No. VN-PH-24B -2012

The Permanent Mission of the Republic of the Philippines to the International Organizations in Vienna presents its compliments to the Secretary of the Conference of Parties to the United Nations Convention against Corruption and, further to its Note No. VN-PH-215 -2012 dated 14 May 2012, has the honor to forward the enclosed comments of the Anti-Money Laundering Council on the topics for discussion at the Working Group on Prevention of Corruption to be held from 27 to 29 August 2012.

The Permanent Mission of the Republic of the Philippines to the International Organizations in Vienna avails itself of this opportunity to renew to the Secretary of the Conference of Parties to the United Nations Convention against Corruption the assurances of its highest consideration.

Vienna, 4 June 2012
PHILIPPINES

COMMENTS OF THE ANTI-MONEY LAUNDERING COUNCIL
ON THE TOPICS FOR DISCUSSION
AT THE 3RD SESSION OF THE WORKING GROUP ON PREVENTION OF
CORRUPTION, 27-29 AUGUST 2012

a) Implementation of Article 12 of the Convention, including the use of public-private partnerships

- Section 141 of the Corporation Code of the Philippines (Batas Pambansa 68) mandates that every corporation, domestic or foreign, lawfully doing business in the Philippines, shall submit to the Securities and Exchange Commission (SEC) an annual report of its operations, together with a financial statement of its assets and liabilities certified by any independent certified public accountant in appropriate cases, or by SEC-accredited independent certified public accountants in case of listed companies and secondary licensees, covering the preceding fiscal year and such other requirements as the SEC may require.

Further, Section 26 of the Corporation Code requires that the Secretary or any other officer of the Corporation shall submit within thirty (30) days after the election of directors, trustees and other officers of the corporation, a
report containing among others, the names, nationalities and addresses of such persons. Thus, for reporting such information, corporations use the General Information Sheet (GIS), the form devised by the SEC for this and other purposes.

- On 31 May 2004, the AMLC approved the creation of the Financial Sector Liaison Committee (FSLC) to serve as a forum for cooperation with the private sector, particularly the Covered Institutions under Section 3(a) of the Anti-Money Laundering Act (AMLA), as amended. The FSLC is composed of representatives from the AMLC, the Supervising Authorities (i.e., regulatory agencies), and the associations of compliance officers of the banking, securities and insurance industry associations. The FSLC serves as an effective coordinating mechanism/contact point in initiating dialogues/consultations with covered institutions especially on the issues concerning their compliance with the AMLA, as amended. The FSLC is also a venue for airing grievances, issues and concerns as well as recommendations for technical and other needs. In particular, complaints and suspicions of corruption may be raised by representatives of the covered institutions in the FSLC meetings inasmuch as an atmosphere of trust exists between law enforcement and the representatives of the private sector.

Aside from the AMLC, the FSLC is composed of the following organizations from the banking, securities and insurance sectors:

**Supervising Authorities**
1. Bangko Sentral ng Pilipinas
2. Securities and Exchange Commission
3. Insurance Commission

**Industry Associations**
1. Bankers Association of the Philippines
2. Association of Bank Compliance Officers of the Philippines
3. Money Market Association of the Philippines
4. Chamber of Pawnbrokers of the Philippines
5. Chamber of Thrift Banks
6. Confederation of Non-Stock Savings and Loan Associations
7. Offshore Bankers Association
8. Rural Bankers Association of the Philippines
7. Trust Officers Association of the Philippines
8. Philippine Association of Foreign Exchange Dealers, Money Changers and Remittance Agents
9. Association of Authorized Foreign Exchange Buyers of the Philippines
10. Association of Private Remittance Service Companies
11. Philippine Association of Securities Brokers and Dealers
12. Philippine Association of Stock Transfer Agents
13. Philippine Federation of Pre-Need Plan Companies
14. Investment Companies Association of the Philippines
15. Investment Houses Association of the Philippines
16. Philippine Finance Association
17. Association of Insurance Accountants of the Philippines
18. Association of Insurance Claimsmen
19. Actuarial Society of the Philippines
20. Association of Service Professionals in Life Insurance
21. Philippine Chamber of Mutual Benefit Associations
22. General Agents and Managers, Inc.
23. Home Office Life Underwriters Association of the Philippines
24. Life Insurance Claims Association of the Philippines
25. Philippine Association of Insurance Liaison Officers
26. Philippine Association of Surety Underwriters
27. Philippine Insurers Club
28. Philippine Insurers and Reinsurers Association
29. Philippine Life Insurance Association
30. Reinsurers Exchange Club of the Philippines
31. Society of Independent Insurance Intermediaries
32. Association of Bank Remittance Officers
33. Fellow of the Life Management Institute (FLMI) Society of the Philippines
34. Life Underwriters Association of the Philippines

(b) Conflicts of Interest, reporting acts of corruption and asset declarations, particularly in the context of Articles 7-9 of the Convention
Conflicts of Interest

The 1987 Philippine Constitution contains the following provisions in relation to Conflicts of Interest for public officials and employees:

"Article VI – The Legislative Department

"SECTION 13. No Senator or Member of the House of Representatives may hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his term without forfeiting his seat. Neither shall he be appointed to any office which may have been created or the emoluments thereof increased during the term for which he was elected.

"SECTION 14. No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.

"Article VII – The Executive Department

"SECTION 13. The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.

"The spouse and relatives by consanguinity or affinity within the fourth civil degree of the President shall not during his tenure be appointed as members of the Constitutional Commissions, or the Office of the Ombudsman, or as Secretaries, Undersecretaries, chairmen or heads of bureaus or offices, including government-owned or controlled corporations and their subsidiaries.
"Article VII – Judicial Department

"SECTION 12. The Members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

"Article IX – Constitutional Commissions

"A. Common Provisions

"SECTION 2. No Member of a Constitutional Commission shall, during his tenure, hold any other office or employment. Neither shall he engage in the practice of any profession or in the active management or control of any business which in any way be affected by the functions of his office, nor shall he be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by the Government, any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations or their subsidiaries.

"B. The Civil Service Commission

"SECTION 6. No candidate who has lost in any election shall, within one year after such election, be appointed to any office in the Government or any government-owned or controlled corporations or in any of their subsidiaries.

"SECTION 7. No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure. Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall hold any other office or employment in the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries.

"SECTION 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government.

"Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

"Article XVI – General Provisions

"SECTION 5. (4) No member of the armed forces in the active service shall, at any time, be appointed or designated in any capacity to a civilian position in
the Government including government-owned or controlled corporations or any of their subsidiaries. (Underscoring supplied)

In addition, Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees” contains the following provision for divestment of interest in case of conflict of interest:

“SECTION 9. Divestment. — A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

The same rule shall apply where the public official or employee is a partner in a partnership.

The requirement of divestment shall not apply to those who serve the Government in an honorary capacity nor to laborers and casual or temporary workers.”

Reporting Acts of Corruption

The AMLA, as amended, contains the following provisions on reporting suspicious transactions, including those related to the unlawful activities of violations of Republic Act No. 3019, as amended (The Anti-Graft and Corrupt Practices Act) and Plunder under Republic Act No. 7080:

“SEC. 3. Definitions. — For purposes of this Act, the following terms are hereby defined as follows:

xxx xxx xxx

(b-1) ‘Suspicious transactions’ are transactions with covered institutions, regardless of the amounts involved, where any of the following circumstances exist:

1. there is no underlying legal or trade obligation, purpose or economic justification;

2. the client is not properly identified;
3. the amount involved is not commensurate with the business or financial capacity of the client;

4. taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the Act;

5. any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;

6. the transaction is in any way related to an unlawful activity or offense under this Act that is about to be, is being or has been committed; or

7. any transaction that is similar or analogous to any of the foregoing.

"xxx xxx xxx"

"(i) Unlawful activity refers to any act or omission or series or combination thereof involving or having direct relation to the following:

"xxx xxx xxx"

(3) Section 3 paragraphs B, C, E, G, H and I of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

(4) Plunder under Republic Act No. 7080, as amended;

The aforesaid provisions in the AMLA, as amended, provides the bases for the authority of the AMLC to investigate and prosecute corruption-related offenses.

Currently, two (2) Civil Forfeiture decisions involving violations of the Anti-Graft and Corrupt Practices Act in the total amount of Php8,517,578.59 are pending execution while another Civil Forfeiture case for violation of the same Act involving funds amounting to Php512,867.46 is pending trial.

Likewise, two (2) Petitions for Civil Forfeiture related to the crime of Plunder involving funds and other assets in the aggregate amount of Php408,675,838.14 are pending before the court. On the other hand, Plunder-related funds in the aggregate sum of Php2,078,912.02 are the subject of a Freeze Order Issued by the Court of Appeals based on the Petition filed by the AMLC. Funds and other
assets in another Plunder case in the aggregate amount of Php89,947,744.07 have also been recently forfeited in favor of the Philippine-Government by virtue of a Petition for Civil Forfeiture filed by the AMLC.

**Asset Declarations**

Article XI, Section 17 of the 1987 Philippine Constitution provide the basic requirement for public officers and employees to submit asset declarations to the government, to wit:

"**Article XI – Accountability of Public Officers**

"SECTION 17. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

Moreover, Republic Act No. 6713 contains the following rules on asset declaration statements for public officials and employees:

"SECTION 8. Statements and Disclosure. — Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statements of Assets and Liabilities and Financial Disclosure. — All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

(a) real property, its improvements, acquisition costs, assessed value and current fair market value;

(b) personal property and acquisition cost;
(5) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;

(d) liabilities, and;

(e) all business interests and financial connections.

The documents must be filed:

(a) within thirty (30) days after assumption of office;
(b) on or before April 30, of every year thereafter; and
(c) within thirty (30) days after separation from the service.

All public officials and employees required under this section to file the aforesaid documents shall also execute, within thirty (30) days from the date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain from all appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their business interests and financial connections in previous years, including, if possible, the year when they first assumed any office in the Government.

Husband and wife who are both public officials or employees may file the required statements jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

(1) Constitutional and national elective officials, with the national office of the Ombudsman;

(2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and all national executive officials with the Office of the President.

(3) Regional and local officials and employees, with the Deputy Ombudsman in their respective regions;

(4) Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and

(5) All other public officials and employees, defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

(B) Identification and disclosure of relatives. — It shall be the duty of every public official or employee to identify and disclose, to the best of his
knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) Accessibility of documents. —

(1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours;

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(D) Prohibited acts. — It shall be unlawful for any person to obtain or use any statement filed under this Act for:

(a) any purpose contrary to morals or public policy; or

(b) any commercial purpose other than by news and communications media for dissemination to the general public.

For your kind consideration,

Very truly yours,

VICENTE R. AQUNO
Executive Director
30 March 2012

MR. EDUARDO MARTIN R. MEÑEZ
Assistant Secretary
Office of UN and Other International Organizations
Department of Foreign Affairs
Roxas Blvd., Pasay City

Dear Asec. Meñez,

This is to acknowledge receipt on 26 March 2012 of your letter dated 20 March 2012 relative to the Note Verbale (CU 2012/28 (A)/DTA/CEB) dated 27 February 2012 from the United Nations Office on Drugs and Crime (UNODC), confirming the topics for discussion at the third intersessional meeting of the Working Group on Prevention on Corruption to be held from 27 to 29 August 2012 at the UNODC Headquarters in Vienna, Austria.

In response to your request to submit not later than 30 March 2012, pertinent information on PHL’s initiatives and practices to address conflicts of interest, reporting acts of corruption and asset declarations in the context of articles 7 – 9 of the UN Convention against Corruption (UNCAC), as well as PHL’s implementation of article 12 of the Convention, respectfully attached herein are the requested information using UNODC’s self-assessment checklist.

The attachment is with a reservation to submit supplemental information before the third intersessional meeting of the Working Group on Prevention of Corruption. It may please you to know that our Office is likewise one of the focal offices in the ongoing UNCAC compliance assessment of the country, particularly on the criminalization and international cooperation chapters of the Convention, with Egypt and Bangladesh as PHL’s reviewing States Parties. Rest assured of our active participation in facilitating the UNCAC compliance assessment process and in monitoring performance of PHL’s commitments under the Convention.

Very truly yours,

CONCHITA CARPIO MORALES
Ombudsman
I. Preventive Measures (Chapter II), Articles 7-9

Article 7 - Public sector, par. 1

Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:
(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

1. Has your country adopted the measures above?

Yes.

