineering:</p> <p>Foreign consultants, engineers and technicians</p>	<p>application to perform the services for which the alien is desired.</p> <p>Republic Act No. 5181 requires three (3) years of residence in the Philippines before a foreigner can practice his profession.</p> <p>Practitioners in mining engineering engaged by the Republic of the Philippines for consultation or for specific purposes regarding the mining industry: Provided' That</p>
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	<p>that, by specific provisions of law, the country of which he is a citizen, subject or national, admit Filipino citizens to the practice of geodetic engineering after an examination on terms of strict and absolute equality with the citizens, subjects or national of said country, including the unconditional recognition or prerequisite degrees issued by institutions of learning duly recognized by the Government of the Philippines. (Section 31, RA No. 4374)</p>	<p>rules of Court or by specific provisions of law or regulations, that the country of which he is a subject or citizen, in the spirit of reciprocity, permits Filipino mechanical engineers and/or mechanics to practice within its territorial limits on the same basis as the subject or citizens of such country or state. (Sec. 39, RA No. 8495)</p> <p>The following shall be required to secure a Temporary/Special Permit from the Board subject to the approval by the Commission:</p> <p>Mechanical engineers, installation, commission or guarantee engineers from other countries called in for consultation or for a specific design or installation, project not requiring more than three(3) months residence in the Philippines in a twelve(12) month period: Provided, That such engineers are legally qualified to practice mechanical engineering in their own</p>	<p>called in by the Republic of the Philippines for consultation or for specific assignment or project;</p> <p>Foreign consultants, engineers and technicians employed by private firms for which the pertinent profession society certifies that no qualified Filipino is available, in which case the court may, in its discretion, allow them to practice without registration: Provided, That the private firm shows justification for the need of said consultants, engineers, technician to the satisfaction of the Board: Provided further, That the period of employment shall be for one (1) year extendable for another year but not to exceed three (3) years for any one individual.</p> <p>Employment of foreigners under paragraphs (a) and (b) shall be subject to the following conditions:</p> <p>That the applicant is of good reputation and moral</p>	<p>their practice shall be confined to such work only.</p> <p>Foreigners employed by private firms as technical consultants in branches of mining engineering, for which the pertinent professional society certifies that no qualified Filipino is available, the Board may, at its discretion, allow them to practice without registration subject to the following conditions: That the applicant's curriculum vitae shall be submitted to the Board on or before arrival in the country; That the applicant will not engage in private practice on his own account;</p> <p>i. That for every applicant one Filipino understudy who is registered under the provision of</p>
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		<p>country or state in which the requirements and qualifications for obtaining a certificate of registration are at least equal to or more than those specified in this Act as certified by the Board;</p> <p>Foreigners employed as technical officers, training officers or consultants in such special branches of mechanical engineering who, in the judgment of the Board are necessary and advantageous for the country particularly in the aspect of technology transfer, may be issued temporary permits: Provided, That such engagements have satisfied conditions, as may be deemed necessary as follows:</p> <p>a. Non-availability of a mechanical engineer and/or mechanic in the country who is competent, able and willing at the time of engagement to perform the service for which the foreigner is desired</p>	<p>character;</p> <p>That the applicant's curriculum vitae and detailed description of his assignment shall be submitted to the Board together with his application for exemption;</p> <p>That the applicant will not engaged in private practice on his own account;</p> <p>That for every applicant one Filipino understudy who is registered under P.D. No 1536 shall be employed by the private firm utilizing the services of such applicant for at least the duration of the foreign expert's tenure with said firm; and</p> <p>That the applicant is legally qualified to practice his profession in his own state or country and that the country of which he is a citizen or subject permits Filipino Metallurgical engineers and metallurgist to practice their profession within its territorial limits. (Section 13, P.D. No. 1536)</p> <p>The Commission may, upon</p>	<p>this Act be employed by the private firm utilizing the services of such applicant for at least the duration of the alien expert's tenure with said firm; and</p> <p>ii. That the exemption shall be good only for six months renewable for another six months at the discretions of the Board: Provided, That in case the applicant ceases to be employed in the categories provided in paragraphs (A) and (B) hereof, and engages in an occupation requiring registration as mining engineer, such person must</p>
