



Council of the  
European Union

008997/EU XXVI. GP  
Eingelangt am 24/01/18

Brussels, 22 January 2018  
(OR. en)

5544/18  
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#### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 19 January 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: SWD(2018) 32 final

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Subject: JOINT STAFF WORKING DOCUMENT The EU Special Incentive  
Arrangement for Sustainable Development and Good Governance  
(‘GSP+’) assessment of the Philippines covering the period 2016 - 2017  
Accompanying the document Report from the Commission to the European  
Parliament and the Council Report on the Generalised Scheme of  
Preferences during the period 2016 - 2017

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Delegations will find attached document SWD(2018) 32 final.

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Encl.: SWD(2018) 32 final



HIGH REPRESENTATIVE  
OF THE UNION FOR  
FOREIGN AFFAIRS AND  
SECURITY POLICY

Brussels, 19.1.2018  
SWD(2018) 32 final

## **JOINT STAFF WORKING DOCUMENT**

**The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of the Philippines covering the period 2016 - 2017**

### *Accompanying the document*

**Report from the Commission to the European Parliament and the Council**

**Report on the Generalised Scheme of Preferences during the period 2016 - 2017**

{COM(2018) 36 final} - {SWD(2018) 23 final} - {SWD(2018) 24 final} -  
{SWD(2018) 25 final} - {SWD(2018) 26 final} - {SWD(2018) 27 final} -  
{SWD(2018) 28 final} - {SWD(2018) 29 final} - {SWD(2018) 30 final} -  
{SWD(2018) 31 final}

# The Philippines GSP+ Assessment

## 1. Country Overview

In 2016, the Philippines (population 103.2 million) overtook China and Vietnam in economic growth (6.9%) resulting in further improvements in addressing poverty, hunger and unemployment, and remains on the upward track in terms of macro-economic policy indicators. Yet, the Philippines' export-oriented sector remains weak and dependent on a few countries and sectors.

President Duterte, sworn in on 30 June 2016, won the elections on a programme to fight crime (drug abuse and corruption) and poverty and on the promise to address the violent conflicts in the country. The Government issued a '10 point socio-economic plan' including investment in human capital development through health, education and employment, improvement of social protection and strengthening of the implementation of reproductive and maternal health measures.

Economic reforms are having an effect and have helped to raise the per capita income to USD 3,023 or USD 8,297 at PPP value. Poverty fell from 25.2% in 2012 to 21.6% in 2015, taking 3.7 million Filipinos out of poverty. Extreme poverty went down from 5.8% to 5.1%. According to the World Bank, the pace of poverty reduction will accelerate if economic growth becomes more inclusive, lifting another million Filipinos out of poverty. Unemployment figures continue to fall (from 7.0 % in 2014 to most recently 5.6%). The Government's ambition is to reach upper middle income status by 2022. Nevertheless, incidence of hunger remains high (9.5%); and governance issues and natural disasters continue to challenge the country's development.

Bringing peace to the longstanding conflict-ridden parts of the country – the Mindanao Peace Process and the talks with the Communist Party of the Philippines, the New People's Army as well as the National Democratic Front – has been an important issue for President Duterte. In July 2016, the President approved a Comprehensive Peace Road Map which aims at completing the negotiations with all rebel groups, the implementation of the signed agreements, and delivery of socio-economic development assistance in conflict-affected areas. One of the most notable developments has been the negotiations on the Bangsamoro Basic Law (BBL), which resulted in the Bangsamoro Transition Committee approving a final draft of the proposed BBL in June 2017. It has been submitted to Congress.

After a promising start in the second half of 2016, negotiations with the Communist Party of the Philippines have been called off. In response to attacks by ISIS-affiliated terrorist groups in the city of Marawi, President Duterte on 23 May 2017 declared a 60-day martial law for the island of Mindanao, which was subsequently extended until the end of 2017. The conflicts in the Philippines continue to have a negative human rights impact, in particular on indigenous people and have led to a high number of displaced people.

During the reporting period 2016-2017, national and international actors have expressed concern about the human rights situation in the country, notably as regards the high number of killings related to the Government's fight against illegal drugs, the lack of investigations of these killings, the situation of human rights defenders and the Government's intention to re-introduce the death penalty and to lower the age for criminal responsibility to 9 years.

A GSP+ monitoring mission to the Philippines, which also visited the island of Palawan, took place from 26 January to 2 February 2017.

## 2. Compliance with GSP+ Obligations

### 2.1. UN Human Rights Conventions (Conventions 1-7)

#### Status of ratification and reporting

The Philippines maintains ratification of the seven UN human rights conventions. The Philippines has submitted all due reports on CESCER, CEDAW and CAT. However, it has not yet complied with reporting obligations on CERD (due since 4 January 2012) and CCPR (due since 31 October 2016). The latest country report under the CRC was due on 19 September 2017.

The Philippines is a member of the Human Rights Council (HRC) for the period 2016-2018. Currently, four Special Mandate Holders as well as two on the Treaty Committee are of Filipino nationality.

On 8 May 2017, the Philippines underwent its third Universal Periodic Review (UPR) under the auspices of the HRC, with nearly 100 countries taking the floor. On 22 September 2017, the HRC adopted the outcomes of the UPR. Of the 257 recommendations received, the Philippines supported 103 recommendations, and noted 154 recommendations. The Philippines noted recommendations related to, *inter alia*, the war on drugs, extrajudicial killings, refraining from reinstating the death penalty, lowering the age for criminal liability, and granting the unconditional visit of the Special Rapporteur on extrajudicial killings. Recommendations accepted by the Philippines included those related to, *inter alia*, rights of women and children, the national human rights framework, human rights and counter-terrorism, rights to life, liberty and security of persons, administration of justice, including impunity and the rule of law, rights to education and health.

#### Status of implementation of the conventions

##### *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*

The most recent report from the UN Committee on Elimination of Racial Discrimination is from September 2009 and the latest country report was due in January 2012, but has so far not been submitted.

A National Commission on Indigenous Peoples (NCIP) has been established. However, indigenous peoples report that they continue to suffer from social discrimination, economic marginalisation and political disempowerment. The Committee on Economic, Social and Cultural Rights, in its concluding observations from 26 October 2016 expressed concern over the rights of indigenous peoples to ancestral land (for example, conflicts between the Indigenous Peoples' Rights Act and legislation related to mining and forestry, ineffective implementation of demarcation and registration of indigenous peoples' territories and delay in adopting the Land Use Bill); the limited mandate and capacity of the National Commission on Indigenous Peoples and doubts on its ability to function as a truly independent body; failure to uphold the rights to free, prior and informed consent; displacement of indigenous peoples due to, *inter alia*, armed conflict and extractive and logging operations; and limited access of indigenous peoples to health care, education and other basic services.

There is a nexus between the armed conflict and development projects, as the Armed Forces of the Philippines (AFP) and paramilitary groups have historically been tasked with protecting

private and public companies engaged in the extractives industries which have often been targeted by the New People's Army (NPA). The 2006 Executive Order 546 legitimized the creation of paramilitary groups and private armies. An independent commission established in 2010 to deal with private armed groups (PAGs) has so far not made any concrete recommendations on how to deal with private groups or armies. Executive Order 546 has not been revoked neither under the Aquino nor under the Duterte administrations. So far the Government has pointed to policies, guidelines and procedures undertaken to dismantle private armies. However, it is not clear what results these have had. Displacement of indigenous peoples due to 'militarisation' was one of the issues cited by the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani<sup>1</sup>, during his monitoring mission to the Philippines in 2015.

The Free and Prior Informed Consent (FPIC) clause under the Indigenous Peoples Rights Act is a critical component for indigenous people to have influence over business actions in their communities. The Government states that FPIC is ensured through the around 2000 indigenous people mandatory representatives in local decision-making bodies, the NPIC's 12 Regional Hearing Officers and the Clerk of Commission who are tasked to hear and provide legal aid to indigenous people (as of 2015, 74 of 192 filed cases were resolved). Certificates of Precondition, attesting to the grant of FPIC, have been issued in 138 cases by the indigenous peoples communities concerned. The NPIC also has established an Indigenous Peoples Legal Assistance Programme. Government line agencies mandated to provide basic services are also said to apply the principle of FPIC throughout programmes.<sup>2</sup>

With the help of an EU-funded project, an indigenous people desk has been established in the Mindanao Business Council in May 2015, which aims to facilitate stakeholder consultation on FPIC with indigenous communities. A database of relevant information on the ancestral domain areas, conflict-mapping, resource and development will also be made available. If this platform for consultation is effective, NCIP may consider replication in other regions.

### *International Covenant on Civil and Political Rights (CCPR)*

The most recent report from the UN Human Rights Committee dates back to November 2012. The latest country report was due on 31 October 2016, but so far has not been submitted.

In the context of the Universal Periodic Review (UPR) of the Philippines in May 2017, the United Nations country team, referring to relevant supported recommendations, stated that the Government's anti-drug campaign had led to alleged 'drug users and pushers' being killed. It added that there was an urgent need to stop all extrajudicial killings and any incitement to commit such killings. Furthermore, the Government's methods of combating the use of illegal drugs must be brought into line with international standards. The UN Human Rights Committee expressed concern at the continued perpetration of extrajudicial killings and enforced disappearances. It was particularly concerned at the proliferation of private armies and vigilante groups that were partly responsible for those crimes.

The Committee on Economic, Social and Cultural Rights was deeply concerned that declarations by high-ranking officials in the context of the war on drugs may be seen as

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<sup>1</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16280>

<sup>2</sup> For example the Joint Memorandum Circular (No 2013-01) on the Guidelines on the delivery of Basic Health Services for indigenous peoples and through programmes such as the Indigenous Peoples Education Programme and the Modified Conditional Cash Transfer for Indigenous Peoples.

encouraging and legitimising violence against drug users, including extrajudicial killings and that notably in the months leading up to its October 2016 report the number of extrajudicial killings of drug suspects had drastically increased. A large number of people have been arrested and detained in already overcrowded prisons.