2. Please cite the applicable law(s) or other measure(s):

- systems for the recruitment, hiring, retention, promotion and retirement of civil servants and other non-elected public officials

The Civil Service Commission was conferred the status of a department by Republic Act No. 2260 as amended and elevated to a constitutional body by the 1973 Constitution. It was reorganized under PD No. 181 dated September 24, 1972, and again reorganized under Executive Order no. 181 dated November 21, 1986. With the new Administrative Code of 1987 (EO 292), the Commission is constitutionally mandated to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the Civil Service.

Under Executive Order No. 292, the Civil Service Commission shall perform the following functions:

- Administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;
- Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Laws and other pertinent laws;
Promulgate policies, standards and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient and effective personnel administration in the government;

Formulate policies and regulations for the administration, maintenance and implementation of position classification and compensation and set standards for the establishment, allocation and reallocation of pay scales, classes and positions;

Render opinion and rulings on all personnel and other Civil Service matters which shall be binding on all head of departments, offices and agencies and which may be brought to the Supreme Court on certiorari;

Appoint and discipline its officials and employees in accordance with law and exercise control and supervision over the activities of the Commission;

Control, supervise and coordinate Civil Service examinations. Any entity or official in government may be called upon by the Commission to assist in the preparation and conduct of said examinations including security, use of buildings and facilities as well as personnel and transportation of examination materials which shall be exempt from inspection regulations;

Prescribe all forms for Civil Service examinations, appointment, reports and such other forms as may be required by law, rules and regulations;

Declare positions in the Civil Service as may properly be primarily confidential, highly technical or policy determining;

Formulate, administer and evaluate programs relative to the development and retention of qualified and competent work force in the public service;

Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and action of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of the copy thereof;

Issues subpoena and subpoena duces tecum for the production of documents and records pertinent to investigations and inquiries conducted by it in accordance with its authority conferred by the Constitution and pertinent laws;

Advise the President on all matters involving personnel management in the government service and submit to the President an annual report on the personnel programs;

Take appropriate actions on all appointments and other personnel matters in the Civil Service including extension of service beyond retirement age.

Inspect and audit the personnel actions and programs of the departments, agencies, bureaus, offices, local government including government-owned or controlled corporations; conduct periodic review of the decisions and actions of offices or officials to whom authority has been delegated by the
Commission as well as the conduct of the officials and the employees in these offices and apply appropriate sanctions whenever necessary.
- Administer the retirement program of government officials and employees, and accredit government services and evaluate qualification for retirement;
- Keep and maintain personnel records of all officials and employees in the Civil Service; and

3. Please provide examples of the successful use or implementation of the articles:

_Article 7 - Public sector, par. 2_

_Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office._

1. Has your country adopted the measures above?

   Yes.

2. Please cite the applicable law(s) or other measure(s):

   - measures to prescribe criteria concerning candidature for and election to public office

   **Qualifications for President and Vice-President of the Philippines**

   No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election¹.

   There shall be a Vice-President who shall have the same qualifications and term of office and be elected with, and in the same manner, as the President. He may be removed from office in the same manner as the President².

   **Qualifications for Senators**

   No person shall be a Senator unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least thirty-five years of age, able to read and

¹ Sec. 2, Art. VII, 1987 Philippine Constitution; Sec. 83, Art. IX, Omnibus Election Code
² Sec. 3, Art. VII, 1987 Philippine Constitution
write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June next following their election. No Senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered an interruption in the continuity of his service for the full term of which he was elected.

Qualifications for House of Representatives/Congress

No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election. No Member of the House of Representatives shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural

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5 Sec. 3, Art. VI, 1987 Philippine Constitution
6 Sec. 4, Art. VI, 1987 Philippine Constitution
7 Sec. 5, Art. VI, 1987 Philippine Constitution
8 Sec. 7, Art. VI, 1987 Philippine Constitution
9 Sec. 6, Art. VI, 1987 Philippine Constitution

Compliance with UNCAC Articles 7-9
Page 4 of 25
communities, women, youth, and such other sectors as may be provided by law, except the religious sector.3

**Qualifications for Local Elective Officials**

An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sanggunian bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

Candidates for the position of governor, vice-governor or member of the sangguniang panlalawigan, or Mayor, vice-mayor or member of the sangguniang panlungsod of highly urbanized cities must be at least twenty-three (23) years of age on election day.

Candidates for the position of Mayor or vice-mayor of independent component cities, component cities, or municipalities must be at least twenty-one (21) years of age on election day.

Candidates for the position of member of the sangguniang panlungsod or sanggunian bayan must be at least eighteen (18) years of age on election day.

Candidates for the position of punong barangay or member of the sangguniang barangay must be at least eighteen (18) years of age on election day.

Candidates for the sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

Legislative bodies of local governments shall have sectoral representation as may be prescribed by law.10

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3 Sec. 6.2, Art. VI, 1987 Philippine Constitution
4 Sec. 39, Ch. 1, Title II, Local Government Code
5 Sec. 9, Article X, 1987 Philippine Constitution

Compliance with UNCAC Articles 7-9
Disqualifications for Local Elective Officials

The following persons are disqualified from running for any elective local position:

(a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence; (b) Those removed from office as a result of an administrative case;

(c) Those convicted by final judgment for violating the oath of allegiance to the Republic;

(d) Those with dual citizenship;

(e) Fugitives from justice in criminal or nonpolitical cases here or abroad;

(f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and

(g) The insane or feeble-minded.

Other qualifications

Any elective official, whether national or local, running for any office other than the one which he is holding in a permanent capacity, except for President and Vice-President, shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy.

Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

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11 Sec. 40, Ch. 1, Title II, Local Government Code
12 Sec. 67, Art. IX, Omnibus Election Code
13 Sec. 12, Art. I, Omnibus Election Code
14 Ibid.
Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, subparagraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

The Commission may motu proprio or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrespect or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate.

The Commission and the courts shall give priority to cases of disqualification by reason of violation of this Act to the end that a final decision shall be rendered not later than seven days before the election in which the disqualification is sought.

Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. Nevertheless, if for any reason, a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, his violation of the provisions of the preceding sections shall not prevent his proclamation and assumption to office.

No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein.

A person who has filed a certificate of candidacy may, prior to the election, withdraw the same by submitting to the office concerned a written declaration under oath.

