TRADE STRATEGY DEVELOPMENT: INSIGHTS FROM HISTORY, ECONOMICS, AND LAW*

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INTRODUCTION

As a developing country entering the new millenium, the Philippines faces a multitude of pressing concerns. Essentially, how can the lot of present Filipinos be improved; how can the future of every Filipino be assured? Unquestionably, economic development constitutes a significant concern of the future. And so a fundamental question has to be raised: how does the country intend to promote the betterment of the Filipino's economic life?

One response to this question seems to lie in the arena of trade development. Government has a vision of a Philippines 2000, seemingly geared towards an indigenous adaptation of East Asian trade successes. Trade as an engine for growth, it seems, has become a battlecry. A dream of a Philippines occupying a strategic position in the world of international trade seems to be a prominent goal.

Considering the magnitude of these aspirations alone, and the implications they inspire in all our lives, it behooves us to understand the problem fully. Only with a better understanding of the problem can we even begin to provide answers. With a better perspective, any lessons we learn may be of inestimable value for the future.

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It is for this purpose that this paper furnishes insights into Philippine trade strategy development. Using the cognate disciplines of history, economics, and law, a unique multi-disciplinary approach of studying the various issues is obtained. This approach helps to emphasize the manifold nature of trade policy development, and the existence of the various complex interrelationships within these policies. With the unparalleled illumination provided by lessons from history, economics, and law, a more intensive view of trade strategy development is gained, and a more enlightened vision of future trade policy is engendered.

The paper begins with a brief survey of the country's historical experience with trade, specifically, previous trade relations with other countries, and the country's experience with trade in the context of colonization. The paper will then endeavor to outline the basic trade strategies undertaken, and the respective evaluations of these strategies.

The paper proceeds to tackle economic issues relevant to trade strategy development, particularly, the theoretical underpinnings of alternative strategies, and the empirical experiences under each strategy.

Lastly, the study of law is introduced, not only to substantiate the problem within a realistic setting, both locally and internationally, but also to situate the problem in an implementation, execution, and administration context. Some legal problems are exposed and seminally explored.

1. Lessons From History

Trade in Pre-Hispanic Philippines

Trade formed part of the economic life of the early inhabitants of the Philippines. As early as the 8th Century A.D., commercial trade relations were already thriving in certain areas of the country.[1] A historical account of China-Luzon[2] trade, by an

[1] T. AGONCILLO & M. GUERRERO, HISTORY OF THE FILIPINO PEOPLE 22, (1987).

early chronicler, Chao Yu-Kua, gives us visions of majestic Chinese ships, loaded with precious cargoes of glass, porcelain, ceramics, iron needles, and other products made in China, sailing into Philippine ports.[3]

Trade was in no way confined to the archipelago's north. In the far south, for instance, evidence suggests that the island of Sulu was freely trading with neighboring territories of what are now modern Vietnam, Borneo, and Brunei.[4] In other regions of the country, similar activities also flourished.

A notable characteristic of early Philippine trade is that it was conducted primarily by foreigners on Philippine shores, and barter was often the medium of commerce. In exchange for the goods brought by foreign traders, the natives gave resin, hemp, pearls, tortoise shells, and other gathered natural products.[5]

But even with the incipient economic vigor exhibited in this era, the development of a commercial trading regime was hardly imminent. Partly, the reason was that during this period there was no central government. The country was, at best, a loose aggrupation of various tribes with differing levels of socio-cultural sophistication. As a result, even in the areas where trade was commonplace, there was no central organization which regulated trading activities. No system seemed to govern trade relations.

Except in areas where periodic trading occurred, the rest of the country had intermittent and casual trading arrangements. Indeed, in some subsistence regions, there was virtually an absence of economic activity. In the more progressive areas of the country, where control was exercised by ruling chieftains, and where trade was common, the determination of trade policy, if it can even be

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[2]The word Luzon, in fact, is the Tagalog translation of an equivalent Chinese word meaning land of rice mortars.

[3]STANLEY KARNOW, IN OUR IMAGE: AMERICA'S EMPIRE IN THE PHILIPPINES 39 (1989).

[4]T. AGONCILLO & M. GUERRERO, *op. cit. supra* note 1, at 20.

[5]*Id.* at 22.

designated as such in a broad sense, would be as dissimilar as the unique circumstances prevailing in each territory.

Relations may have depended on the particular circumstances of the trading partners, the commodities traded, the timing of trade, and even on the vagary and caprice of many a petty ruler. In any case, evidence suggests that the trading that went on between communities and foreign traders seems to have been on the whole accidental and irregular.[6]

This leads to the conclusion that the trade landscape was unmarked by policy structures in the areas where trade occurred, while in the non-trading regions, on the other hand, no policy could be possibly expected. On the whole, it may be said that in the informal economy, characteristic of society during this time, trade, as yet, was not an all-important social concern.

The Political Economy of Colonization

The colonization of the country transformed trade from an informal and incidental affair into a more socially integrated undertaking. Gradual structuralization was to be achieved only after a regime of centralization of power predominated. And this would come only after Spain, in its search for God and gold, not necessarily in that order, seized control of the Philippines.