Extra-judicial killings and widespread impunity have been a long-standing problem in the Philippines as highlighted in the 2016 GSP Report. However, the large number of killings in the so called 'war on drugs' initiated after the election of President Duterte and a number of his statements raise serious questions regarding the respect of human rights and instigating impunity.

The fight against illegal drugs and drug-related crimes is a key priority of the Government, motivated by a drug addiction problem alleged to even threaten national security<sup>3</sup>. The war on drugs has mainly been spearheaded through the Government's so-called 'Double Barrel' campaign targeting more common drug users and pushers ('Project Tokhang') as well as 'High Value Targets'. According to Government figures, from 1 July 2016 to 27 November 2017, 79,193 anti-drug operations were conducted by police resulting in 118,287 persons arrested and 3,967 persons killed, as well as 312 police officers killed or wounded.<sup>4</sup> Over 1.2 million persons are reported to have 'surrendered' peacefully as drug users or pushers. According to the Government, from 1 July 2016 to 16 June 2017 there have been 12,833 homicide cases, of which 2,098 reported to be drug-related, 2,535 not drug-related and 8,200 still under investigation. However, the number of killings in the country had already gone up from 10,000 to 16,000 per year during the period of 2009-2015, i.e. under previous administrations.

The war on drugs was temporarily suspended in February 2017, but resumed in March 2017 with different instructions. On 6 March 2017, the Government issued Executive Order No 15 which created an Inter-Agency Committee on Anti-Illegal Drugs to ensure a more unified and integrated approach to anti-drug efforts based on enforcement, justice, advocacy and rehabilitation and integration. Also in March 2017, Command Memorandum Circular No 17-2017 was issued containing guidelines for the Philippine National Police (PNP) in the conduct of the so called 'Double Barrel: Reloaded' and 'Project Tokhang: Revisited'. Following the issuance of this Circular, the intensity of the 'war on drugs' and the rate of drug related killings, including during police operations have allegedly decreased. On 10 October 2017, President Duterte signed a memorandum according to which the Philippine Drug Enforcement Agency should henceforth be the sole agency to conduct anti-drug operations. Subsequently, the PNP has ordered the termination of Oplan Tokhang and halted the PNP's anti-illegal drug operations, including Oplan Double Barrel and the drop box system of anonymously reporting drug suspects in local communities (barangays).

Claims by the Government regarding the conduct of the fight against illegal drugs stand in contrast to reports and statements by national and international actors.<sup>5</sup> Observers estimate

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<sup>3</sup> According to the Government there are 4 million drug users, although the Drug Enforcement Agency had previously estimated a figure of 1.8 million.

<sup>4</sup> <http://pia.gov.ph/realnumbers/socialcards>

<sup>5</sup> See inter alia 'Country Reports on Human Rights Practices for 2016' by the United States Department of State of 3 March 2017; report by the High Commissioner for Human Rights of 11 September 2017; Amnesty International report 'If you are poor you are killed – extrajudicial executions in the Philippines' war on drugs' from 31 January 2017; Human Rights Watch 'Licence to Kill' from 2 March 2017; statements made at the Philippines' UPR, including a joint statement by 39 UN members at the 36<sup>th</sup> Human Rights Council.



that between July 2016 and September 2017, between 8,000 and 13,000 people have been killed in the campaign against illegal drugs. It is reported that many of the killings during law enforcement operations cannot be considered to have occurred in legitimate self-defence and that several of the drug-related killings outside law-enforcement operations were perpetrated by state security services<sup>6</sup>. There are also cases reported where the use of legitimate self-defence appears implausible (for example, the killing of Mayor Rolando Espinosa in his jail cell and of the minor Kian Loyd delos Santos).

In this context, serious concerns have been raised about whether all killings are promptly and effectively investigated in an impartial and transparent manner, allowing for prosecution of those responsible. This includes in particular deaths that occurred during law-enforcement operations. On 15 May 2017, the Philippine National Police issued a Memorandum instructing police to promptly investigate homicide cases. However, according to a publication by the Department of Justice only 71 'drug-war' related complaints had been processed as of September 2017, of which 45 concerned killings during law enforcement operations (of which 25 dismissed, 7 pending and 13 filed in court) and 26 where the victim was an alleged drug suspect killed outside police enforcement operations.<sup>7</sup> Following the killing of Kian Loyd delos Santos and other minors, the Senate adopted a resolution in September 2017 calling on the Government to stop the killing of children and to conduct investigations.<sup>8</sup>

To deal with the large number of drug-related cases, the Supreme Court has authorized the 965 national courts across the country to handle drug cases and had ordered an additional 240 courts to also handle them.

On 24 February 2017, Senator Leila de Lima, former Secretary of Justice and former Chair of the Human Rights Commission, and one of the most outspoken critics of the 'war on drugs', was arrested for alleged involvement in drug trafficking. Several human rights organisations qualified her arrest as a politically motivated maneuver. In this respect, there are also a number of other actions involving the Commission on Human Rights (challenges to its independence and budgetary autonomy), the Chief Justice, the Ombudsman and several Senators that could be seen as attempts to silence critics.

Extrajudicial killings are not limited to the war on drugs. In the May 2017 UPR report the Committee on Economic, Social and Cultural Rights expressed concerns about the continuing cases of harassment, disappearance, threats and killings of human rights defenders. Since 2012, at least 147 human rights defenders have reportedly been killed. In 61 cases, members of the state security forces have been blamed for the assaults, half of these belonging to the military. Thirteen cases have been linked to private security providers and security guards.

Although a national law against enforced disappearance is in effect, the Philippines has not yet signed nor ratified the UN Convention for the Protection of all Persons from Enforced Disappearance. Under Executive Order 35 a Technical Working Group has been mandated to examine alleged extrajudicial killings, media killings and enforced disappearances. A Task Force USIG has also investigated such cases. According to the Government this work has

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<sup>6</sup> See also 'Country Reports on Human Rights Practices for 2016' by the United States Department of State of 3 March 2017.

<sup>7</sup> 'Inventory of murder and homicide cases allegedly related to the Government's campaign against illegal drugs' by the Department of Justice as quoted by Philstar, Inquirer and Rappler on 8 September 2017.

<sup>8</sup> Senate resolution 516 (dated 17 September 2017).

resulted in some 18 convictions, over 100 cases in the courts, 65 cases of dismissals or acquittals and over 69 'cold cases'. However, there has been criticism that the definition of extrajudicial killings in Executive Order 35 is too narrow and not in line with the UN Convention on Enforced Disappearances.

The EU-Philippines Justice Support Programme, which ran from 2013 to early 2017, provided support to the implementation of the 2012 Administrative Order 35 (creating the inter-agency committee on extra-legal killings, enforced disappearances, torture and other grave violations of the right to life, liberty and security of persons) and to developing murder investigation, forensic and operational guidelines and manuals as well as to providing training to prosecutors and the police.

In the framework of the 2017 UPR, the United Nations country team stated, that, following the May 2016 elections, harassment and attacks against media personnel and citizen commentators had spiked. On 11 October 2016, Administrative Order 1 was signed creating the Presidential Task Force on Media Security (PTFoMS). In March 2017, the PTFoMS reported a "marked improvement in media worker security" under the Duterte administration, "owing largely to the proactive measures that are now in place to ensure a safer environment for members of the working press". The PTFoMS reportedly has a total of 174 old cases in its inventory representing journalist killings beginning in 1986 until May 2016.<sup>9</sup> Killings of journalists still occurred during the reporting period.

Another area of serious concern is the possible reintroduction of the death penalty. Capital punishment was abolished in the Philippines in 2006 during the administration of President Macapagal-Arroyo. The House of Representatives passed a bill in March 2017 to reinstate the death penalty for drug-related offenses. If passed into law, the reinstatement of the death penalty would constitute a violation of the CCPR's Second Optional Protocol which the Philippines ratified in 2007.<sup>10</sup> The bill is now with the Senate, but has not been considered to be a priority legislation. While positions in the Senate remain unclear, the reintroduction of the death penalty seems to remain a priority for the President.

#### *International Covenant on Economic, Social and Cultural Rights (CESCR)*

In October 2016, the UN Economic and Social Council adopted its Concluding Observations on the combined 5<sup>th</sup> and 6<sup>th</sup> periodic reports of the Philippines regarding the implementation of the CESCR. Principal subjects of concern and recommendations included capacity-building for the Commission on Human Rights and a request for adoption of the Commission on the Human Rights Charter; protection of human rights defenders and of indigenous peoples; the fight against corruption; non-discrimination; rights of persons with disabilities; equality between men and women; unemployment and underemployment; right to just and favourable conditions of work; rights to social security; protection of family; birth registration; economic exploitation of children, violence against women and girls; trafficking in human beings; poverty; the right to adequate food and nutrition; right to housing; sexual and reproductive health; policy towards drug users; the right to education; and internet access.

Despite economic growth, poverty remains a challenge with 5.1% of the population being considered to live in extreme poverty. The highest proportion of the poor is found in the

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<sup>9</sup> [https://www.facebook.com/pg/Presidential-Task-Force-on-Media-Security-808916312584334/photos/?ref=page\\_internal](https://www.facebook.com/pg/Presidential-Task-Force-on-Media-Security-808916312584334/photos/?ref=page_internal)

<sup>10</sup> [http://www.ohchr.org/Documents/Countries/PH/OpenLetterHC\\_DeathPenalty.pdf](http://www.ohchr.org/Documents/Countries/PH/OpenLetterHC_DeathPenalty.pdf)



Autonomous Region of Muslim Mindanao. As of present, there is no right to food and nutrition law.