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15 Sec. 69, Art. IX, Omnibus Election Code
16 Sec. 69, Art. IX, Omnibus Election Code
17 Sec. 72, Art. IX, Omnibus Election Code
18 Sec. 72, Art. IX, Omnibus Election Code
19 Sec. 73, Art. IX, Omnibus Election Code
20 Id.
No person shall be eligible for more than one office to be filled in the same election, and if he files his certificate of candidacy for more than one office, he shall not be eligible for any of them. However, before the expiration of the period for the filing of certificates of candidacy, the person who was filed more than one certificate of candidacy may declare under oath the office for which he desires to be eligible and cancel the certificate of candidacy for the other office or offices\(^{21}\).

If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission\(^{22}\).

A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election\(^{23}\).

3. Please provide examples of the successful use or implementation of the articles

*Article 7 - Public sector, par. 3*

*Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.*

1. Has your country adopted the measures above?

Yes.

\(^{21}\) Ibid.

\(^{22}\) Sec. 77, Art. IX, Omnibus Election Code

\(^{23}\) Sec. 78, Art. IX, Omnibus Election Code

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2. Please cite the applicable law(s) or other measure(s):

- measures to enhance transparency in the funding of candidates for elected public office and the funding of political parties

*Electoral Contributions and Expenditures, Definitions*²⁴

(a) The term "contribution" includes a gift, donation, subscription, loan, advance or deposit of money or anything of value, or a contract, promise or agreement to contribute, whether or not legally enforceable, made for the purpose of influencing the results of the elections but shall not include services rendered without compensation by individuals volunteering a portion or all of their time in behalf of a candidate or political party. It shall also include the use of facilities voluntarily donated by other persons, the money value of which can be assessed based on the rates prevailing in the area.

(b) The term "expenditure" includes the payment or delivery of money of anything of value, or a contract, promise or agreement to make an expenditure, for the purpose of influencing the results of the election. It shall also include the use of facilities personally owned by the candidate, the money value of the use of which can be assessed based on the rates prevailing in the area.

(c) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

*Prohibited contributions*²⁵

No contribution for purposes of partisan political activity shall be made directly or indirectly by any of the following:

(a) Public or private financial institutions: Provided, however, That nothing herein shall prevent the making of any loan to a candidate or political party by any such public or private financial institutions legally in the business of lending money, and that the loan is made in accordance with laws and regulations and in the ordinary course of business;

(b) Natural and juridical persons operating a public utility or in possession of or exploiting any natural resources of the nation;

(c) Natural and juridical persons who hold contracts or sub-contracts to supply the government or any of its divisions, subdivisions or instrumentalities, with goods or services or to perform construction or other works;

(d) Natural and juridical persons who have been granted franchises, incentives, exemptions, allocations or similar privileges or concessions by the government or

²⁴ Sec. 94, Art. XI. Omnibus Election Code
²⁵ Sec. 95, Art. XI. Omnibus Election Code

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any of its divisions, subdivisions or instrumentalities, including government-owned or controlled corporations;

(e) Natural and juridical persons who, within one year prior to the date of the election, have been granted loans or other accommodations in excess of P100,000 by the government or any of its divisions, subdivisions or instrumentalities including government-owned or controlled corporations;

(f) Educational institutions which have received grants of public funds amounting to no less than P100,000.00;

(g) Officials or employees in the Civil Service, or members of the Armed Forces of the Philippines; and

(h) Foreigners and foreign corporations.

It shall be unlawful for any person to solicit or receive any contribution from any of the persons or entities enumerated herein.

Soliciting or receiving contributions from foreign sources

It shall be unlawful for any person, including a political party or public or private entity to solicit or receive, directly or indirectly, any aid or contribution of whatever form or nature from any foreign national, government or entity for the purposes of influencing the results of the election.

Prohibited raising of funds

It shall be unlawful for any person to hold dances, lotteries, cockfights, games, boxing bouts, bingo, beauty contests, entertainments, or cinematographic, theatrical or other performances for the purpose of raising funds for an election campaign or for the support of any candidate from the commencement of the election period up to and including election day; or for any person or organization, whether civic or religious, directly or indirectly, to solicit and/or accept from any candidate for public office, or from his campaign manager, agent or representative, or any person acting in their behalf, any gift, food, transportation, contribution or donation in cash or in kind from the commencement of the election period up to and including election day; Provided, That normal and customary religious stipends, tithes, or collections on Sundays and/or other designated collection days, are excluded from this prohibition.

True name of contributor required

No person shall make any contribution in any name except his own, nor shall any candidate or treasurer of a political party receive a contribution or enter or record

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26 Sec. 96, Art. XI. Omnibus Election Code
27 Sec. 97, Art. XI. Omnibus Election Code
28 Sec. 98, Art. XI. Omnibus Election Code
the same in any name other than that of the person by whom it was actually made.

Report of contributions

Every person giving contributions to any candidate, treasurer of the party, or authorized representative of such candidate or treasurer shall, not later than thirty days after the day of the election, file with the Commission a report under oath stating the amount of each contribution, the name of the candidate, agent of the candidate or political party receiving the contribution, and the date of the contribution.

Limitations upon expenses of candidates

No candidate shall spend for his election campaign an aggregate amount exceeding one peso and fifty centavos for every voter currently registered in the constituency where he filed his candidacy: Provided, That the expenses herein referred to shall include those incurred or caused to be incurred by the candidate, whether in cash or in kind, including the use, rental or hire of land, water or aircraft, equipment, facilities, apparatus and paraphernalia used in the campaign: Provided, further, That where the land, water or aircraft, equipment, facilities, apparatus and paraphernalia used is owned by the candidate, his contributor or supporter, the Commission is hereby empowered to assess the amount commensurate with the expenses for the use thereof, based on the prevailing rates in the locality and shall be included in the total expenses incurred by the candidate.

Limitations upon expenses of political parties

A duly accredited political party may spend for the election of its candidates in the constituency or constituencies where it has official candidates an aggregate amount not exceeding the equivalent of one peso and fifty centavos for every voter currently registered therein. Expenses incurred by branches, chapters, or committees of such political party shall be included in the computation of the total expenditures of the political party. Expenses incurred by other political parties shall be considered as expenses of their respective individual candidates and subject to limitation under Section 100 of this Code.