When Spain came to the Philippines, after conveniently mistaking its side of the famous papal division of the world, it subjugated the divided peoples inhabiting the islands. The foreigners proved to be militarily superior, and with the natives unable to present a united front, their tribes soon fell. Three centuries of Spanish domination soon followed, leaving an indelible imprint on the fabric of local society. In this time, the Spaniards would exercise dominion over the islands without appreciably contributing to its development.

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[6]RENATO CONSTANTINO, THE PHILIPPINES: A PAST REVISITED 40 (1993).

To contextualize the phenomenon of colonization, it should be borne in mind that the search for trade routes was the proximate cause of the Great Voyages of this era. The lust for untold riches, the desire of competing states for territorial supremacy, and the legitimacy provided by religious imprimatur fueled the European drive for colonization. It was inevitable that the islands would sooner or later succumb to the political and economic forces of the time.

A question may be posed. What effect did colonization have on the economic development of the country as a whole, and to trade in particular? Although the colonial experience of most of the Third World indicates unsurprising patterns[7], some unique features of the Philippine story deserve elucidation.

It is not widely known that Spain almost abandoned the country. From the very beginning the islands failed to meet the high expectations of the Spaniards. Unlike its other colonies, no rich mines were found. There were no temples to loot. Sought-after spices were not in abundance. The colony was retained only because of the Spanish dream of carving out an Oriental empire. It was also hoped that the islands would serve as a convenient outpost for further conquest of the richer lands of the East. This relegated the country to the role of a mere way-station. It was this attitude towards the country that was a factor that initially discouraged economic development. Inevitably, subsistence became the norm. Economic activity was geared only to the administrative maintenance of the islands. Coupled with the perceived geographic isolation of the country, this precluded the steady growth of trade from the rest of the world.[8]

Given the Spanish outlook on its colony, for a long stretch of its colonial history, the Philippines was in economic slumber. To be sure, there was a narrow trading regime. For almost three centuries prior to the opening of formal trade in the Philippines, the

[7] *See* THE NEW INTERNATIONAL POLITICAL ECONOMY (Craig N. MURPHY & ROGER TOOZE, EDS., (1991); ROBERT ISAAC, INTERNATIONAL POLITICAL ECONOMY (1991).
[8] *Id.*, at 56.

country functioned as an entrepot.[9] Foreign traders from China, and later Britain, and Spain, dominated a commerce based on transhipment. Foreign goods were brought into Philippine ports and then reshipped to other destinations. The galleon trade flourished in this period. Goods were carried on galleons bound for Mexico, where they were exchanged for silver, earning huge profits for its foreign masters. Filipinos, however, were rarely involved in these trading activities. They generally kept to traditional agricultural activities, leaving the more lucrative ventures to foreigners.

Characteristically, trade was limited to exotic goods bought from China and India, loaded on galleons, and then reshipped to foreign ports. Because silk and spices were not locally available, local exports were marginal. Indeed, there was scarcely any domestic product which was exported.[10]

Since there was negligible local content in the exported goods, not much growth could have been derived from this trading regime. As only a marginal share of profits went to local producers, local income was not substantially augmented; it functioned inefficiently as a stimulant to local production. Consequently, few of the rewards of these trading ventures filtered into the country at large to spur growth.

The Mechanics of Mercantilism

A survey of Philippine trade history during this period would be incomplete without a discussion of the then prevailing worldview on the nature of trade as an economic phenomenon. In this period of history, Spain, as in most of Europe adhered to the mercantilist philosophy. This theory maintained that the way for a nation to become rich and powerful was to export more than it imported. The resulting export surplus would mean that the country had more gold and silver. This surplus could then be used by the rulers to

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[9] L. REYNOLDS, ECONOMIC GROWTH IN THE THIRD WORLD 181 (1985).
[10] *Id.*

finance armies to consolidate power, as well as acquire more colonies.[11]

The mercantilist policy of Spain affected the Philippines negatively. First, because the burgeoning trade in oriental silk competed with commercial interests in silk-producing Spanish cities, powerful Spanish commercial interests pressured the government to stem growing trade with the islands. This had the effect of dampening what grudging economic progress the country was enjoying. Second, the galleon trade was perceived to be a cause of outflow of silver to the East by ardent mercantilists. They could not countenance the drain on Spain's gold and silver resources, and they pressured government to implement policies to reduce trade activity with the Philippines.

The result was that the galleon trade was to be permitted in so far as it allowed the islands to sustain itself, but no more. The galleon trade was restricted to only two ships a year. The value of exported merchandise was also controlled. Exports would be limited to 250,000 pesos. A further barrier was erected, i.e., only one port of entry, Acapulco, was allowed for the foreign ships.[12]

To generalize the Philippine economic experience during the initial phase of its colonization, it would be fair to say that it was merely a reflection of the Spanish view of reality. The first reality was that the Philippines did not prove to be the resource-rich possession the colonizers expected, at least from the perspective of being a direct and substantial pecuniary asset. At most it was seen as a strategic burden, to be maintained for its unique territorial importance. The result was that there was no conscious local development agenda. Trade, although existent, did not occupy a strategic spot in the national economic framework.