As of July 2017, the unemployment rate was down to 5.6%, but the ILO estimated that 38.3% of workers work in the informal economy and do not have access to benefits and employer-mandated social protection. A conditional cash transfer program has been put in place and benefitted 4.4 million people in 2016.

President Duterte's 10-point socio-economic agenda includes measures to address these issues and priorities are reflected in the budget for 2017. This includes increases in the allocations for healthcare (+17%), education (+31%), infrastructure (+14%), and science & technology (+14%). Overall 40% of the budget is allocated to social services (education, healthcare, social welfare) while 27.6% is allocated to economic services (infrastructure, agriculture and rural sectors, and jobs and livelihood). In the proposed budget for 2018, this trend continues.

The Philippines is a source country and, to a lesser extent, a destination and transit country for men, women, and children subjected to sex trafficking and forced labour. The US State Department's Trafficking in Persons Report of 2016 noted that "the Government of the Philippines fully meets the minimum standards for the elimination of trafficking". During the reporting period, the Government convicted 42 traffickers, including five convictions for online child sex trafficking and two for forced labour. In an effort to prevent trafficking of migrant workers, the government increased its funding for the Commission on Filipinos Overseas (CFO) to facilitate anti-trafficking prevention campaigns for migrant workers. According to the Inter-Agency Council Against Trafficking (IACAT), there have been 183 convictions since the year 2005, involving 206 persons involved in trafficking in human beings. The Government has set up an interagency mechanism, expanded the anti-trafficking law and enhanced coordination.

There is a high level of maternal death, which by far exceeds the Millennium Development Goals' (MDG) target. One out of four children under five is malnourished. The Government has made serious efforts to increase universal healthcare in the country, showing promising results: public expenditure on health increased more than fivefold, from 26.3 billion PhP (EUR 470 million) in 2010 to 145.7 billion PhP (EUR 2.8 billion) in 2017. Similarly, enrolment in the national health insurance has increased through subsidising contributions of the (40%) poorest and now stands at 92% in 2015, up from 62% in 2010.

A Universal Health Care House Bill 5784 adopted by Congress (but not yet by the Senate) would give Filipinos access to a full spectrum of health services, from health promotion to prevention, treatment, rehabilitation and palliative care. The Government set ambitious targets for improving health including to bring life expectancy from 69 to 71 (males) and 75 to 77 (females), reduce maternal mortality from 221 to 90, infant mortality from 23 to 15 and under five mortality from 31 to 22 by 2022.

The Government has introduced a K-12 education system and is considering encouraging more vocational training and 'apprenticeship' schemes to facilitate the matching of graduates with the job market, but a bill on the topic did not pass the 16<sup>th</sup> Congress and was reintroduced in the 17<sup>th</sup> Congress. The 17<sup>th</sup> Congress so far passed only a few laws but these include a Free Higher Education for All Act, an Anti-Hospital Deposit Law for Emergency Cases and a Free Internet Access in Public Places Act.

### *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

On 25 July 2016, the UN Committee on the Elimination of Discrimination against Women published its Concluding Observations of the 7<sup>th</sup> and 8<sup>th</sup> periodic reports regarding implementation of the CEDAW. Principal areas of concern and recommendation include: ensuring the full implementation of the CEDAW, improvements to be made to the legislative framework, access to justice, capacity-building for the Philippine Commission on Women, fight against gender-based violence against women and trafficking and exploitation of sex workers, participation in public life, education, employment, health as well as rights of women migrant workers. During the 2017 UPR the Philippines accepted the recommendations related to sexual orientation and gender.

The Philippines also ratified the Optional Protocol to the CEDAW on 12 November 2003. In August 2009, the Magna Carta of Women (Republic Act 9710) was adopted. The law has created a Gender Ombudsman under the Commission on Human Rights which specifically handles women's rights concerns. The Philippines is one of the top countries in the world to have narrowed the gender gap in education, decision-making positions and participation in economic opportunities. In 2016, the Philippines ranked number 7 in the World Economic Forum's Global Gender Gap Index.

Reproductive health remains a concern. In 2016, the Philippine annual population growth rate was estimated at 1.7%. The Responsible Parenthood and Reproductive Health Law, enacted in April 2014, ensures people's access to reproductive health services. However, the constitutionality of this law was challenged by the Supreme Court ruling denying the right of access to reproductive health services to children below the age of 18.

In its submission to the 2017 UPR, the Committee on the Elimination of Discrimination against Women noted that the harmonisation of national legislation with the Magna Carta of Women remained pending, including amendments to the Family Code, the Penal Code, the Anti-Rape Law, the Anti-Sexual Harassment Act and the Code of Muslim Personal Laws. The Committee noted with concern the delay in the adoption of a bill repealing the provision of the Family Code recognising the supremacy of a husband's decision over that of his wife in respect of community property, the exercise of parental authority and guardianship.

The Committee was concerned about the limited scope of the Anti-Violence against Women Act, which focused mainly on domestic violence by intimate partners and recommended expediting the amendment of the Anti-Rape Law incorporating lack of consent as a primary element in the definition of rape. The Committee also recommended raising the minimum age of sexual consent, which was set too low, at 12 years, to at least 16 years.

An Anti-Discrimination Bill was adopted in 2017 in Congress and is expected to be supported in the Senate. The Act Prohibiting Discrimination on the Basis of Sexual Orientation or Gender Identity or Expression protects people from discriminatory acts such as denial of access to public and health services, criteria for hiring and dismissal of workers, and harassment motivated by bias.

### *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*

In June 2016, the UN Committee against Torture published its Concluding Observations on the third periodic report of the Philippines regarding the implementation of the CAT. Areas of concern and recommendations included the widespread culture of impunity; lack of fundamental legal safeguards; arrests without warrants; pre-trial detention and prison

overcrowding; the practice of torture and ill-treatment; coerced confessions; secret places of detention; extrajudicial killings and enforced disappearances; lack of witness protection; dire conditions of detention; the situation of children in armed conflict; the absence of a national preventive mechanism; lack of support for the Commission on Human Rights; lack of compensation for victims of torture and rehabilitation programmes; the absolute ban on abortion; inadequate access to sexual and reproductive health and corporal punishment of children.

In 2012, the Philippines ratified the Optional Protocol to the CAT (OPCAT). In November 2009, President Arroyo signed the Anti-Torture Law (Republic Act 9745) criminalising acts of torture. Despite this law, reports have shown that there are still numerous incidents of torture and ill-treatment, mostly perpetrated by the police. Impunity for acts of torture and ill-treatment continues to prevail. Although the number of cases of torture reported to the Commission on Human Rights of the Philippines has risen, only a small number of convictions have been made.

A National Preventive Mechanism on Torture has yet to be established in compliance with the OPCAT, and a bill has been filed in the Philippine Congress to create such a structure. To prevent torture in custody, the PNP Human Rights Affairs Office and Police Human Rights Officers have reporting mechanisms in place, enabling the Commission on Human Rights to track the status of inmates. Preventive actions against torture are, according to the Government, also taken through monthly inspections of lock-up cells and the doctrine of command responsibility. According to the Government, during 2015-2016, there had been four cases of torture documented involving 12 suspects identified as police personnel, 9 of whom were already in custody.

Mainly as a result of the Dangerous Drugs Act and of President Duterte's 'war on drugs', detention facilities and prisons are increasingly congested.<sup>11</sup> In 2016, the Philippines reportedly ranked second in the world in terms of prison occupancy level with inmates living in inhuman and degrading treatment, most of them without judgment.<sup>12</sup> Prison conditions are rudimentary and jails are lacking basic infrastructure; prisoners receive inadequate nutrition and medical care. Various human rights NGOs maintain lists of incarcerated persons they consider to be political prisoners. In 2014, Amnesty International reported that there had been 457 alleged cases of torture.<sup>13</sup>

The Supreme Court has issued various circulars or guidelines to address prolonged pre-trial detention and jail congestion, and in 2016 approved the hiring of 635 court decongestion officers to implement a decongestion programme. The Bureau of Jail Management and Penology has conducted a jail decongestion programme based on paralegal assistance to inmates, construction of new jails and legislative reform. In 2017, PHP 1.7 billion (EUR 31 million) was allocated to construct new jails (compared to PHP 39 million (EUR 710,000) in 2016).

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<sup>11</sup> In June 2017, the Commission on Audit estimated that the country's jails were overcrowded by 511%.

<sup>12</sup> [http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field\\_region\\_taxonomy\\_tid=All&=Apply](http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All&=Apply)

<sup>13</sup> 'Above the Law: Police Torture in the Philippines', 2014 Amnesty International Report.

### *Convention on the Rights of the Child (CRC)*

The most recent report on the Philippines from the Committee on the Rights of the Child dates back to October 2009. The Philippines' latest country report was due on 19 September 2017. With the exception of the 3<sup>rd</sup> Optional Protocol to CRC, the Philippines is a State Party to all major Conventions and Protocols on the Rights of the Child.

In its contribution to the UPR of the Philippines in 2017, UNICEF pointed to what can be seen as positive developments relating to education, children and armed conflict, trafficking, recognition of the growing problem of child pornography, adequate standards of living and, to a certain extent, juvenile justice. UNICEF pointed out that lowering the age of criminal responsibility from 15 years to 9 or 12 years would be an alarming development. UNICEF also pointed to the Supreme Court ruling that would deny children under the age of 18 years access to reproductive health services. Furthermore, the Philippines had not acted on the CRC recommendation to address the relatively low age of sexual consent of 12 years. The Committee on Torture has expressed its concern about corporal punishment and the situation of children subject to abduction and military recruitment by military groups. The Committee on Economic, Social and Cultural Rights has expressed concerns over child labour, including in hazardous or dangerous conditions as well as about children exposed to various forms of sexual and economic exploitation.