Lawful expenditures

To carry out the objectives of the preceding sections, no candidate or treasurer of a political party shall, directly or indirectly, make any expenditure except for the following purposes:

(a) For travelling expenses of the candidates and campaign personnel in the course of the campaign and for personal expenses incident thereto;

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29 Sec. 99, Art. XI. Omnibus Election Code
30 Sec. 100, Art. XI. Omnibus Election Code
31 Sec. 101, Art. XI. Omnibus Election Code
32 Sec. 102, Art. XI. Omnibus Election Code

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(b) For compensation of campaigners, clerks, stenographers, messengers, and other persons actually employed in the campaign;
(c) For telegraph and telephone tolls, postage, freight and express delivery charges;
(d) For stationery, printing and distribution of printed matters relative to candidacy;
(e) For employment of watchers at the polls;
(f) For rent, maintenance and furnishing of campaign headquarters, office or place of meetings;
(g) For political meetings and rallies and the use of sound systems, lights and decorations during said meetings and rallies;
(h) For newspaper, radio, television and other public advertisements;
(i) For employment of counsel, the cost of which shall not be taken into account in determining the amount of expenses which a candidate or political party may have incurred under Section 100 and 101 hereof;
(j) For copying and classifying list of voters, investigating and challenging the right to vote of persons registered in the lists the costs of which shall not be taken into account in determining the amount of expenses which a candidate or political party may have incurred under Sections 100 and 101 hereof; or
(k) For printing sample ballots in such color, size and maximum number as may be authorized by the Commission and the cost of such printing shall not be taken into account in determining the amount of expenses which a candidate or political party may have incurred under Sections 100 and 101 hereof.

**Persons authorized to incur election expenditures**

No person, except the candidate, the treasurer of a political party or any person authorized by such candidate or treasurer, shall make any expenditure in support of or in opposition to any candidate or political party. Expenditures duly authorized by the candidate or the treasurer of the party shall be considered as expenditures of such candidate or political party.

The authority to incur expenditures shall be in writing, copy of which shall be furnished the Commission signed by the candidate or the treasurer of the party and showing the expenditures so authorized, and shall state the full name and exact address of the person so designated.

**Prohibited donations by candidates, treasurers of parties or their agents**

No candidate, his or her spouse or any relative within the second civil degree of consanguinity or affinity, or his campaign manager, agent or representative shall during the campaign period, on the day before and on the day of the election, directly or indirectly, make any donation, contribution or gift in cash or in kind, or undertake or contribute to the construction or repair of roads, bridges, school buses, puericulture centers, medical clinics and hospitals, churches or chapels cement pavements, or any structure for public use or for the use of any religious

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33 Sec. 103, Art. XI. Omnibus Election Code  
34 Sec. 104, Art. XI. Omnibus Election Code  
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or civic organization: Provided, That normal and customary religious dues or contributions, such as religious stipends, tithes or collections on Sundays or other designated collection days, as well as periodic payments for legitimate scholarships established and school contributions habitually made before the prohibited period, are excluded from the prohibition.

The same prohibition applies to treasurers, agents or representatives of any political party.

Records of contributions and expenditures.35

(a) It shall be the duty of every candidate, treasurer of the political party and person acting under the authority of such candidate or treasurer to issue a receipt for every contribution received and to obtain and keep a receipt stating the particulars of every expenditure made.

(b) Every candidate and treasurer of the party shall keep detailed, full, and accurate records of all contributions received and expenditures incurred by him and by those acting under his authority, setting forth therein all information required to be reported.

(c) Every candidate and treasurer of the party shall be responsible for the preservation of the records of contributions and expenditures, together with all pertinent documents, for at least three years after the holding of the election to which they pertain and for their production for inspection by the Commission or its duly authorized representative, or upon presentation of a subpoena duces tecum duly issued by the Commission. Failure of the candidate or treasurer to preserve such records or documents shall be deemed prima facie evidence of violation of the provisions of this Article.

Statement of contributions and expenditures36

Every candidate and treasurer of the political party shall, not later than seven days, or earlier than ten days before the day of the election, file in duplicate with the office indicated in the following section, full, true and itemized, statement of all contributions and expenditures in connection with the election. Within thirty days after the day of the election, said candidate and treasurer shall also file in duplicate a supplemental statement of all contribution and expenditures not included in the statement filed prior to the day of the election.

Effect of failure to file statement37

In addition to other sanctions provided in this Code, no person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

35 Sec. 106, Art. XI, Omnibus Election Code
36 Sec. 107, Art. XI, Omnibus Election Code
37 Sec. 111, Art. XI, Omnibus Election Code
The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statements required herein within the period prescribed by this Code.

Report of contractor and business firms

Every person or firm to whom any electoral expenditure is made shall, within thirty days after the day of the election, file with the Commission a report setting forth the full names and exact addresses of the candidates, treasurers of political parties, and other persons incurring such expenditures, the nature or purpose of each expenditure, the date and costs thereof, and such other particulars as the Commission may require. The report shall be signed and sworn to by the supplier or contractor, or in case of a business firm or association, by its president or general manager.

It shall be the duty of such person or firm to whom an electoral expenditure is made to require every agent of a candidate or of the treasurer of a political party to present written authority to incur electoral expenditures in behalf of such candidate or treasurer, and to keep and preserve at its place of business, subject to inspection by the Commission or its authorized representatives, copies of such written authority, contracts, vouchers, invoices and other records and documents relative to said expenditures for a period of three years after the date of the election to which they pertain.

It shall be unlawful for any supplier, contractor or business firm to enter into contract involving election expenditures with representatives of candidates or political parties without such written authority.

3. Please provide examples of the successful use or implementation of the articles

Article 7 - Public sector, para. 4

Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

1. Has your country adopted the measures above?

Yes.

2. Please cite the applicable law(s) or other measure(s):

Both the 1987 Constitution and the Administrative Code ultimately define that "Public office is a public trust. Public officers and employees must at all times be

3 Sec. 112, Art. XI, Omnibus Election Code
accountable to the people, serve them with the utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.\textsuperscript{39}

This declaration encompasses the Convention's requirements on the area of proper management of public affairs and public property, integrity, transparency and accountability. Generally, it is the Administrative Code that defines the following:

- Distribution of powers between and among the Legislative, Executive and Judicial branches of Government, including the Constitutional Commissions and other Bodies, and the guiding principles and policies in the exercise of respective powers;\textsuperscript{40}
- Establishment of a career service, adopt measures to promote morale, efficiency, integrity, responsiveness, and courtesy in the civil service, strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability;\textsuperscript{41}
- Personnel policies and standards;\textsuperscript{42}
- General provisions on Discipline, Disciplinary Jurisdiction, Procedures in Administrative Cases, and Prohibitions;\textsuperscript{43}
- Mechanics of government auditing and accounting which governs the analytical and systematic examination and verification of financial transactions, operations, accounts and reports of any government agency for the purpose of determining their accuracy, integrity and authenticity, and satisfying the requirements of law, rules and regulations;\textsuperscript{44}
- Measures on the manner of receipt and disposition of funds and property;\textsuperscript{45}
- Measures on the application of funds;\textsuperscript{46}
- Measures on the accountability and responsibility for government funds and property;\textsuperscript{47}
- Procedures and measures on government budgeting;\textsuperscript{48}
- Public contracts and conveyances;\textsuperscript{49}
- Powers and functions of the Office of the Ombudsman;\textsuperscript{50}
- Declaration of Assets, Liabilities and Net Worth;\textsuperscript{51}

\textsuperscript{39} Article XI, Section 1 of the 1987 Constitution and Chapter 10, Section 32 of the Administrative Code
\textsuperscript{40} Book II of the Administrative Code
\textsuperscript{41} Title I, Subtitle A, Chapter 1, Section 1, Ibid.
\textsuperscript{42} Title I, Subtitle A, Chapter 5, Section 21, Ibid.
\textsuperscript{43} Title I, Subtitle A, Chapter 5, Section 46-53 and Chapter 7 of the Administrative Code
\textsuperscript{44} Title I, Subtitle B, Chapter 6, Ibid.
\textsuperscript{45} Title I, Subtitle B, Chapter 7, Ibid.
\textsuperscript{46} Title I, Subtitle B, Chapter 8, Ibid.
\textsuperscript{47} Title I, Subtitle B, Chapter 9, Ibid.
\textsuperscript{48} Book VI, Ibid.
\textsuperscript{49} Book I, Chapter 12, Ibid.
\textsuperscript{50} Article XI, Section 13 of the 1987 Constitution and Title II, Subtitle B, Section 2 of the Administrative Code
\textsuperscript{51} Article XI, Section 17 of the 1987 Constitution and Book I, Chapter 9, Section 34 of the Administrative Code

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Submission of Annual Report containing the concise statements of accomplishments and assessment of the progress attained in terms of approved programs and projects, including pertinent financial statements on expenditures incurred in their implementation during the calendar year. This is pursuant to the basic right of the people to information on matters of public concern, which affords access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development.

Presidential Decree (PD) No. 1445, otherwise known as the “Government Auditing Code of the Philippines,” set forth the following fundamental principles:

- No money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority;
- Government funds or property shall be spent or used solely for public purposes;
- Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received;
- Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency;
- Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials;
- Claims against government funds shall be supported with complete documentation;
- All laws and regulations applicable to financial transactions shall be faithfully adhered to; and
- Generally accepted principles and practices of accounting as well as of sound management and fiscal administration shall be observed, provided that they do not contravene existing laws and regulations.

The “Government Procurement Reform Act” or Republic Act (R.A.) No. 9184 prescribes the following governing principles on government procurement:

- Transparency in the procurement process and in the implementation of procurement contracts;
- Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding;

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52 Book I, Chapter 6, Section 37 of the Administrative Code
53 Article III, Section 7 of the 1987 Constitution
54 Section 4, PD 1445
55 Section 3, R.A. No. 9184
Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method;

System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto;

Public monitoring of the procurement process and the implementation of awarded contracts with the end view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and that all these contracts are performed strictly in accordance to specifications.

R.A. No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," aims to promote a high standard of ethics in public service. This law specifies the following: Norms of Conduct of Public Officials and Employees, Duties of Public Officials and Employees, Prohibited Acts and Transactions, Statements of assets and liabilities and networth, as well as disclosure of business interests, Review and Compliance Procedure, and Penalties.

R.A. No. 9485, otherwise known as the Anti-Red Tape Act of 2007," requires all government agencies to: Determine which processes or transactions constitute frontline service; Undertake reengineering of transaction systems and procedures, including time and motion studies, if necessary; and after compliance thereof, Set up their respective service standards to be known as the Citizen's Charter.56

R.A. No. 6770, otherwise known as the "Ombudsman Act of 1989," defines one of the powers, functions and duties of the Office of the Ombudsman, i.e. "Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendation for their elimination and the observance of high standards of ethics and efficiency."57 Executive Order (EO) No. 292 also vests the Civil Service Commission administrative disciplinary jurisdiction over the entire Philippine bureaucracy.

E.O. No 12, as amended, has brought about the creation of the Presidential Anti-Craft Commission (PAGC), which also possesses corruption prevention mandates, in addition to its administrative investigative authority over presidential appointees, to wit:

56 Rule III, Section 1 of RA 9485 IRR
57 Section 15 (9) of R.A. 6770
Formulate national anti-corruption plans and strategies pursuant to the Medium-Term Philippine Development Plan and cause the efficient and effective implementation of such plans and strategies;

Oversee the implementation of and compliance of all agencies, instrumentalities and offices in the Executive Branch with all anti-graft and corruption laws and issuances and secure their compliance with integrity development or enhancement plans;

Develop and conduct public awareness and information campaigns, and engage in partnerships or cooperative undertakings with local government units, civil society, people’s organizations, the academic and/or the business sector, to encourage public participation in the government’s anti-corruption efforts; and

Recommend the issuance and adoption of appropriate policies that would strengthen anti-corruption efforts and hasten the arrest and prosecution of corrupt government officers and employees, including private persons conspiring with them.

3. Please provide examples of the successful use or implementation of the articles

The R.A. No.6713 establishes a financial disclosure system for public officials and employees called the Statement of Assets and Liabilities and Networth (SALN).

Every year public officials and employees are required to submit this declaration under oath.

The Supreme Court found a retiring undersecretary of the Department of Public Works and Highways guilty of negligence for failing to pay attention to the details and proper form of his SALN, resulting in the imprecision of the property descriptions and inaccuracy of certain information involving 28 parcels of real property. The amount equivalent to the undersecretary’s salary for six months was forfeited from his retirement benefits.

Currently, the Chief Justice of the Supreme Court is being impeached, with his improperly disclosed assets in his SALN form as one of the grounds cited by the prosecution for culpable violation of public trust.

Article 8 - Codes of conduct for public officials, par. 1

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions:

   1. Has your country adopted and implemented the measures above?

      Yes.