The second reality was the doctrinal barrier of mercantilism. This prevented the country from taking full advantage of the vast and almost unlimited opportunities available in trade. Beyond this

[11] D. SALVATORE, INTERNATIONAL ECONOMICS 16 (1983).
[12] R. CONSTANTINO, *op.cit.*, note 6, at 57.

ideological barrier, a third reality existed. As with most colonies, the country had to contend with mismanagement at every level. More significantly, the inconsistent and ambiguous policy direction, which came as competing commercial and political forces within Spain asserted themselves, converged to produce the harsh colonial reality.

Other social ills were also becoming noticeable. A notable growing pattern of corruption was emerging. What started as simple gift-giving soon mushroomed into settled practice. A description of early trade included the practice of presenting gifts to the local chiefs to grease the gears of business."[13] During the Spanish era, clandestine British penetration of Philippine trade was facilitated by the corruption of the officials of Manila. It was well known that trading activities allowed governors and their assistants to tap a new source of wealth.[14]

Obviously, among other things, the prevailing trading arrangement in this era failed to appreciate the latent potential of the country to enter the trading world, and no doubt, contributed little to the country's economic development. During this period of history, trade failed to take a central role. Interestingly enough, some writers even go as far as to point out that under Spanish rule, the Philippines suffered as much from neglect as from tyranny.[15] Perhaps even more so, for just as in Europe, Spain languished in a "medieval cocoon", its sectarian society shielding self from modern trends, its Asian colony was just as similarly situated.[16] While various European powers were growing in strength, animated by new ideas, Spain and its colonies stagnated.

By the early 18th century, Spain had ceased to be a major power. England's rising hegemony forced Spain into a subordinate role. The defeat of the Spanish Armada in 1588, the wars of Spanish succession, and the diminution of its population due to

[13]S. KARNOW, *supra* note 3, at 39.
[14]R. CONSTANTINO, *supra* note 6, at 117.
[15]S. KARNOW, *supra* note 3, at 48.
[16]*Id.*

plagues and epidemics contributed to the decline of her political and economic power.[17] It was no surprise that its colony was similarly ailing. For centuries, the only international economic activity was the galleon trade. The colony, acting merely as a transshipment port through which foreign goods flowed, trade had practically no effect on the country's economic life.

The Rise of World Trade

The adoption of capitalist thought in Europe influenced the economic policy of the second phase of Spanish control of the Philippines, though belatedly. The rise of classical economics in the rest of Europe in the 17th and 18th centuries would herald the fall of Spanish mercantilism in the late 18th and 19th centuries. Belief in free trade was one of the cornerstones of this shift in economic thought."[18] This, coupled with a strong internal movement to restore her former glory, pushed Spain to institute economic reforms within herself and her colonies. With the creation of the *Real Compania de Filipinas*[19] in 1785 and the abolition of the galleon trade in 1815, the stage was set for change.[20]

A paradigm shift would wake the Philippines from its economic slumber. For nearly one hundred years, beginning with the late 18th century and ending in the late 19th century, changes in Spanish colonial policy resulted in a more or less systematic effort to develop agricultural resources. Attempts to broaden the commercial contacts of the country were undertaken. Direct trade to Spain was encouraged, and restrictions that previously hampered trade with other nations were being gradually dismantled. More important than this conscious policy shift, however, the implementation of these new policies was left in the

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[17]R. CONSTANTINO, *supra* note 6, at 113.

[18]D. SALVATORE, *supra* note 10, at 16.

[19]This trading company was established by Governor Basco, and had the purpose of tapping the country's trade potential. Due to heavy mismanagement and corruption, however, it suffered heavy losses, and was abolished when the Philippines opened its door to international trade.

[20]T. AGONCILLO & M. GUERRERO, *supra* note 1, at 95.

hands of capable public administrators who were adherents of the new economic ideas.[21]

Paradoxically, however, it was neither the Spaniards nor the native Filipinos, but the English and the Chinese who played important roles in the economic development of the Philippines and its eventual opening to world trade.[22]

The Chinese had been immigrating to the Philippines, attracted to economic opportunities, until, by the beginning of the 17th century, they had outnumbered the Spanish settlers. They became an indispensable and established institution in Philippine economic life.[23]

While the Chinese, who dealt with native producers, Spanish governors, and friars were responsible for the increasing commercialization within the Philippines, the British should receive credit for eventually forcing open the country to international trade. The Manila-Madras trade route became a lucrative one. Soon, with the participation of the powerful East India Company, the English attained commercial primacy in Manila.[24] This trade grew in significance. Evidence to show the importance of this trade was the fact that, for a time, the East India Company financed and directed the British invasion and brief occupation of the Philippines.[25]

Unable to stem the rising tide of the modernizing world, the Philippines eventually had to enter the larger world trade arena. Upon formal opening to international trade in 1834, the British and Americans were quick to take advantage of market opportunities. Several merchant houses opened, and an export trade in local produce flourished. Agricultural products were the primary exports of the country. Sugar and abaca comprised 75% of exports, tobacco

[21] R. CONSTANTINO, *supra* note 6, at 118.