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		<p>for;</p> <p>b. The foreigner must have been in prior employ of the engaging firm, or its foreign business partner, outside of the Philippines for a period of not less than one(1) year immediately preceding the date of his engagement;</p> <p>c. Any particular or specific engagement shall not be in excess of six(6) months but may be renewed once, if necessary, except when such engagement is for a newly established firm in which case the period of engagement may be for a longer term but not to exceed a total term of two(2) years.(Sec.31, RA No. 8495)</p>	<p>recommendation of the Board concerned, approve the registration and authorize the issuance of a certificate of registration with or without examination to a foreigner who is registered under the laws of his country: Provided, That the requirements for the registration or licensing in said foreign state or country are substantially the same as those required and contemplated by the laws of the Philippines and that the laws of such foreign country or state allow the citizens of the Philippines to practice the profession on the same basis and grant the same privileges as the subjects or citizens of such foreign state or country: Provided, further, That the applicant shall submit competent and conclusive documentary evidence, confirmed by the Department of Foreign Affairs showing that his country's existing laws permit citizens of the Philippine to practice the profession under the rules</p>	<p>be registered under the provisions of this Act: Provided, further, That those falling under paragraphs (A) and (B) of this section should first secure a certificate of exemption from the Board: And, provided, finally, That each private firm shall be allowed a maximum of three consultants at any one time.</p> <p>Petitioners who are registered mining engineers or are certified as mine, mill or quarry foreman under Act Number Two thousand nine hundred eighty-five, as amended, and under the rules and regulations promulgated thereunder, shall ipso-facto be recognized and</p>
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			<p>and regulations governing citizens thereof: Provided, finally, That the Commission may, upon recommendation of the Board concerned, and approval of the President, authorize the issuance of a certificate of registration without examination or a temporary special permit to practice the profession to any foreigner regardless of whether or not reciprocity exists in the practice of his profession between his country and the Philippines and under such conditions as may be determined by the Commission, if such foreigner is internationally known to be an outstanding expert in his chosen profession or a well known specialist in any of its branches, and that his services are urgently necessary either for lack of inadequacy of local experts or if his services will promote the advancement of the profession in the Philippines. (Section 5 (j), Presidential Decree No. 223)</p>	<p>registered under this Act, and shall be allowed to retain their certificates issued by the former Boards of Examiners.</p> <p>The Commission may, upon recommendation of the Board concerned, approve the registration and authorize the issuance of a certificate of registration with or without examination to a foreigner who is registered under the laws of his country: Provided, That the requirements for the registration or licensing in said foreign state or country are substantially the same as those required and contemplated by the laws of the Philippines and that the laws of such foreign country or state allow the citizens of the Philippines to practice the profession on the same basis and grant the same privileges as the</p>
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<p>Rules on Registration</p>	<p>Membership of a professional body is not a requirement for licensing or registration.</p> <p><i>Issuance of Certificate of registration</i></p> <p>A certificate of Registration for geodetic engineer shall be issued to any applicant who passes the examination after</p>	<p>Membership in a professional body is not a requirement for licensing or registration</p> <p><i>Issuance of Certificate of registration</i></p> <p>Certificate of registration shall be issued upon payment of the registration fee to any applicant who has satisfactorily met all the requirements for the particular grade he is</p>	<p>Presidential Decree No. 223)</p> <p>Membership in a professional body is not a requirement for licensing or registration.</p> <p>Issuance of Certificate of registration – The Board of Metallurgical Engineers shall issue certificates of registration to:</p> <p>Examinees who have successfully passed the board examinations for metallurgical engineers and</p>	<p>subjects or citizens of such foreign state or country: Provided, further, That the applicant shall submit competent and conclusive documentary evidence, confirmed by the Department of Foreign Affairs showing that his country’s existing laws permit citizens of the Philippine to practice the profession under the rules and regulations governing citizens thereof: Provided, finally, That the Commission may, upon recommendation of the Board concerned, and approval of the President, authorize the issuance of a certificate of registration without examination or a temporary special permit to practice the profession to any foreigner regardless of whether or not reciprocity exists in the</p>