   2. Please cite the applicable law(s) or other measure(s):

      R.A. No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees,” aims to promote a high standard of ethics in public service. This law specifies the following: Norms of Conduct of Public Officials and Employees, Duties of Public Officials and Employees, Prohibited Acts and Transactions, Statements of assets and liabilities and networth, as well as disclosure of business interests, Review and Compliance Procedure, and Penalties.

   3. Please provide examples of the successful use or implementation of the articles

      See answer to previous article.

Article 8 - Codes of conduct for public officials, para. 5

Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

   1. Has your country adopted and implemented the measures above?

      Yes.

   2. Please cite the applicable law(s) or other measure(s):


      Pertinent provisions are as follows:
Section 8. Statements and Disclosure. - Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statements of Assets and Liabilities and Financial Disclosure. - All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households. xxx

Section 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months’ salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.

(d) The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000). If another sanction hereunder or under any other law is heavier, the latter shall apply.
3. Please provide examples of the successful use or implementation of the articles

The R.A. No.6713 establishes a financial disclosure system for public officials and employees called the Statement of Assets and Liabilities and Networth (SALN)

Every year public officials and employees are required to submit this declaration under oath.

The Supreme Court found a retiring undersecretary of the Department of Public Works and Highways guilty of negligence for failing to pay attention to the details and proper form of his SALN, resulting in the imprecision of the property descriptions and inaccuracy of certain information involving 28 parcels of real property. The amount equivalent to the undersecretary’s salary for six months was forfeited from his retirement benefits.

Article 8 - Codes of conduct for public officials, par. 6

Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

1. Has your country adopted and implemented the measures above?

Yes.

2. Please cite the applicable law(s) or other measure(s):

The following are applicable laws or other measures. (1) Revised Penal Code (RPC) Article 210, Direct Bribery; RPC Article 211, Indirect Bribery, (as amended by Batas Pambansa Blg. 871, May 29, 1985); RPC Article 211-A, Qualified Bribery; and RPC Article 212, Corruption of Public Officials. (2) Republic Act No. 6713 (R.A. 6713) Code of Conduct and Ethical Standards for Public Officials and Employees and IRR of RA6713: Section 7. Prohibited acts and transactions. a) Financial and material interests; b) Outside employment and other activities related thereto; c) Disclosure and/or misuse of confidential information; d) Solicitation and acceptance of gifts. As to gifts or grants from foreign governments, the Congress consents to: 1. The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy. 2. The acceptance of a gift in a nature of a scholarship or fellowship grant or medical treatment. 3. Travel Grants or Expenses for travel taking place entirely outside the Philippines (such as allowances, transportation, food and lodging) of more than the nominal value if such acceptance is appropriate or consistent with the interests of the Philippines.
and permitted by the head of office, branch, or agency to which he belongs. (3) Republic Act No. 3019 (RA3019) Anti-graft and Corrupt Practices Act.

Article 212 of the Revised Penal Code imposes a penalty upon any person who makes the offers and promises or gives the gifts or presents to a public official under the circumstances of bribery. Presidential Decree No. 46 (Giving Gifts on Special Occasions Including Christmas) penalizes not only the public official who accepts the gift but also the person who gives the gift.

Republic Act No. 9485 (Anti-Red Tape Act) also punishes a public official (an insider “fixer”) who solicits or accepts “grease money” to facilitate an official transaction.

Also, Section 46(b) (9), Book V of Executive Order No. 292 (“Administrative Code of 1987”) provides as one of the grounds for administrative disciplinary action the act of “receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving favor or better treatment than that accorded other persons, or committing acts punishable under the anti-graft laws.”

3. Please provide examples of the successful use or implementation of the articles.

The Office of the Ombudsman as envisioned by the 1987 Constitution as the Protector of the People against scrupulous members of the Civil Service were given powers and mandate not only by the fundamental law of the land but also of specials laws like the Ombudsman Act (RA6770), to investigate and prosecute cases involving public employees. The Office of the Ombudsman accepts complaints against erring government employees, conducts preliminary investigation and when the evidence so warrants files appropriate cases before the regular courts or the Sandiganbayan.

Charlie "Atong" Ang a close associate and co-accused of former Philippines President Joseph Estrada in the crime of plunder had pleaded guilty to charges of corrupting public officials (Art 212, RPC) and was sentenced to a jail term of no less than two years and four months but not exceeding six years. Charlie "Atong" Ang also paid P25 million to the government representing the amount he was accused of pocketing from the P130 million tobacco excise tax intended for Ilocos Sur in 1998.
Article 9 - Public procurement and management of public finances, par. 1

Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

1. Has your country adopted and implemented the measures above?

Yes.

2. Please cite the applicable law(s) or other measure(s):

The "Government Procurement Reform Act" or Republic Act (R.A.) No. 9184 prescribes the following governing principles on government procurement:\(^{58}\)

i) Transparency in the procurement process and in the implementation of procurement contracts;

ii) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding;

iii) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method;

iv) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto;

\(^{58}\) Section 3, R.A. No. 9184
v) Public monitoring of the procurement process and the implementation of awarded contracts with the end view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and that all these contracts are performed strictly in accordance to specifications.

Article 9 - Public procurement and management of public finances, par. 2

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:
   (a) Procedures for the adoption of the national budget;
   (b) Timely reporting on revenue and expenditure;
   (c) A system of accounting and auditing standards and related oversight;
   (d) Effective and efficient systems of risk management and internal control; and
   (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

1. Has your country adopted and implemented article 7 of the UN Convention against Corruption?

Yes.

2. Please cite the applicable law(s) or other measure(s):

Both the 1987 Constitution and the Administrative Code ultimately define that “Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with the utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.”

This declaration encompasses the Convention’s requirements on the area of proper management of public affairs and public property, integrity, transparency and accountability. Generally, it is the Administrative Code that defines the following:

- Mechanics of government auditing and accounting which governs the analytical and systematic examination and verification of financial transactions, operations, accounts and reports of any government agency for the purpose of determining their accuracy, integrity and authenticity, and satisfying the requirements of law, rules and regulations.