[22] *Id.*, at 115.

[23] *See* Edgar Wickberg, *Early Chinese Economic Influence in the Philippines, 1850-1898*, PACIFIC AFFAIRS, Fall 1962, at 275.

[24] SERAFIN QUIAZON, ENGLISH COUNTRY TRADE WITH THE PHILIPPINES 2 (1966).

[25] R. CONSTANTINO, *supra* note 6, at 116.

and coffee 13%.[26] The limited range of product-exports was not an obstacle to the development of trade during this period, which in a little more than three-quarters of a century, saw a 3600% increase in value of exported produce.[27]

The increased trade- activity paved the way for the country's growth. Largescale production of crops required a more efficient transport system, hence, the expansion of the public works system. Similarly, inter-island shipping trade improved, with the creation of linkages between the major centers. Telegraph and telephone services were soon available to improve the communication between provinces. There was not a long wait before the country began to enjoy a favorable balance of trade in its commerce with Europe and the rest of Asia.[28]

To note, the Spanish economic policy during this period reflected the thinking of the age. Economic development seemed to have found its way to the islands at last. With the adoption of a more dynamic economic world view, and the concurrent support in terms of colonial policy-implementation, the country was on its way to development.

On hindsight, however, the growth during this period might seem more superficial than real. Although increased foreign trade brought more revenue to the islands, and on the whole improved the general economic milieu, incipient structural problems, that would plague the country in the next century, which were beginning to develop, were being overlooked. The demand for specific export crops as sugar, abaca, and tobacco resulted in agricultural specialization, and the concentration of resources on these products had the effect of retarding the growth of a more diversified economy.[29]

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[26] L. REYNOLDS, *supra* note 8, at 181.
[27] *Id.*
[28] T. AGONCILLO & M. GUERRERO, *supra* note 1, at 95.
[29] *Id.* at 96.

Economics of a Revolution

Ideas of the enlightenment found fertile ground in the colony. The noble pursuit of liberty, justice, and equality became the preoccupation of the native elite. More than once, unrest would sweep the islands, fueled by the rhetoric of local leaders.

Possibly, however, there might be truth to the assertions that more substantially than any egalitarian idea, popular discontent was primarily caused by massive economic dislocation of the masses.[30] Abstract ideals of freedom and nationalism must have certainly played a role, but understandably, from the common person's view, the daily economic hardship must have been a more compelling inducement than the lofty oratory of the *ilustrados.*

It is the view of some historians that civil unrest was the primary product of the untrammeled course of economic exploitation. The rise of the hacienda system, partly at the cost of expropriation of local lands, massive land-grabbing, and the decline of certain local industries as a result of the inroads made by foreign trade, caused acute deprivation in large communities. The local clothing industry, for example, could not compete with English textiles, and as a consequence, thousands dependent on the regional weaving industry were ruined.[31]

To further illustrate the point, the decline in the production of rice, and the consequent effect on the food sufficiency of the natives can be cited to underscore the effects of economic activity gone awry. Because of the emphasis on select export crops, there was a decrease in acreage allocated to planting of rice, the staple food. This soon resulted in food shortages.

Where the country was once self-sufficient in food production, it soon became heavily dependent. Where it was once an exporter, it soon became an importer.[32] This became one of the

[30] R. CONSTANTINO, *supra* note 6, at 141.

[31] *Id.*

[32] *See* Eduardo Lachica, *The Age of Awakening,* HISTORICAL BULLETIN, (Dec. 1963).

main problems of the simple peasant. He was forced to plant non-food export crops - sugar, tobacco, abaca, which could not feed his family. Hence, in times of need, he was forced to borrow money at usurious rates. This resulted in his economic dependency on lending merchants.[33] A vicious cycle had begun.

Generally, it was true that economic progress was at hand. Only, the chief beneficiaries of such progress were foreign firms, and the new elite, the Chinese and Spanish mestizos, and a small coterie of urbanized natives. Rarely did the gains from improved trade trickle to the masses.

Soon, the inevitable had to happen. With the impetus provided by local discontent, the spread of liberal thought, and by reason of historical accident, forces would propel the Philippines into a revolution. A new phase of the Philippine story was set. It would be told in American English, and the greatest player would be the United States of America.

The Interplay of American Expansionism and Protectionism

After its victory over Spain, the United States became the last colonial power in Asia. Much to the consternation of native leaders, the Philippines was soon to become the unwilling beneficiaries of American munificence. They were left with no choice, and there was little that could be done. After routing the Spaniards, the Americans refused to transfer the reins of power.