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	<p>the approval of his ratings and upon payment of the required fees: Provided, That upon payment of the required fees, the Board may issue within a period of not exceeding two years after the approval of this act, a certificate of registration as geodetic engineer, without the necessity of undergoing the examination herein prescribed, to any applicant , who:</p> <p style="text-align: center;">Is a holder of a registration certificate as private, or mineral or cadastral land surveyor;</p> <p style="text-align: center;">Is a graduate of recognized course in surveying and has passed the Civil Service examination as assistant surveyor, or assistant mineral</p>	<p>registering.</p> <p style="text-align: center;">All certificate of registration shall show the full name of the registrant, shall have a serial number , and shall be signed by all the members of the Board and shall be attested by the official seal. The issuance of a certificate of registration by the Board shall be evidence that the person named therein is entitled to all he privileges of a registered mechanical engineer, certified plant mechanic, as the case maybe, while the said certificate remains unnerved or unsuspending.</p> <p style="text-align: center;">The Board shall not issue a certificate of registration to any person convicted by court of competent jurisdiction of any crime involving moral turpitude, or immoral or dishonorable conduct or any person of unsound mind declared by a court of competent jurisdiction.</p> <p style="text-align: center;">All registrants under this Act shall be required to</p>	<p>have complied with the requirements of the rules and regulations prescribed by the Board:</p> <p style="text-align: center;">Persons who have applied for registration without examination and who posses the qualifications listed in Section 16 P.D. No. 1536 and have complied with the requirements of the rules and regulations prescribed by the Board; and</p> <p style="text-align: center;">Applicants for Metallurgical Plant Foreman as approved by the Board. All certificates of registration shall state the full name of the registrant, shall have a serial number and shall be signed by all members of the Board, the Commissioner of the PRC, and shall be attested to by the official seal of the Board: Provided, that the issuance of certificate of registration by the Board to a registrant shall be evidence that the person named therein is entitled to all rights and privileges of a</p>	<p>practice of his profession between his country and the Philippines and under such conditions as may be determined by the Commission, if such foreigner is internationally known to be an outstanding expert in his chosen profession or a well known specialist in any of its branches, and that his services are urgently necessary either for lack of inadequacy of local experts or if his services will promote the advancement of the profession in the Philippines. (Section 5 (j), Presidential Decree No. 223)</p> <p style="text-align: center;">Membership in a professional body is not a requirement for licensing or registration.</p>
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	<p>land surveyor, or mineral land surveyor, or senior cartographer, supervising computer, and has practiced field surveying for at least twenty years in and/or out of the government service; or</p> <p>Is a commissioned line officer of the Bureau of coast and geodetic Survey or a retired offer of the said Bureau who has at least five (5) years of continuous practice service as a commissioned line officer at the time of retirement.</p> <p>Every certificate of registration shall show the full name of the registrant with a serial Number and shall be signed by the members of the</p>	<p>take professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of profession.</p> <p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three (3) years and/or compliance with the continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p>	<p>Registered Metallurgical Engineer or Metallurgical Plant Foreman while said certificate remains unrevoked or unsuspended. (Sec. 20 P.D. No. 1536)</p> <p>Every certificate of registration shall show the full name of the registrant with a serial number , and shall be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p> <p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for</p>	<p><i>Issuance of Certificate of registration</i></p> <p>A certificate of Registration for mining engineer shall be issued to any applicant who passes the examination after the approval of his ratings and upon payment of the required fees.</p> <p>Every certificate of registration shall show the full name of the registrant with a serial number , and shall be signed by the members of the Board and duly authenticated by the seal of the Board.</p> <p>The Board may refuse to issue certificate of registration to any person convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude, or to any person guilty of</p>