The adoption of amendments to the Juvenile and Welfare Act has been a key priority of the President. A bill was filed in Congress to amend Republic Act 10630 or the Juvenile Justice Act to lower the age of criminal responsibility for minors from 15 to 9 or 12 years. In January 2017, the UN Special Representative on Violence against Children wrote a letter to the leaders of Congress recalling that the current provisions of the 2006 Act relating to the age of criminal responsibility are in conformity with the Convention on the Rights of the Child. The proposed measure was eventually not approved by the Congressional sub-committee on correctional reforms. Instead a substitute bill has been filed which maintains the age of criminal responsibility at 15. However, a private members bill was introduced in the Senate in October 2017 proposing to lower the age of criminal responsibility to 12 years. The revised bill still raises concerns because it introduces harsh provisions such as placing children as young as 9 in short term institutions for rehabilitation or as they await court disposition.

In 2016, UNICEF Philippines released a report documenting violence against children. The UN report noted that physical violence is the most common form of violence against children in the Philippines. Furthermore, approximately 1 in 4 children experience some form of sexual violence. The Philippines is reported to be among the top 10 countries worldwide suffering from child online exploitation, involving mostly boys and girls aged 10-14. According to UNICEF, the Government recognises the growing problem of online child abuse and exploitation and is developing, in the context of ASEAN, a Regional Plan of Action and a National Response Plan.

Involvement of children in armed conflict is another issue of concern. According to a UN report issued in April 2016 by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, sporadic low-intensity clashes continued to affect children, predominantly in Mindanao. Almost all verified cases of attacks on schools and education personnel took place in indigenous communities. Private schools run by non-governmental organisations were systematically targeted by the Armed Forces of the Philippines (AFP) for alleged links to NPA. The UN is also involved with the AFP on its 2012 strategic plan on prevention and response to grave child rights violations in situations of armed conflict to ensure that it strengthens the protection of children in the light of violations

involving the army. An Inter-Agency Committee on Children in Armed Conflict to respond to cases of grave child right violations in situations of armed conflict has been created.

### **Future actions and priorities**

The Philippines has established human rights institutions at the national level. A Charter for the Commission on Human Rights is still with the Congress. Its adoption and ensuring that this Commission has the necessary resources to fully carry out its mandate and functions would strengthen the human rights framework. A human rights action plan is being developed; its approval would also contribute to giving a specific agenda and roadmap to realize human rights commitments.

In October 2017 the Government adopted a new approach to deal with drug addiction (including a more health-oriented approach). It remains to be seen how this will affect the fight against illegal drugs.

Legislation to reform the juvenile justice system and introduce a National Preventive Mechanism on Torture are still pending, so are proposals on Universal Health Care, Anti-Discrimination and a Land-use Bill.

Bringing peace to the longstanding conflict-ridden parts of the country remains an important issue for the Government.

The Partnership and Cooperation Agreement (PCA) between the EU and the Philippines was signed by President Duterte in 2017 and is at the Senate for ratification. The PCA foresees cooperation on human rights and thus provides an institutional opportunity to further engage on all human rights issues on a regular basis.

### **Conclusions**

*During the reporting period 2016-2017, improvements have been noted in the implementation of human rights largely as a result of the Philippines' socio-economic development. Economic growth and reforms are contributing to raising living standards in the country, as does the Philippines' agenda on universal health care and job creation as part of inclusive economic growth. Pursuing and intensifying these policies will help lift larger sectors of the population out of extreme poverty.*

*Improvements of children's access to education and health continue. Action is being taken to combat trafficking and support its victims, as well as sheltering children in armed conflict. Juvenile justice is also being improved. However, lowering the age for criminal responsibility would be contrary to the Philippines' obligations under the CRC. Despite the narrowing of the gender gap in education, decision-making positions and participation in the economy, legislative action on the rights of woman would need to be taken forward in order to effectively respond to the recommendations of the CEDAW.*

*The way the campaign against illegal drugs is conducted is a matter of grave concern. The significant increase in the number of drug-related killings since the election of President*



*Duterte, in particular during law-enforcement operations; the apparent lack of due process and restraint during these operations; and the fact that these deaths are not investigated in a transparent, impartial and effective manner thus allowing to bring perpetrators to justice raises serious concerns regarding the right to life. Together with statements by the President that can be seen as incitement to killings and fostering a culture of impunity, the conduct of the 'war on drugs' raises serious questions about the Government's commitment to human rights. The Philippines should effectively investigate all killings, provide access to remedies, and install the necessary safeguards so that the fight against illegal drugs takes place in accordance with human rights obligations and due process.*

*The possible re-introduction of the death penalty would be a major step backwards and raise questions regarding the Philippines' international commitments. The Government should actively work towards removing this proposal from the legislative agenda.*

*As a member of the UN Human Rights Council, the Philippines cooperation with the UN system, including the invitation of UN Special Rapporteurs on standard UN conditions is strongly encouraged. The Philippines also needs to fully respect its reporting obligations to UN Treaty Bodies and submit overdue reports.*

*Implementation and monitoring of laws remains a challenge, especially in the provinces. The human rights framework is fragile, with the Commission on Human Rights and other oversight bodies under threat. The Philippines needs to strengthen its human rights institutions, urgently adopt a human rights action plan and ensure the effectiveness and independence of these institutions.*

*A systematic problem of the Philippines concerns the culture of impunity as cases of grave human rights abuses, including extra-judicial killings and torture, remain largely unresolved. This also concerns the killings of human rights activists and media workers. The situation of indigenous people and of human rights defenders remains of concern. Human rights violations by private armies and paramilitary groups need to be investigated much more vigorously. Bringing peace to long-standing conflict-affected areas in the country would improve the human rights situation.*



## 2.2. ILO Labour Rights Conventions (Conventions 8-15)

### Status of ratification and reporting

Over the reporting period, the Philippines has maintained ratification of all eight ILO fundamental conventions relevant for the GSP+ and has complied with all its reporting obligations.

### Status of implementation of the conventions

#### *Freedom of Association and Collective Bargaining (Conventions 87 and 98)*

There are still serious concerns with respect to compliance with the international obligations on freedom of association and collective bargaining. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has repeatedly made observations concerning the allegations of anti-union violence and the lack of progress in the investigation of many such cases. Both the Committee on the Application of Standards and the Committee on Freedom of Association have found that violations are very significant as these include the physical integrity of trade union members and activists, and that actions to address these, including putting an end to impunity of offenders, are required. The Inter-Agency Committee on extra-judicial killings also reviews cases endorsed by the National Tripartite Industrial Peace Council (NTIPC), which is the high-level monitoring body with regional tripartite monitoring structures.

On legislative issues, the CEACR has requested reforms to bring national law in conformity with the ILO Convention 87 to grant trade union rights to all workers in the country (including foreigners), to reduce the excessively high requirements for registration of unions and establishment of federations or national unions, and to limit government intervention in labour disputes. In 2017, several laws which aim to respond to these observations and to align with the ILO Convention 87 were re-filed and prioritised in Congress. The laws are still pending adoption. An additional important novelty proposed in the pending laws is the establishment of an online registration of labour organisations and collective agreements. The Department of Labour and Employment, together with the ILO and tripartite partners under an EU-funded project, signed a manifesto and national action plan to fully implement the findings of ILO's direct contact mission of February 2017. In 2017, the Philippines ratified the ILO Convention 151 on the right to organise in the public service.

Improving the enforcement of domestic legislation is a cross-cutting challenge which needs to be addressed. The Philippines has a Labour Law Compliance System (LLCS) in place, which is a valuable component in monitoring working conditions. It includes an electronic checklist of labour law compliance based on decent work indicators and a joint tripartite assessment of compliance with all labour laws, including on freedom of association and collective bargaining. There have been efforts invested in establishing and improving the application and monitoring of the labour law compliance, but further work is needed to address the key challenges in the labour inspection system such as insufficient financial resources, low number of inspectors and their weak capacities to carry out specialised inspections. The Department of Labour and Employment (DOLE) announced plans to recruit another 200 labour inspectors and permits companies to undertake voluntary self-assessments of compliance.

There have been increasing concerns and allegations about employers misusing labour legislation through private employment agencies in the form of repeated hiring of workers on five-month contracts so as to avoid the obligation to regularise their employment status – the

so-called 'endo' hiring scheme. As a response, in March 2017, the DOLE issued a Department Order (DO) 174 which ended practices such as labour-only contracting, outsourcing of work due to a strike and forcing workers to sign agreements, including, post-dated resignation letters and waivers for minimum wage and welfare benefits.

The EU is, in cooperation with the ILO, supporting actions to strengthen the understanding and implementation of the international labour standards through the project on effective implementation and reporting on fundamental ILO conventions.

#### *Abolition of Forced Labour (Conventions 29 and 105)*

Human trafficking for the purposes of prostitution, involuntary domestic service and forced labour in industries, fisheries, agriculture and construction affects women, men and children. According to the 2016 US State Department's Trafficking in Persons Report, the Philippines meet the minimum standards for the elimination of trafficking in persons. However, ensuring effective enforcement of legislation as well as thorough investigations and prosecutions remain key challenges. The CEACR also points out that complicity and the lack of understanding of the relevant anti-trafficking legislation among the law-enforcement bodies and social services further contribute to low levels of prosecutions. Sex trafficking of children, in particular related to internet pornography and sex tourism, remains a problem. A new law on children's emergency relief and protection was signed in May 2016, which provides for increased comprehensive measures and monitoring to prevent child trafficking, labour and prostitution, including domestic and sexual violence. Importantly, the DOLE is continuously conducting trainings for labour law compliance officers on child labour assessment.