In the circles of power in the United States, however, the Philippine issue was not a simple one. A debate raged between the expansionists and isolationists. On the level of principle, some expansionists saw the Philippines as "a new career, grander and more imposing than anything.[34] An American lawyer saw a vision of "a conquering race...American law, American order, American civilization and the American flag will plant themselves on shores

[33]R. CONSTANTINO, *supra* note 6, at 142.
[34]S. KARNOW, *supra* note 3, at 105.

hitherto bloody and benighted, but by those agencies of God henceforth to be made beautiful and bright.[35]

With equal eloquence, isolationists argued that to annex the Philippines would violate America's principles of "right, justice, and liberty". On a more pragmatic note, other isolationists prophesied an influx of "more or less barbarous Asiatics:" In the end, the expansionists won, however, and the dream of an independent Philippines died. Various arguments were postulated by the expansionists and isolationists for their actions. Their interest in the Philippines was mainly economic, however, despite much of the flowery rhetoric of both groups.[36]

The expansionist tendencies of this time were fueled in part by the economic peculiarities of America. In the last decades of the 19th century, an increase in the output of manufactured goods and a severe economic depression that began in 1893, created a need for new markets. The search for these led the Americans to Asia. Commodore Perry's forcible opening of Japan is a typical example of the prevailing policy of the time. Evidence suggests that one of the reasons behind the annexation of the Philippines was that it was seen as a convenient base for trade with China.[37] In addition, other commercial interests supported expansionist policy. The monopolistic Sugar Trust, for example, which had supported the political campaign of President McKinley. was interested in Philippine sugar. It saw potential profit in its control over the sugar trade. In itself a study on how large commercial interests influence the course of policy, the course eventually undertaken reflected political reality, for the new president promptly repaid the trust for their support by adopting expansionist policies.[38]

During this period of history, Philippine economic policy often reflected the conflict between two competing economic forces. On one side were the Americans interested in trade and economic

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[35]*Id.*

[36]R. CONSTANTINO, *supra* note 6, at 294.

[37]*Id.*, at 289

[38]*Id.*, at 291.

holdings overseas, on the other were those interested in protecting local production and labor from foreign competition. The former were actually the expansionists, the latter, the protectionists. The expansionists, however, were successfully able to direct the policy direction of the government, at least for a time, although the protectionists had enough power to muster several close votes.[39]

Law as an Instrument of Trade Policy

Fresh from its victory, the supporters of expansionist goals began tailoring the legal setting to meet the requirements of the new order. In their own legal regime it became necessary to create a new fiction[40] to accommodate their designs on the islands.

In the Philippines, William Howard Taft, as President of the Philippine Commission, quickly commenced the implementation of expansionist plans. Seeing the need for stability and in order to provide for the proper investment climate, the Taft Commission urged Washington to establish a civil government and enact land and franchise laws which allowed maximum opportunities for investments.[41]

In the report of the Commission it was declared that a civil government was needed to pass laws which would facilitate American investment in the Philippines.[42] Indeed, a civil government was necessary for the grant of public franchises, sale of public lands, and allowance of mining claims. Against the better judgment of military leaders, Congress succumbed to political pressure, and passed the Spooner Amendment. At last, the new Philippine landscape was rendered compatible with the economic blueprint of business interests.

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[39]*Id.*, at 295.

[40]*See* Downes v. Bidwell, 182 U.S. 244 (1991), 21 S Ct. 972; (and companion cases discussing the status of "unincorporated territories".)

[41]R. CONSTANTINO, *supra* note 6, at 296.

[42]REPORT OF THE TAFT PHILIPPINE COMMISSION, 34-35.

With investment opportunities came trade. It became a source of intensive growth during this period. Sugar became the main export, followed by abaca, coconut oil, and copra. Under this trading regime, foreign trade grew rapidly, the United States replacing Britain and Spain as the country's main trading partner. The value of exports rose from an annual average of 51 million pesos in the early 1900's to 312 million in 1936.[43]

The growth of trade volume can also be attributed to the fact that United States investment went into export industries. These were the mining industry, the plantation industry, and the sugar industry. Not much investment interest focused on manufacturing.[44]

In evaluating trade and on the whole economic policy during this period, it is fair to say that there was no conscious policy thrust. It can be said that trade policy during this period merely reflected the investment agenda of business interests. The benefits provided by trade were incidental to benefits received by the investors, hence the absence of any calculated strategy.

Several notable features of the prevailing economy should be borne in mind. First, in most government policies of the period, the competing expansionists and protectionists determined the political, social, and economic direction of the country.[45] The legal framework affecting trade was only one of the areas affected. The educational and intellectual spheres, the value structures, and even consumer and producer tastes were similarly affected.

In the field of trade diversity and stability, whereas before the American occupation, the Philippines had started to expand

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[43] L. REYNOLDS, *supra* note 9, at 181.

[44] *Id.*, at 182.