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	<p>Board and duly authenticated by the seal of the Board.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p> <p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of</p>	<p>imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are provided by the APO's.</p> <p>No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of mechanical engineering: Provided, however, That persons properly registered and licensed as mechanical engineers may form and obtain registration with Security and Exchange Commission of a firm, partnership or association using the term "Mechanical Engineers" and or "Architect and Mechanical Engineers" but nobody shall be a member, partner or associate unless he is a duly registered and licensed mechanical engineer, and</p>	<p>three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are provided for by the APO's.</p> <p>A firm, co-partnership, company, corporation or association can practice metallurgical engineering in the Philippines, Provided</p>	<p>unprofessional, unethical, immoral or dishonorable conduct, or to any person of unsound mind.</p> <p>All registrants under this Act shall be required to take a professional oath before the Board or before any person authorized to administer oaths, before commencing the practice of the profession.</p> <p><i>Period of validity of a Professional license</i></p> <p>The statement of the period of validity of the professional license declares the payment of the annual registration fees for three(3) years and/or compliance with the Continuing Professional Education (CPE) and the validity of the Certificate of registration.</p>
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	<p>registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birthdate in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are provided for by the APO's.</p>	<p>the members who are mechanical engineers shall only render work and services proper for mechanical engineers as defined in this Act.</p> <p>Professional firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>	<p>that such practice is carried out by metallurgical engineer holding valid certificates of registration issued by the Board and in the Regular employ of said firm, co-partnership, company, corporation or association. (Sec.25 P.D. No. 1536)</p> <p>Professional Firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulations Commission.</p> <p>The use of international or foreign firm names are regulated by another government agency and not by the PRC.</p>	<p>registration.</p> <p>The license unless sooner revoked or suspended for cause, shall be valid up to the licensee's birth date in the year indicated and shall be renewed thereafter but not later than the twentieth day of the month following the date of expiration. Otherwise penalties shall be imposed.</p> <p>Membership to professional bodies is the main concern of the respective accredited professional organization (APO). Qualification and requirements for membership are provided for by the APO's.</p> <p>Professional Firms are regulated by another government agency specifically the Securities and</p>
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	<p>The practice of geodetic engineering is a professional service, admission to which shall be determined upon the basis of individual and personal qualifications. No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of geodetic engineering;</p> <p>Provided:</p> <p>That this will not be construed as preventing any combination of geodetic engineers from using the term "Geodetic Engineer";</p> <p>Provided, further, That the majority of the members of the partnership, firm or association are</p>			<p>Exchange Commission (SEC) and not by the Professional Regulations Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>
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	<p>properly registered and licensed geodetic engineers.</p> <p>Members of the partnership, firm or association are responsible for their individual acts. (Section 28, RA No.4374)</p> <p>Professional firms are regulated by another government agency specifically the Securities and Exchange Commission (SEC) and not by the Professional Regulation Commission.</p> <p>The use of international or foreign firm names is regulated by another government agency and not by the Professional Regulation Commission.</p>			
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<p>Regulations for Practice</p> <p>Restrictions on advertising solicitation and marketing</p>	<p>Commission.</p>	<p>He shall not advertise in self-laudatory language, or in any other manner derogatory to the dignity of the profession.</p> <p>He shall not be joining a firm, partnership, association, or corporation registered prior to the approval of R.A. 4374, one of whose purposes is to engage in geodetic engineering work without actually or actively practicing geodetic engineering in or in behalf of said firm, partnership, association or corporation, when the same is in actual prosecution of said purpose.</p>	<p>He should be entitled to a just and fair compensation for services rendered. In the computation of such compensation, the period of time consumed, the knowledge, experience, ability and reputation brought into play shall be taken into consideration, every factor to be accorded such weight as shall be just and reasonable in each specific case. (Rule 9 Code of Ethics)</p> <p>He shall uphold the principle of appropriate and adequate compensation for those engaged in engineering profession, including those in the subordinate capacities in the</p>	