In 2016, the CEACR has requested the Philippines to ensure that migrant workers are sufficiently protected against abusive practices and forced labour. In this area, initiatives have been taken to improve the protection of Filipino migrant workers abroad through bilateral cooperation and through the establishment of new Philippine overseas labour offices and regional task forces to support enforcement of criminal laws related to child labour. The authorities report closing private recruitment agencies involved in human trafficking. To prevent trafficking of migrant workers, the Government has also increased funding for the Commission on Filipinos Overseas to facilitate anti-trafficking prevention campaigns for migrant workers, and has expanded training and awareness events. The DOLE has issued policy guidelines for the employment of migratory sugarcane workers. While a Department Order had been drafted as a response to serious concerns expressed notably by the workers in tuna industry related to working and living conditions on board commercial fishing vessels, its enforcement has not materialised.

#### *Minimum Age for Work and Worst Forms of Child Labour (Conventions 138 and 182)*

While child labour has decreased in the Philippines, it remains a concern. Most of it occurs in the informal economy, and many children are subjected to hazardous work. According to the CEACR observations, trafficking in women and children for sexual exploitation, which is socially and culturally tolerated in many areas and nourished by corruption and complicity, is a concern and needs to be further tackled. There have been some advancements in efforts to combat child labour through both prevention and rehabilitation programmes initiated to eliminate child labour and trafficking of children by establishing child labour-free zones and offering community services to the victims. Importantly, the actions involve coordination between responsible government and enforcement bodies.

The new domestic workers law sets the minimum age requirement for domestic workers at 18. The National Child Labour Committee has adopted a 2017-2022 strategic framework programme against child labour, which foresees access of working children and their families to social protection, health care and education. Child labour will also be included in the labour force survey. In 2016, an inquiry was initiated on hazardous child labour in small-scale and artisanal gold mining in the country, and the impact of such work on children's education, health and social development. The DOLE and Department of Education have developed guidelines on the handling of child labourers in schools to help identify and assist child workers. They also cooperate to help mitigate child labour by schooling children. The K-12 education programme is rolling out, which aims to increase the years spent in education and subsequently decrease the engagement in child work.

The CEACR urged the Philippines to ensure special protection and dissuasive punishment for persons who subject children to hazardous or exploitative conditions. The DOLE issued guidelines on assessing and determining hazardous work in the employment of persons below 18 years of age. While the Philippines have made improvements in investigations and prosecutions of trafficking cases, the CEACR also noted that further focus should be placed on labour exploitation. The CEACR also stressed that sufficient protection should be ensured for children working in the informal economy or who are self-employed.

#### *Elimination of Discrimination (Conventions 100 and 111)*

With regards to gender equality, the Philippines performs rather well with high educational attainment of women and recent improvements in economic opportunities, including women in ministerial positions. Nevertheless, women are concentrated in low-paid industries and occupations. Therefore, vocational guidance and access to education and training are essential to address occupational segregation. Women should be granted access to a wider range of jobs, including higher-paid jobs and those offering career advancement.

The established labour law compliance system (LLCS) is monitoring complaints on harassment at the workplace. The administration also launched initiatives to improve equal rights and opportunities in the public sector. The CEACR has been urging the Government to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The 16<sup>th</sup> Congress initiated a law on equal employment opportunities which would introduce a new State policy to protect and enhance the right of all people to human dignity and to reduce economic inequity by promoting equality of employment opportunities for all regardless of sex, race, creed, age, appearance, sexual orientation, regional or ethnic origin, disability, weight or height. However, the law was not adopted and it has not been re-introduced in the 17<sup>th</sup> Congress.

#### **Future actions and priorities**

Besides ending the so called 'endo' hiring scheme, another priority area includes aligning the laws with ILO Convention 87 based on the ILO recommendations. Legislative proposals have been reintroduced in Congress and marked as priority, but are still pending adoption. The amendments involve allowing foreigners to engage in trade union activities, reduce excessive membership requirements for registration of trade unions and union confederations. The Philippines also plans to continue to increase and strengthen the enforcement capacities of labour inspectorates and improve the track record of human trafficking and child labour.

There have been considerations and proposed legislation to expand social protection to the informal sector. This would in effect expand the labour monitoring system to cover workers in

the informal economy, but progress is lacking so far. Labour issues in special economic zones are also of concern, especially the ability of workers in these zones to form labour unions.

The EU is working closely with the ILO to strengthen the effective implementation and reporting on fundamental ILO conventions and Government's and stakeholders' understanding of labour standards, while also addressing industry regarding global supply chains and possible positive effects of trade on job creation.

## **Conclusions**

*Overall, the structures and necessary policy and legal frameworks are in place to ensure the application of labour standards in the Philippines. Further efforts are needed regarding the enforcement and implementation capacities to strengthen enforcement. The administration made a strong commitment to create jobs through inclusive growth and an overall stronger social agenda. This is a key task and challenge also for bringing peace and stability to the country and to deal effectively with drug problems. The Government's socio-economic plan addresses some of the pertinent labour issues and has materialised in the case of ending the so called 'endo' scheme.*

*Moreover, various laws have been initiated and prioritised in the Congress which aim to strengthen the implementation of the labour conventions and to address the ILO recommendations. However, their adoption is still pending.*

*The Philippines has made efforts in combatting child labour and the protection of migrant workers in relation to forced labour.*

*One of the key issues to be addressed as a priority is continued and dedicated engagement in the functioning of social dialogue in the country, in particular by ensuring investigation and prevention of violence against trade unions. Further efforts should target enforcement capacities, by strengthening the labour inspection and ensuring thorough investigations and prosecutions of human trafficking cases, including child labour.*

*Finally, labour legislation should be aligned with ILO Convention 87 on freedom of association and be adopted.*

## **2.3. UN Conventions on Environmental Protection and Climate Change (Conventions 16-23)**

### **Status of ratification and reporting**

The Philippines has maintained ratification of all conventions on environmental protection and climate change. The Philippines ratified the Paris Agreement in March 2017. The

Philippines complied with most of the reporting obligations under the relevant conventions but not yet under CITES, the Cartagena Protocol and the Stockholm Convention on Persistent Organic Pollutants (the 3<sup>rd</sup> report has not yet been submitted).

## **Status of implementation of the conventions**

### *Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)*

The Philippines submitted the Annual Report for 2015 to CITES in October 2016 and the Biennial Report for 2013-2014 on 2 November 2015. Its legislation is still classified under 'category 2' but discussions are ongoing with the CITES Secretariat to obtain 'category 1' status<sup>14</sup>.

The Philippines is one of the mega-diverse biodiversity countries in the world. As regards CITES implementation, the Wildlife Resources Conservation and Protection Act of 2001 is the main legislation protecting endangered species. The Department of Environment and Natural Resources (DENR), the national police and the Bureau of Customs (BOC) have created wildlife traffic and monitoring units. The geography of the country and poverty, however, make it difficult for the Government to control all forms of illegal trade in wildlife. The Philippines has substantial information on wildlife law enforcement operations from 2010 to date but submission of the information was not required by CITES until very recently.

The CITES Standing Committee identified Philippines in 2013 as one of the eight 'countries of primary concern' in relation to illegal ivory trade and recommended that the Philippines adopt and implement a national ivory action plan (NIAP) to address the role of the country as a transit place for illegal ivory trade. The Philippines submitted such a plan, which was assessed by the CITES Standing Committee in July 2014. The committee decided that the plan should be strengthened with a view to a new assessment at the 66<sup>th</sup> CITES Standing meeting in January 2016. The Philippines is one of the countries that has been commended by the CITES Standing Committee for having substantially achieved its targets under NIAP. DENR has worked with the BOC to hand over its seized stockpile of rhinoceros horns worth EUR 1.5 million (to dispose or return the horns to Mozambique) and to end illegal wildlife trafficking and trade.

### *Basel Convention*

Regarding the implementation of the Basel Convention, major challenges are the arrival of shipments in the Philippines without necessary importation clearance and incidences of illegal traffic of hazardous waste. The legislation in place (Republic Act 6969 and Administrative Orders DAO 29 and 28) seems to allow for an effective control of imports of hazardous wastes from developed countries. The non-ratification of the Ban Amendment, however, generated much criticism from environmental groups who flagged the possibility of illegally labelled shipments. As a result, the Philippines prohibits the import of hazardous wastes for

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<sup>14</sup> Category 1: legislation that is believed generally to meet all requirements for effective implementation of CITES.

Category 2: legislation that is believed generally not to meet all of the requirements for the implementation of CITES



final disposal but continues to allow selected imports for recycling (about 100,000 metric tonnes/year).

Planned activities regarding hazardous waste management include amending existing laws and regulations to update the classification of hazardous waste and the implementation of the Revised Procedures and Standards for the Management of Hazardous Wastes, including specific activities related to E-waste. DENR also launched a five-year project designed to deal with the growing problem of electronic waste and pursued the dismantling of large-scale fishpen operators in Laguna lake.

#### *Convention on Biological Diversity (CBD)*

The Philippines has consistently met the requirements of the Convention on Biological Diversity (CBD), although the trend in biodiversity loss in the country remains worrying. The most recent national report of the Philippines to the CBD was submitted in 2014 for the period 2009-2013. It assesses the country's progress towards meeting the biodiversity target of achieving a significant reduction in the current rate of biodiversity loss. The Philippines also submitted the National Biodiversity Strategy and Action Plan (NBSAP) in 2016. The Government has adopted the Philippine Biodiversity Strategy and Action Plan 2014-2025, a requirement under the Convention, with support from the Global Environment Facility (GEF). Furthermore, the Philippines has introduced a clearing house mechanism for information-sharing as well as a National Biosafety Committee.