[45] Note that though the expansionists were initially successful in pursuing their goals, the protectionists eventually made their influence felt. Trade protectionists in the United States would be able to check on the growth of exports from the Philippines. In later years, they would manage to pass the Agricultural Adjustment Act in 1934, which set quota limits for exports.

into trade with countries aside from its original colonist, Spain, under American occupation, a return to the old pattern emerged. A series of laws were passed which aided American traders and investors, to the exclusion of other foreigners, and to the detriment of Filipinos. The Tariff Act of 1901, in particular, lowered the tariff rates on American exports to the Philippines. The Tariff Act of 1902 subsequently removed the tariff on American goods entering the Philippines.[46]

Later, after 1909, when the provision in the Treaty of Paris allowing Spanish ships and goods entrance on the same terms as Americans expired, the Payne-Aldrich Act was passed. Under this law, all American goods could enter the Philippines free of duty and in unlimited quantities. On the American side, however, because of the rabid protectionist sentiments, Philippine exports of sugar and tobacco were subject to quotas.[47]

Second, the framework for future structural development was being laid. To the exclusion of industrialization and manufacturing growth, agriculture and mining became the focus. Whatever infrastructure, or industry was formed was secondary.[48]

The economy never became diversified; it failed to evolve and mature. To illustrate, output increases throughout the period were achieved, not through any technical progress, but merely by acreage expansion.[49] Productivity, particularly in agricultural production, was low. Productivity in sugar, for example, was half of Taiwan's and a third of Java and Hawaii.[50]

In addition, responding to the attractive business environment provided, American business soon dominated the

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[46]R. CONSTANTINO, *supra* note 6, at 302.

[47]Proving again that most of trade policy was an interplay of political forces, these quotas would again be removed.

[48]R. CONSTANTINO, *supra* note 6, at 301.

[49]The traditional mode of raising output by extending the area cultivated continued until 1960.

[50]L. REYNOLDS, *supra* note 9, at 182.

economy resulting in a dependency which would, in the future, be characteristic of the Philippine economy. Note that in 1900, the United States' share in the total value of the import and export trade comprised only 11 %. By 1910, this rose to 41%. By 1920, 65%. And by 1935, 72%.[51]

Also, the Philippines soon became heavily dependent on American trade. Whereas at the start of occupation, only 9% of imports came from the United States, by 1933, this had risen to 83%.

Lastly, a lopsided pattern of growth was becoming noticeable. The Philippines imported manufactured goods and exported raw materials.[52] As stated, however, the export advantage from raw materials did not come from increased productivity. Moreover, because both in the import and export trade, big businesses, both foreign and local, were the direct players, the average citizen was only rarely directly benefited.

To be sure, even on hindsight, given the setting, not much could have been accomplished. After all, policy determination was in the hands of foreigners. Worse than that, there were no conscious Filipino agenda. The interplay of commercial interests and political realities seemed to dictate prevailing policies. It seemed that the only way the country would be able to map out its own development strategy would be if it were able to manage its own affairs. For this, political independence was essential.

Only later, after a shift in American politics, the Great Depression, and the Second World War, would independence finally come. Only then would Filipinos be given the opportunity to manage their country to benefit their countrymen. Whether they actually succeeded is entirely another story.

Dependent Independence or Independent Dependence?

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[51]A.V. HARTENDORP, HISTORY OF INDUSTRY AND TRADE OF THE PHILIPPINES 28 (1958).

[52]R. CONSTANTINO, *supra* note 6, at 308.

The advent of independence in 1946 should have brought the country towards political and economic autonomy. A series of events, however, both foreign and domestic, would frustrate this goal.

During World War II, Japanese occupation of the country suspended American control. To justify their presence, attempts at legitimacy were undertaken. Under the guise of a Greater East Asia Co-prosperity Sphere, Japan tried to control the Philippines, trying to reorient the domestic landscape to their needs. The extent of Japan's vision of the islands' role in its empire is only now being discovered.[53]

In the areas of agricultural production, and industrial development, Japan, like the previous colonists, customized domestic policy, all the while attacking American exploitation of the country. In the social, economic, and legal spheres, the Japanese tried to remodel the country. These obvious attempts of the discovered Japanese, however, were more vulgar and apparent, and the Filipinos were not as easily deceived.[54]

After the war and Philippine independence, American influence resurfaced. In the United States, the Bell Trade Relations Act was passed, conveniently providing for the infamous "parity" rights. Various rights, among them, rights to dispose, explore, develop and utilize agricultural, timber, and mineral lands, together with the operation of public utilities, and the exploration of the waters, minerals, coal, petroleum, and mineral resources were guaranteed the Americans. In effect, economic independence became only nominal. The new Filipino leaders had to make legal adjustments[55] to accommodate this obscene economic arrangement. In some quarters, it was said that there was no choice; American

[53]RENATO CONSTANTINO, THE PHILIPPINES: THE CONTINUING PAST 85 (1992) (citing newly a Japanese document entitled "Summary of Industrial Relations" by the Industrial Department of the Philippine Military Administration; Official Journal of the Japanese Military Administration, Vol. VI, pp. 29 et seq.).

[54]*Id.* at 84.