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<p>Restrictions on fee setting</p>	<p>He shall not advertise in self-laudatory language, or in any other manner derogatory to the dignity of the profession.</p> <p>He shall not be joining a firm, partnership, association, or corporation registered prior to the approval of R.A. 4374, one of whose purposes is</p>	<ul style="list-style-type: none"> • Mechanical engineer shall not attempt to compete with another geodetic engineers or junior engineers for employment on the basis of professional charges, by reducing his usual rate and in this manner, attempting to underbid him after knowing the rate offered by another geodetic engineer or junior engineer. • He shall not join a firm , partnership, association, or corporation registered prior to the 	<p>interest of public service and maintain the standards of profession.</p> <p>He shall not compete, by underbidding through reduction in his normal fees on the basis of charges for work, after having been informed of the charges submitted by another engineer.</p> <p>He shall exercise fairness, justice and integrity, when negotiating and/ or executing contracts between his clients and/or employer and the contractors and other parties shall not be financially interested in any bid or bids of contractors, suppliers or other interested parties in the performance of work which he is responsible.</p> <ul style="list-style-type: none"> • He should be entitled to a just and fair 	
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	<p>to engage in geodetic engineering work without actually or actively practicing geodetic engineering in or in behalf of said firm, partnership , association or corporation, when the same is in actual prosecution of said purpose.</p>	<p>approval of R.A. 4374, one of whose purposes is to engage in geodetic engineering in or in behalf of said firm, partnership, association, or corporation, when the same is in actual prosecution of said purpose.</p>	<p>compensation for services rendered. In the computation of such compensation, the period of time consumed, the knowledge, experience, ability and reputation brought into plan shall be taken into consideration, every factor to be accorded such weight as shall be just and reasonable in each specific case. (Rule 9 Code of Ethics)</p> <ul style="list-style-type: none"> • He shall uphold the principle of appropriate and adequate compensation for those engaged in engineering profession, including those in the subordinate capacities in the interest of public service and maintain the standards of profession. • He shall not compete, by underbidding through reduction in his normal fees on the basis of charges for work, after having been informed of the charges submitted by 	<p>The mining engineer may publish or disseminate professional calling cards or advertise his expertise provided that the content and information is true and not exaggerated.</p>
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	<p>The geodetic engineer is entitled to a just and fair compensation for his services. In the computation of such compensation., the period of time consumed , his knowledge, skill, experience, and reputation, and the depreciation of instruments and materials used shall be considered and accorded such weight as is just and reasonable.</p> <p>He shall accept compensation, financial or otherwise, for his services from his client or employer only.</p> <p>He shall not compete with another geodetic engineers or junior</p>		<p>another engineer.</p> <ul style="list-style-type: none"> • He shall exercise fairness, justice and integrity, when negotiating and/ or executing contracts between his clients and/or employer and the contractors and other parties shall not be financially interested in any bid or bids of contractors, suppliers or other interested parties in the performance of work which he is responsible. 	<p>He shall uphold the principle of appropriate and adequate compensation for those engaged in engineering profession, including those in the subordinate capabilities in the interest of public service and maintain the standards of profession.</p>
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	<p>geodetic engineers for employment on the basis of professional charges, by reducing his usual rate and this manner, attempting to underbid him after knowing the rate offered by another geodetic engineer or junior geodetic engineer.</p>			<p>standards of profession.</p> <p>He shall not compete, by underbidding through reduction in his normal fees on the basis of charges for work, after having been informed of the charges submitted by another engineer.</p>
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