The Philippines is one of the world's biodiversity hotspots with at least 700 threatened species. Biodiversity decline is associated with high population growth and poverty leading to deforestation and overfishing. A general lack of resources to support protected area management committees and forced land use plans in key biodiversity spots not yet classified as protected areas have added to the challenges the Government faces.

The Philippines has identified a number of actions necessary to address the threats to biodiversity, among them are direct actions (restoration of ecosystem functions, promotion of biodiversity-friendly livelihoods and strengthening law enforcement) and enabling actions (communication, education and public awareness, capacity development for biodiversity conservation, biodiversity conservation-related research, strengthening policy for biodiversity conservation, promotion of biodiversity-friendly technology and resource mobilisation).

A bill was adopted to strengthen the so called National Integrated Protected Areas System and increasing penalties on environmental crimes. Congress approved a bill which substantially increases fines and maximum jail terms in an attempt to support rehabilitation, development and protection of the environment.

#### *Stockholm Convention on Persistent Organic Pollutants*

The Philippines adopted a plan aiming to address existing gaps in national legislation and initiated basic measures such as a national inventory of persistent organic pollutants (POPs) with assistance from the World Bank and the Global Environment Facility (GEF). Most pesticides listed under Annex A of the Convention were banned in the Philippines as early as in the 1980s. The legislative framework in place is consistent with the provisions of the Convention. The 3<sup>rd</sup> National Report for the Philippines is being prepared using the inputs from the 2014 National Implementation Plan (NIP) on the elimination of POPs. In this respect, the latest update of the NIP is still pending. New POPs and monitoring remain important challenges.

The Philippines has reported achievements in the reduction or elimination of dioxins and furans, the phase out and disposal of polychlorinated biphenyls (PCBs), the identification of



POPs contaminated sites and the management of POPs pesticides. These developments are supported by projects such as the PCB Management Programmes for Electric Cooperatives and Safe E-waste Management, and the Global Monitoring Project 2.

### *Cartagena Protocol on Biosafety*

The 3<sup>rd</sup> National Report was submitted to the CBD Secretariat in April 2016. The Philippines participated in the 8<sup>th</sup> Conference of the Parties in 2016. The Philippines expressed its intent to take the lead and serve as the Asia Biosafety Clearing House coordinator. The creation of a technical working group for the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress was mentioned as a priority.

The Philippines has a national biosafety framework as per Executive Order 514 issued on 17 March 2006, which paved the way for the establishment of the National Biosafety Framework (NBF). The Philippines does not regulate the trans-boundary movement, handling and use of living modified organisms (LMOs) which are pharmaceuticals nor transit and contained use of LMOs. The Bureau of Plant Industry (BPI) requires a biosafety permit for LMOs for field test and propagation. The country's NBF was enhanced with the issuance of the Joint Department Circular of 2016, which provides guidelines on the stages of GMO activities that should be subjected to risk assessment. Development and harmonisation of operation manuals among the four competent National Authorities is ongoing.

### *Conventions on Climate Change*

Under the United Nations Framework Convention on Climate Change (UNFCCC), the Philippines notified its 2<sup>nd</sup> National Communication in 2014 but has not submitted any Biennial Update Report yet, the first report having been expected by December 2014.

With regard to the implementation of the Montreal Protocol, the measures to phase-out ozone-depleting substances are in line with the provisions of the protocol and no non-compliance procedures are pending. The Philippines is planning to ratify the Kigali amendment of the Montreal Protocol by mid-2018. To this end, the Philippine Ozone Desk of the Environmental Management Bureau of DENR has been conducting public awareness activities targeted towards the general public as well as the Government, industry, private sector, academia, media and civil society.

The Philippines ratified the Paris Agreement on 23 March 2017. According to its Intended Nationally Determined Contribution (INDC), submitted in October 2015, the Philippines intends to undertake greenhouse gas emissions reduction of about 70% by 2030 relative to its business-as-usual scenario of 2000. The reduction will mainly come from energy, transport, waste, forestry and industry sectors. However, details are missing on how exactly it will be achieved, in particular with regard to land use, land use change and forestry. The Philippines also submitted its Second National Communication in 2014 but still needs to submit a biennial update report, the first of which was due by the end of 2014.

The EU's Access to Sustainable Energy Programme (ASEP) is the first EU development cooperation programme on energy in the country (EUR 60 million). The programme provides advice on policy making on rural electrification, energy efficiency and labelling, subsidising solar home systems, rural network solar and a pre-paid metering pilot and grants to innovative business solutions. The project will run until September 2019.

## Conclusions

*During the reporting period 2016-2017, no specific problems have been reported in relation to the implementation of the CBD, Basel and Stockholm Conventions. In relation to the CITES convention, the Philippines has submitted its most recent reports due, and the country made progress on tackling illegal ivory trade.*

*The Philippines has ratified the Paris Agreement and has taken some strong measures to address environmental and climate change concerns. It is however unclear how effectively some of these measures are implemented and whether new or revised policy measures are needed, in particular regarding its commitments under the UN conventions on climate change.*

*As the Philippines is a fast-growing country with consumption and production increasing rapidly, the Government is still actively looking at meeting its increasing energy demands, even through building more coal-fired power plants (for instance in Mindanao). This is turning around the energy mix in favour of coal). Such developments, as well as lack of detail on planned actions may put into question climate change commitments. A strengthened dialogue is therefore necessary to facilitate an environment-friendly growth agenda.*

## 2.4. UN Conventions on Good Governance (Conventions 24-27)

### Status of ratification and reporting

The Philippines maintains ratification of the three UN drug conventions. The Philippines is compliant with all requests for monitoring information from the International Narcotic Control Board (INCB). In March 2017 the latest annual report for 2016 was released.

The Philippines maintains ratification of the UN Convention against Corruption (UNCAC). The Philippines has been conducting the preliminary assessment sessions since 2014 for the Second Cycle Review. It has also commenced assessing its preliminary findings vis-à-vis the Revised Self-Assessment Checklist which was finalised in June 2016. The Philippines has been selected as one of the countries to be reviewed in 2018, as well as a reviewing state for the Second Cycle Review.

### Status of implementation of the conventions

#### *UN Conventions Fighting Illegal Drugs*

Reports of acts of violence and murder in the Philippines committed against individuals suspected of involvement in the illicit drug trade or of drug abuse, which may have been encouraged or condoned by members of the Government since July 2016, came to the INCB Board's attention. In August 2017, the Board issued a statement calling on the Government to issue an immediate and unequivocal condemnation and denunciation of extrajudicial actions against individuals suspected of involvement in the illicit drug trade or of drug abuse, to put

an immediate stop to such actions, and to ensure that the perpetrators of such acts are brought to justice in full observance of due process and the rule of law. The INCB Board also brought to the attention that extrajudicial action, purportedly taken in pursuit of drug control objectives, is fundamentally contrary to the provisions and objectives of the three international drug control conventions, under which all actions must be undertaken within the due process of law.<sup>15</sup>

The manufacture, trafficking and use of crystalline methamphetamine (*shabu* in the Philippines) continues to be the primary drug threat. It accounts for the vast majority of drug-related arrests and drug treatment admissions in the country. The Philippines is a transit and a destination point for cocaine trafficking from South America. According to a 2015 Dangerous Drug Board survey, the prevalence of drug users in the country amounted to 2.3% or was equivalent to 1.8 million people of the population within the age range of 10-69 years. However, the Government has recently suggested a much higher figure of 4 million drug users in the country. In 2016, there was a sharp increase in the volume of *shabu*, ecstasy and cocaine seizure compared to the previous year. In the same year, according to the Drugs Enforcement Agency, there was an increase of 29% in anti-drugs operations compared to 2015. In 2016, almost 28,000 'drug personalities' were reportedly arrested, as compared to 9,162 in 2013. The number of arrested Government officials amounted to 224 in 2016, including Government employees, elected officials and law enforcers.

The main legal act related to drug enforcement is the Republic Act No 9165, called the Dangerous Drug Act of 2002. In the 17<sup>th</sup> Congress, numerous bills have been introduced to amend particular sections of the Dangerous Drugs Act 9165. These amendments contain sections to include the death penalty for drug related heinous crimes, strengthening of the Philippine Drug Enforcement Authority, restoration of plea bargaining and probation laws, expedition of the disposition of drug related judicial cases, but none specific on proportionate sentencing.

The 'war on drugs' of the Duterte administration is spelled out in the Philippine National Police (PNP) Command Memorandum Circular, the so-called 'Double Barrel Project', that was issued on 1<sup>st</sup> July 2016 on the first day of the Duterte Presidency (see the section under CCPR above).

In August 2016, the UNODC Executive Director released a statement condemning extrajudicial killings in the Philippines. UNODC has advocated a shift from a law enforcement and sanction-oriented approach (which could be perceived as justifying the war on drugs) towards a health-oriented response. Civil society organisations, a number of local government units as well as Senator Risa Hontiveros have also called for a shift from the sanction-oriented approach to a more health-oriented and evidence-based approach.

The Department of Health and the Dangerous Drugs Board have since September 2016, and in particular after the temporary suspension of the war on drugs in early 2017, announced different statements, policies and programmes to reduce the prevalence of drug abuse based on a more health-oriented and evidence based approach. This would include more effective leadership and governance for drug abuse prevention, treatment and rehabilitation, the provision of comprehensive, integrated health care services in Treatment Rehabilitation

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<sup>15</sup> [https://www.incb.org/incb/en/news/press-releases/2017/press\\_release\\_20170818.html](https://www.incb.org/incb/en/news/press-releases/2017/press_release_20170818.html)

Centres (TRC) and community-based settings, the implementation of strategies for health promotion and drug abuse prevention as well as strengthened information systems, evidence and research.