[55]The new Philippine leaders had to make constitutional concessions to allow American demands. Political manipulation reared its head, historically immortalized in the case of Mabanag v. Lopez Vito, 78 Phil 1 (1947).

help in rehabilitating the war-ravaged country was inextricably conditioned on the acceptance of the scheme by the Tydings Rehabilitation Act.

Other developments that were important although on a less conscious level, were the continuing trade dependence of the country on the United States, the reliance on a narrow range of production, and the resulting productive capacity of the country. This economic pattern continued, reinforcing the productive, allocative, and distributive mechanisms of the economy.

Today, the Philippines serves as a very good study on the mechanics of colonial exploitation. Indeed, it has been said that the country can never hope to fully escape its colonial past. Dangerous patterns must be exposed. One such pattern, wherein the economy of a country is conditioned by the development and expansion of another, must be avoided.[56] With the future just around the corner, and the imminence of economic integration, this warning is positively timeless. The possibility and implications of a "supranational economic order"[57] should be planned for and anticipated.

II. LESSONS FROM ECONOMICS

The Policy of Import Substitution and The Philippine Experience

For countries of the Third World, economists have identified two broad strategies for development. These strategies are the outward-looking development strategy and the inward-looking development strategy. The first strategy involves an outlook which encourages not only free trade, but also the free movement of capital, workers, enterprises, in effect, an open system. In contrast, the second strategy stresses the need for developing countries to encourage development by focusing on indigenous "learning by

[56] *See* Theotonio Dos Santos, *The Structure of Dependence,* AMERICAN ECONOMIC REVIEW (May 1970).

[57] *See* Merlin M. Magallona, *The Philippines Towards a Supranational. Economic Order: The Context of GATT,* World Bulletin, Sept.- Dec. 1994, at 11.

doing" manufacturing, greater self-reliance, and limiting ruinous external economic stimulation.[58]

Within each of these philosophical approaches, corresponding trade strategies arose. For the outward-looking philosophy, the export promoting trade strategy (EP) was advocated. For inward-looking policy, import substituting strategy (IS) was promoted. For the moment, a discussion on the second strategy is in order, as this was the strategy adopted by the Philippines for the most part of the present century.

Advocates of the first strategy, the IS strategy, believe that developing countries, in order to grow, must encourage domestic industrial production to replace market demand for imports. This involves two steps, the first-stage IS and then the second stage IS. The first stage IS relates to the replacement of imports of light, and non-durable consumer goods. The second stage IS, which is more difficult, seeks for the creation of a domestic industry that would produce a wider range of more sophisticated, manufactured items. Both stages would occur with government intervention in trade, in the form of tariffs or quotas, or the provision of credit like preferential finance of an import-replacing industry.[59]

On the whole, economists have identified the Philippines as having pursued an inward-looking philosophy. In fact, as late as 1985, the World Bank, in a study classifying countries according to trade orientation, has comparatively described the country as moderately inward-oriented.[60] The reason is that although several outward-looking short-term policies were pursued in the second half of this century,[61] these policies often wavered in terms of actual consistency and coherence. The country's attempts at focusing on this strategy are not a recent development. In the past, it has often

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[58]MICHAEL P. TODARO, ECONOMIC DEVELOPMENT 484 (1994).

[59]GERARDO. P. SICAT, ECONOMICS 513 (1983).

[60]World Bank, World Development Report 1987, fig 5.1.

[61]"These were the decontrol policies of the 60's, devaluation and export promotion in the 70's, and tariff reform in the early 80's.

tried to do so. Unfortunately, such efforts have often been more apparent than real.

Historically speaking, the Philippines' experience with import substitution goes as far back as the American period. The tentative beginnings of IS started when production in light consumer goods was promoted. This included the production in dairy products, soy sauce, canned fruits, vegetables, fish, matches, liquor, beverages, leather products, clothing, and furniture.[62]

The pattern of IS continued, and in the 1950's, the Philippines was well into the first stage of IS. With the help of policies that put quotas on imports, controls on foreign exchange and preferential tax credit treatment, "new and necessary"[63] industries were put into place. Incontestably, this raised the base of Philippine industry.[64]

Unfortunately, after two decades, the Philippines found itself trapped in the easy first stage IS. Progress into the second stage of IS was long in coming. The country became typical of many developing economies which pursued IS industrialization. These economies achieved impressive rates of growth initially. But after the completion of the first stage of IS, after consumer demand was satiated and the economy had to diversify into more complex industries, growth slackened.[65]

Development economists have analyzed the phenomenonal failure of IS. They sought to explain the failure of IS strategies. Why did IS fail to live up to its economic objectives? After all, the logical foundation behind it seemed theoretically sound. Several reasons have been advanced.

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[62]REYNOLDS, *supra* note 9, at 182.

[63]As they were called by law.

[64]SICAT, *supra* note 59, at 513.

[65]H. HILL, *Recent Thinking on Trade and Industrialization in Developing Countries: A Review*, PHILIPPINE REVIEW OF ECONOMICS AND BUSINESS, March & June 1980, at 92.