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59 Article XI, Section 1 of the 1987 Constitution and Chapter 10, Section 32 of the Administrative Code
60 Title I, Subtitle B, Chapter 6, ibid.
• Measures on the manner of receipt and disposition of funds and property;\textsuperscript{61}
• Measures on the application of funds;\textsuperscript{62}
• Measures on the accountability and responsibility for government funds and property;\textsuperscript{63}
• Procedures and measures on government budgeting;\textsuperscript{64}
• Public contracts and conveyances;\textsuperscript{65}

Congress passes the General Appropriations Act (GAA), which represents the entire expenditure levels of the government, every year. The GAA generally contains provisions or measures on Receipts and Income, Expenditures, Personnel Amelioration, Release and Use of Funds, and other Administrative Procedures. These provisions are regularly enforced and/or monitored by the Department of Budget and Management (DBM) and the Commission on Audit (COA) through the issuances of appropriate Memorandum Circulars (MCs).

For instance, the grant of honoraria is governed by Budget Circular No.2003-5, as amended by Budget Circular No. 2007-1 and National Budget Circular No. 2007-510, and Budget Circular No. 2007-2. On the other hand, COA issued Circular 85-55, which prescribed the amended rules and regulations on the prevention of irregular, unnecessary, excessive or extravagant expenditures or uses of funds and property. Moreover, COA Circulars 75-6, 99-002, and 2000-005 regulates the use of motor vehicles, aircrafts, and watercrafts.

Other resolutions issued by COA are as follows: Resolution No. 06-02 on the conduct of comprehensive audits; Resolution No. 06-03 on prescribing the use of Risk-based Financial Audit; Resolution No. 06-001 on the responsibility to issue notices of suspension, disallowance or charge arising of the settlement of accounts and audit transactions;


With respect to procurement, it is the Government Procurement Policy Board (GPBB) that formulated the Implementing Rules and Regulations. Also, GPBB issues, whenever necessary, resolutions or memoranda, thereby giving orders or amending provisions of the IRR in order to promote the ideals of good governance. For instance, GPBB Resolution 01-2205 mandates all government agencies, including LGUs, to post all Notices of Award in the Government Electronic Procurement System Website in accordance with provisions of RA No. 9184 and its Implementing Rules Part A.

\textsuperscript{61} Title I, Subtitle B, Chapter 7, Ibid.
\textsuperscript{62} Title I, Subtitle B, Chapter 8, Ibid.
\textsuperscript{63} Title I, Subtitle B, Chapter 9, Ibid.
\textsuperscript{64} Book VI, Ibid.
\textsuperscript{65} Book I, Chapter 12, Ibid.
The Department of Budget and Management issued Circular No. 2004-4, as amended by Circular 2008-5, which provides the guidelines on the organization and staffing of the Internal Audit Units. The IAS/IAU shall have the following functions:

- Advise the Department Secretary or the Governing Board (thru the Audit Committee in the case of GOCCs/GFIs) on all matters relating to management control and operations audit;
- Conduct management and operations performance audit of the Department/Agency/GOCC/GFI activities and their units and determine the degree of compliance with their mandate, policies, government regulations, established objectives, systems and procedures/processes and contractual obligations;
- Review and appraise systems and procedures/processes, organizational structure, assets management practices, financial and management records, reports and performance standards of the agencies/units covered; and
- Analyze and evaluate management deficiencies and assist top management by recommending realistic courses of action.

Also, the Department of Budget & Management (DBM) issued Circular 2008-08 on October 23, 2008, also known as the National Guidelines on Internal Control Systems (NGICS):

- The NGICS was issued pursuant to Administrative Order No. 911 and Memorandum Order No. 277 which directs the DBM to promulgate the necessary rules, regulations or circulars for the strengthening of the internal control systems (ICS) of government agencies;

- The NGICS will serve as a guide to the heads of departments and agencies in designing, installing, implementing and monitoring their respective ICS taking into consideration the requirements of their organization and operations;

- NGICS will strengthen accountability, ensure ethical, economical, efficient and effective operations, improve the quality and quantity of outputs and outcomes and enable agencies to better respond to the requirements of the public they serve; and

- NGICS will also help agencies redesign their ICS if the Commission on Audit determines that the same is inadequate.
EXTREMELY URGENT

To : Vienna PE/PM
Fr : UNIO
Dt : 1 June 2012
Cn : VN-2012-UNIO-2012

Further to VN-167-UNIO-2012 dated 10 May 2012, attached are letters dated 30 March 2012 and 3 May 2012 respectively from the Office of the Ombudsman and the Anti-Money Laundering Council regarding its inputs on the following topics to be discussed during the 3rd Session of the Working Group on Prevention of Corruption which will be held on 27-29 August 2012 in Vienna:

1) Implementation of article 12 of the Convention, including the use of public-private partnerships

2) Conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the Convention

Please note the additional inputs from the Office of the Ombudsman:

- Article 7 – Public sector paras. 1-3
- Article 8 – Codes of conduct for public officials paras. 1, 5 and 6
- Article 9 – Public procurement and management of public finances, paras. 1, 2

Post is requested to submit the attached information to the UNODC Secretariat.

For Post’s information and appropriate action.

Eduardo Martín R. Meñeiz
Assistant Secretary

Enc. a/s.
3 May 2012

Mr. EDUARDO MARTIN R. MEÑEZ
Assistant Secretary
Department of Foreign Affairs
Office of United Nations and Other International Organizations
2330 Roxas Blvd.
1300 Pasay City

Dear Asec. Meñez:

This refers to your letter dated 23 April 2012 requesting comments/recommendation on some of the topics to be discussed during the 3rd Session of the Working Group on Prevention of Corruption to be held in Vienna from 27-29 August 2012:

Hereunder are the comments of the Anti-Money Laundering Council (AMLC) Secretariat on the topics for discussion at the aforesaid Working Group Session:

(a) Implementation of Article 12 of the Convention, including the use of public-private partnerships

- Section 141 of the Corporation Code of the Philippines (Batas Pambansa 68) mandates that every corporation, domestic or foreign, lawfully doing business in the Philippines, shall submit to the Securities and Exchange Commission (SEC) an annual report of its operations, together with a financial statement of its assets and liabilities certified by any independent certified public accountant in appropriate cases, or by SEC-accredited independent certified public accountants in case of listed companies and secondary licensees, covering the preceding fiscal year and such other requirements as the SEC may require.

Further, Section 26 of the Corporation Code requires that the Secretary or any other officer of the Corporation shall submit within thirty (30) days after the election of directors, trustees, and officers of the corporation, a
Mr. EDUARDO MARTIN R. MEÑEZ
Assistant Secretary
Department of Foreign Affairs
Office of United Nations and Other International Organizations
2330 Roxas Blvd.
1300 Pasay City

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File/Ref. No. AMLC-D-12-264(1)