In August 2017, the ASEAN Regional Forum (ARF) adopted a ministerial statement on Enhancing Cooperation in Addressing and Countering the Drug Problem co-sponsored by the Philippines and China. This statement promotes a balanced, comprehensive, integrated and evidence-based approach to address the World Drug Problem and reiterates that the three international drug control conventions constitute the cornerstone of the international drug control system. Furthermore, ARF members committed to fully respect all human rights and fundamental freedoms while addressing the drug problem.

The EU is supporting the Department of Health in its efforts to step up community-based care with the development of guidelines for two voluntary treatment pathways. The Department of Health would like to promote these pilot evidence-based approaches for which further technical assistance has been requested from the EU. The recently started EU-Philippines Governance in Justice Programme (GOJUST) is supporting the efforts of the Justice Sector Coordinating Council (JSCC) to address the inter-agency coordination problems that have resulted in drug cases not being successfully prosecuted and in significant case delays and backlogs in the Philippine judicial system regarding the implementation and enforcement of the Comprehensive Dangerous Drugs Act of 2002.

#### *UN Convention against Corruption (UNCAC)*

The executive summary of the latest review by the UNCAC Implementation Review Group is available since December 2013. A second round of assessments was expected to start in 2015-2016. The Philippines was a founding member of the multi-country Open Government Partnership in September 2011. Preventive anti-corruption strategies include transparency, citizen participation, institutionalising public accountability and leveraging technology and innovation. Good progress has been made in all of these areas. A presidential UNCAC Inter-agency Committee created through Executive Order No. 171 in 2014 is tasked with carrying out the implementation, monitoring and review of all initiatives to achieve the UNCAC goals, in close collaboration with the Office of the Ombudsman. The Ombudsman has published documentation detailing where the country is in full or partial compliance with UNCAC Chapter IV, and identifying gaps and challenges.

The Duterte administration was elected also on a platform of anti-corruption. The anti-corruption policy was reinforced with the issuance of Executive Order No.2, more commonly referred to as Freedom of Information. The Order will cover all Government offices under the executive branch, including the national Government and all its offices, departments, bureaus and instrumentalities. It also applies to State-run firms, universities and colleges. It will, however, not cover Congress and the judiciary system. Local Government units are encouraged to follow the order.

In the 17<sup>th</sup> Congress, an Act Strengthening the Office of the Ombudsman and Increasing and Broadening the Scope of its Powers, and for Other Purposes was introduced and is currently with the Committee on Justice. The Congress amended the Anti-Money Laundering Act to include casinos. The law is now with the office of the President for signature.

The Expanded Anti-Red Tape Act was adopted in response to demands from the business sector and Government agencies to improve the ease of doing business in the country and make it more competitive.

Nevertheless, the 2017 National Trade Estimate Report on Foreign Trade Barriers of the Office of the US Trade Representative (USTR) states that "corruption is a pervasive and longstanding problem in the Philippines. Both foreign and domestic investors have expressed concern about the propensity of Philippine courts and regulators to stray beyond matters of legal interpretation into policymaking, as well as about the lack of transparency in judicial and regulatory processes". The report also highlights courts being influenced by bribery and their improperly issuing of temporary restraining orders to impede legitimate commerce, as well as corruption and irregularities in customs processing. In 2016, the Philippines slid further down in the annual Transparency International Corruption Perceptions Index (CPI). The score of 35 for 2016 was the same as its score in the 2015 report. However, its ranking slipped to 101 out of 176 countries, compared to the 95<sup>th</sup> place out of 168 in 2015.

## Conclusions

*The way the campaign against illegal drugs is conducted is a matter of grave concern, in particular the large number of drug-related killings as well as the sharp increase in prison overcrowding. The Government is encouraged to reconsider its approach to drug related problems. As stated by the International Narcotic Control Board and the UN Office on Drugs and Crime, the Philippines must reorient its fight against drugs from a law enforcement and sanction-oriented approach towards a health-oriented response, that fully respects due process of law and that is fully in line with the Philippines' international obligations, including on human rights and the three drug control conventions.*

*With regard to the fight against corruption, the Philippines is addressing the challenges it is faced with through improvements of the Government bureaucracy, including freedom of information and customs. The legislative framework for fighting corruption is in place and has been further strengthened by the Duterte administration. Initiatives in the 17th Congress include whistle-blowers' protection, amendments to code of conduct and ethical standards for public servants, penalising influence-peddling, amendments to the anti-graft and corruption practices, strengthening of the institutional capacity of the Ombudsman, exceptions to the Bank Secrecy Law, amendments to Extradition Law, Freedom of Information Act, amendments to the Witness Protection Act, and mutual legal assistance in criminal matters.*

## 3. Trade and Economy

### 3.1. Trade Picture

In terms of its macro-economic performance, the Philippines is doing very well: with a GDP of USD 304.9 billion, and a growth of 6.9% in 2016, the Philippines overtook China and Vietnam. The Philippines continues to keep on its upward track in terms of macro-economic policy indicators. Yet, the Philippines' external sector remains weak and dependent on a few countries (Japan, China, US and the EU) and products/sectors (electronics, business processing outsourcing, remittances), making it more vulnerable to some of the non-



commercial policies and developments since the new Government took over power, including the adoption of Martial Law in Mindanao.

The Philippines is a member of the Association of Southeast Asian Nations and thus a party to the ASEAN Free Trade Area and to the five regional FTAs that ASEAN has concluded with six countries (China, South Korea, Japan, India, Australia and New Zealand), and has also a bilateral FTA with Japan. An FTA with EFTA is currently under ratification.

As for the EU, in 2016, total bilateral trade amounted to EUR 12.8 billion with a EUR 0.6 billion surplus for the Philippines, making it the EU's 40<sup>th</sup> trading partner. Trade in services was worth EUR 4.2 billion in 2015 (EUR 240 million surplus for the Philippines). The EU is the largest foreign investor in the Philippines, with stocks in the country of over EUR 6.1 billion (2015).

### 3.2. GSP+ Statistics

Figure 1 to Figure 3 below describe the Philippines' utilisation of the GSP+ in the context of its overall imports to the EU. The Philippines was granted GSP+ beneficiary status on 25 December 2014 – prior to this, it was a beneficiary of the Standard GSP. Therefore, the figures reflect imports under Standard GSP for 2012, 2013 and 2014, and GSP+ since 2015.

The Philippines has increased its use of GSP+ preferences which are now used for 26% of total exports. This made the EU its largest exporting partner in recent months (January and March 2017).

Philippine exports are greatly benefitting from the enhanced access to the EU market under GSP+ (51% growth since 2012), particularly products like coconut oil, preserved tuna, bicycles, pineapple products, fruit jams, and some garments and footwear. The Philippine's main exports to the EU consist of animal or vegetable oils and fats (28%), office and telecommunication equipment and machinery (10%), preparations of meat and/or fish (7%) and optical and photographic instruments (5%). In 2016, the GSP+ utilisation rate of the Philippine was 71%.

**Source for all statistics: Eurostat data as of September 2017.**

**Figure 1**

<b>Philippines - Imports to the EU, 2014-2017</b>					
<i>Figures in thousand EUR</i>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017 (Q1-2)</b>	<b>Trend 2014-2016</b>
<b>Total imports to EU</b>	5,266,541	6,720,351	6,300,265	3,805,138	19.6%
<b>GSP+ eligible imports</b>	1,827,039	2,322,588	2,358,534	1,273,001	29.1%
<b>GSP+ preferential imports</b>	1,227,661	1,585,860	1,673,980	903,323	36.4%
<b>GSP+ utilisation rate</b>	67.2%	68.3%	71.0%	71.0%	5.6%



Figure 2

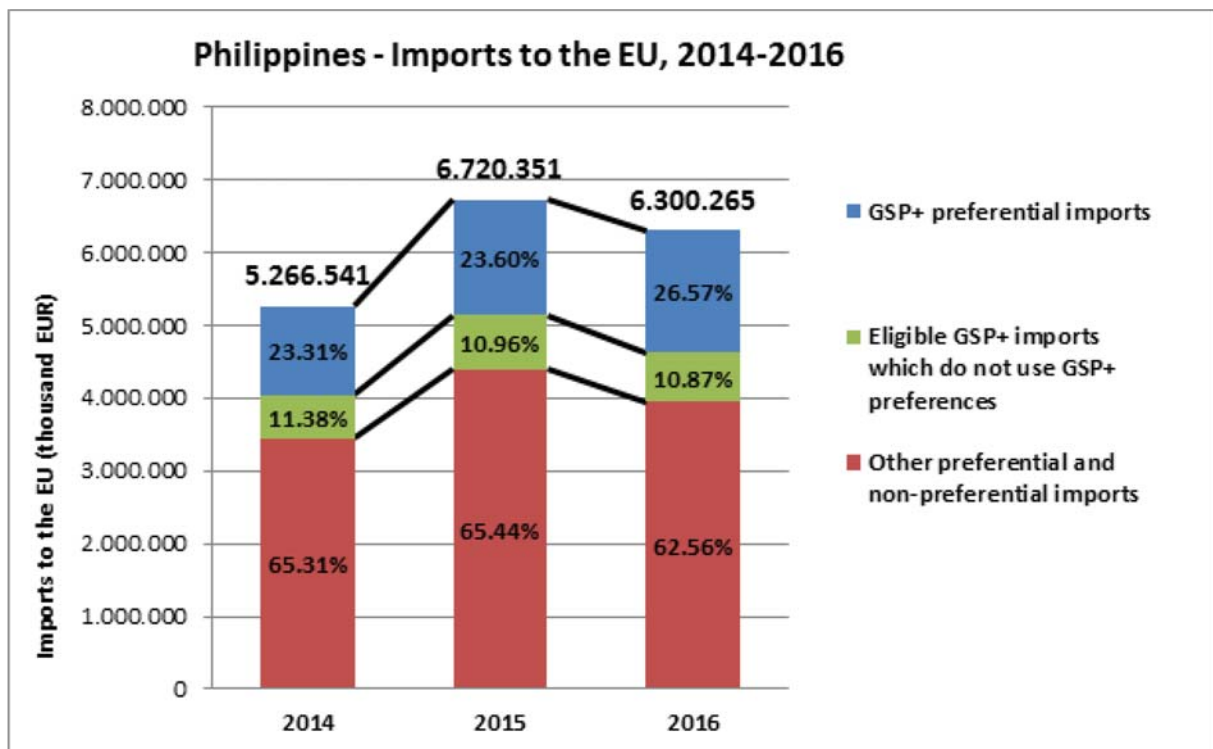
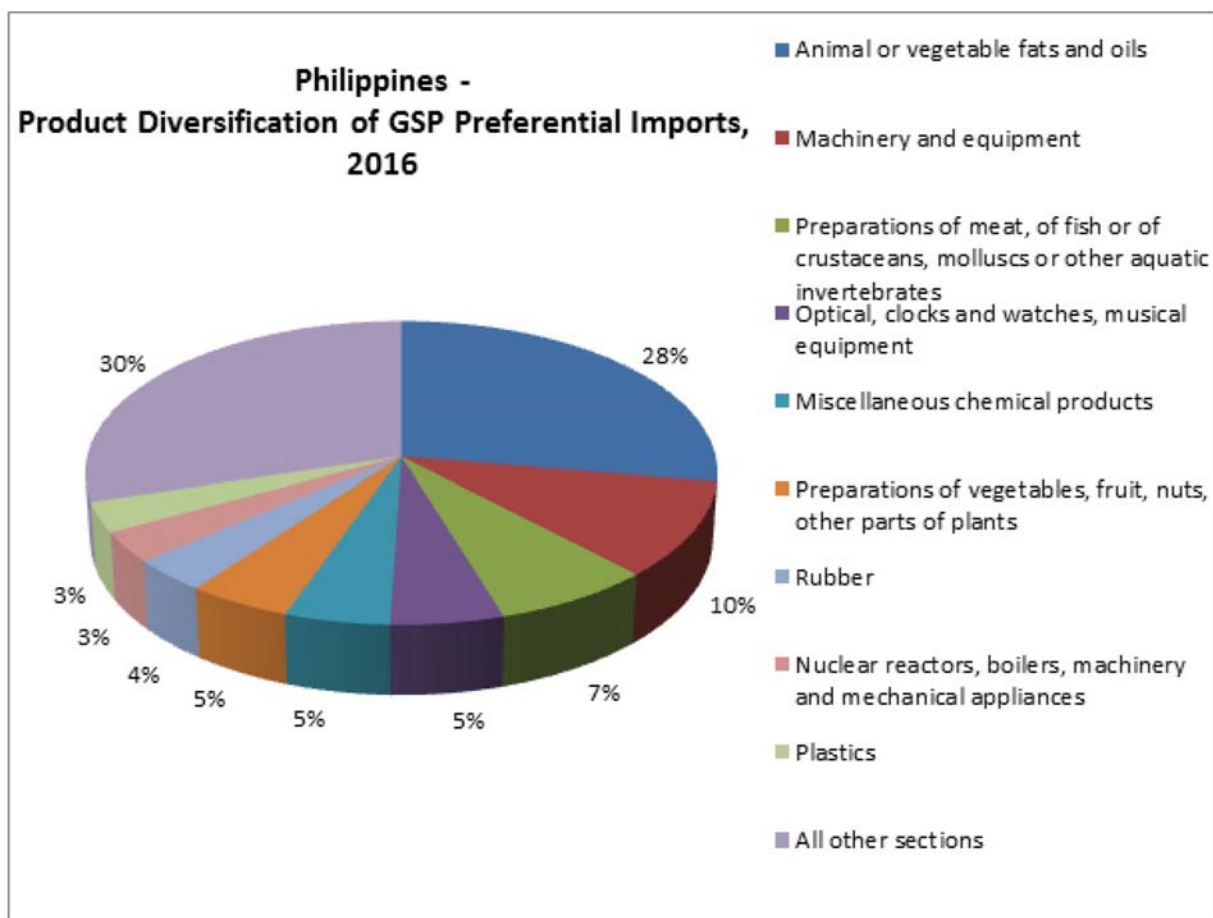


Figure 3



# ANNEX

## Philippines – Treaty Ratification and Reporting

Convention	Status of ratification / reservations <sup>16</sup>	Compliance with reporting obligations to monitoring bodies
1. Convention on the Prevention and Punishment of the Crime of Genocide	Ratified: 07.07.1950 Reservations on Articles 4, 6, 7, 9	<b>No reporting obligations</b>
2. International Convention on the Elimination of All Forms of Racial Discrimination	Ratified: 15.09.1967 No reservations	<b>Lack of compliance with reporting obligations</b> Last report submitted on 23.04.2013. Latest report due 04.01.2012.
3. International Covenant on Civil and Political Rights	Ratified: 23.10.1986 No reservations	<b>Lack of compliant with reporting obligations</b> Last report due 31.10.2016. Latest report submitted on 12.09.2010.
4. International Covenant on Economic, Social and Cultural Rights	Ratified: 07.06.1974 No reservations	<b>Compliant with reporting obligations</b> Last report submitted 25.11.2014. Next report due on 31.10.2021.
5. Convention on the Elimination of All Forms of Discrimination against Women	Ratified: 05.08.1981 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 16.01.2015. Next report due on 31.07.2020.
6. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified: 18.06.1986 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 25.11.2014. Next report due on 13.05.2020.
7. Convention on the Rights of the Child	Ratified: 21.08.1990 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 18.01.2008. Latest report due on 19.09.2017.
8. Convention concerning Forced or Compulsory Labour, No. 29	Ratification: 2005	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2016.
9. Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87	Ratification: 1953	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2016; Direct Request 2016.
10. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98	Ratification: 1953	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2015; Direct Request 2015.

<sup>16</sup> Reservations do not apply in the ILO system, so there is no relevance to providing information on reservations under each of these conventions.

11. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100	Ratification: 1953	<b>Compliant with reporting obligations</b>  Latest CEACR comments: Observation 2014; Direct Request 2014.
12. Convention concerning the Abolition of Forced Labour, No. 105	Ratification: 1960	<b>Compliant with reporting obligations</b>  Latest CEACR comments: Observation 2016; Direct Request 2016.
13. Convention concerning Discrimination in Respect of Employment and Occupation, No. 111	Ratification: 1960	<b>Compliant with reporting obligations</b>  Latest CEACR comments: Observation 2015; Direct Request 2015.
14. Convention concerning Minimum Age for Admission to Employment, No. 138	Ratification: 1998  Minimum age specified: 15 years	<b>Compliant with reporting obligations</b>  Latest CEACR comments: Observation 2016.
15. Convention concerning Minimum Age for Admission to Employment, No. 182	Ratification: 2000	<b>Compliant with reporting obligations</b>  Latest CEACR comments: Observation 2016; Direct Request 2016.
16. CITES	Ratification: 18.08.1981.  The Philippines has not agreed to the Bonn Amendment (on financial provisions).	<b>Lack of compliance with reporting obligations</b>  Last (2015) Annual Report submitted on 20.10.2016.  Last Biennial Report for 2013-2014 submitted on 02.11.2015.  Biennial Reports for 2003-04, 2005-06, 2007-08, 2011-12 are due.
17. Montreal Protocol	Accession: 17.07.1991  No reservations	<b>Compliant with reporting obligations</b>  Most recent data for 2016 was submitted.
18. Basel Convention	Ratification: 21.10.1993  No reservations	<b>Compliant with reporting obligations</b>  All National Reports submitted.  Latest (2015) National Report submitted on 28.12.2016.
19. Convention on Biological Diversity	Ratification: 08.10.1993  No reservations	<b>Compliant with reporting obligations</b>  All reports submitted.  Latest (Fifth) National Report submitted on 03.09.2014.  Revised National Biodiversity Strategy and Action Plan submitted on 24.06.2016.
20. UN Framework Convention on Climate Change	Ratification: 1994  No reservations	<b>Compliant with reporting obligations</b>  First National Communication submitted on 19.05.2000.  Second National Communication submitted on 29.12.2014.  Third National Communication outstanding.  No Biennial Update Reports submitted.
21. Cartagena Protocol on Biosafety	Ratification: 05.10.2006	<b>Lack of compliance with reporting obligations</b>  First National Report not submitted.

	No reservations	Second National Report submitted on 28.10.2011. Third National Report submitted on 30.11.2015.
22. Stockholm Convention	Ratification: 27.02.2004  No reservations	<b>Lack of compliance with reporting obligations</b>  Latest (Second Round) National Report submitted on 05.08.2011.  First Round (2006) and Third Round (2014) National Reports due.
23. Kyoto Protocol	Ratification: 20.11.2003  No reservations	<b>No reporting obligations</b>
24. UN Single Convention on Narcotic Drugs	Ratification: 02.10.1967  No reservations	<b>Reviewing is fulfilled by the International Narcotics Control Board (INCB).</b>
25. UN Convention on Psychotropic Substances	Accession: 07.06.1974  No reservations	
26. UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Ratification: 07.06.1996  No reservations	
27. UN Convention against Corruption	Ratification: 08.11.2006  No reservations	<b>Reviewing is fulfilled by the UN Office on Drugs and Crime (UNODC).</b> The Executive Summary of the 2013 review was published on 10.12.2013.