The main reason for IS failure was that the IS system caused severe distortions in the allocation mechanisms of the economy. High cost industries managed to swallow limited resources, choking out other potentially important industries.[66] Severe balance of payments problems occurred and instead of reducing imports, the IS strategy proved to be, paradoxically, import-consuming.[67]

There was economic growth but such was constrained by the limitations of the domestic market, by inability to develop export capacity, and by heavy foreign exchange problems. Unstable prices, low input utilization, and employment problems were the results.[68]

The second reason for IS failure has been attributed to the inherent inflexibility of the system. Vested interests in the form of an entrenched bureaucracy, and businesses operating in lucrative and protected industries develop during the IS stage.[69] Instead of encouraging higher rates of capital accumulation and dynamic efficiency, as was assumed to happen by IS theorists, the strategy backfired. Likely as it was to encourage entrepreneurship, the opposite happened. Since the success of firms depended as much on political patronage in securing scarce inputs and increased protection as on business efficiency, a critical assumption of the theory failed. Without increased capital accumulation, the IS argument lost force. Similarly, innovation and technical change did not develop. How could it? There was no incentive in the system. Improved innovation and technology were unlikely to be encouraged by the existence of highly protected captive markets.[70]

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[66]The reason for this was that the irrationally high rates of effective protection for final goods industries attracted scarce resources away from intermediate goods production. Backward linkages did not develop, costs rose, and thus the development of an indigenous capital goods industry was impeded.

[67]H. HILL, *supra* note 65, at 93.

[68]L. REYNOLDS, *supra* note 9, at 184.

[69]H. HILL, *supra* note 65, at 97.

[70]*Id.*, at 93.

On hindsight, most economists agree that a strategy of extensive import substitution, after a relatively short period of rapid growth, results in a slowdown in development because of ever-increasing inefficiencies in terms of excess capacity, declining exports, and serious balance of payments problems.[71]

In this period, trade and exchange policy, and the industrial structure served to reinforce each other. Later studies would point to the structural defects of the economy.[72] To summarize these defects: first, the manufacturing industries were inward-looking. Convinced of their inability to export, and largely due to an overvalued exchange rate, businesses opted for an inward-looking strategy.

Second, there prevailed a structure of protection tending to produce industries that relied excessively on imported inputs, and thus held little foreign exchange savings. Third, it was observed that industry was concentrated in Manila, leaving the other areas relatively undeveloped. Lastly, it was observed that technical and economic inefficiency was largely the result of protected markets, and an oligopolistic market structure.

Should the Philippines Embrace EP Strategy?

From the discussion in the preceding section, at first glance, one may be misled into thinking that an all-out EP strategy is immediately the best and only alternative for growth. One may be trapped by a naive expectancy that the only thing the Philippines did wrong was to choose an IS strategy, and thus a reorientation towards the outward EP strategy will cure all the country's economic ills. A discussion on the experience of the EP strategy, a

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[71] ROBERT E. BALDWIN, TRADE POLICY IN A CHANGING WORLD ECONOMY 12 (1989).

[72] *See* JOHN H. POWER and GERARDO P. SICAT, INDUSTRIALIZATION IN THE PHILIPPINES (1970); ROMEO M. BAUTISTA, JOHN H. POWER, ET.AL, INDUSTRIAL PROMOTION POLICIES IN THE PHILIPPINES (1979); GERARDO P. SICAT, PHILIPPINE ECONOMIC POLICY AND DEVELOPMENT (1972).

discussion on the reasons for its success, and some timely warnings should prove insightful.

Advocates of EP cite efficiency and growth benefits of free trade and competition, the importance of substituting large world markets for narrow domestic markets, the distorting price and costs of protection, and the tremendous successes of East Asian export-oriented economies,[73] as arguments for outward oriented trade policies. These arguments deserve specific examination, if only to illustrate that the choice of which policy to follow. and to what extent it is to be emphasized, is not an easy one.

First it must be stated that the success of EP policies is not explained by simple neo-classical free trade arguments. That is, without even going outside economics, without recourse to rhetoric from protectionists or economic nationalists, from within the realm of pure economic theory, the economic arguments in favor of full free trade are not incontrovertible.[74]

Developments from the latest economic theories have shown that because the conclusions[75] of traditional trade theory are derived from a number of explicit and implicit assumptions that are often contrary to the reality of contemporary international economic relations, these conclusions are often flawed.[76] Here are those easily-violated assumptions:

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[73]*e.g.*, South Korea, Taiwan, Singapore, Hong Kong.

[74]*See* Hia Myint, *The Classical Theory of International Trade and Underdeveloped Countries,* ECONOMIC JOURNAL 68 (1968); GUNNAR MYRDAL, THE CHALLENGE OF WORLD POVERTY (1970); Hia Myint *International Trade and the Developing Countries,* in INTERNATIONAL ECONOMIC RELATIONS (Paul Samuelson ed., 1969); JAMES RIEDEL, TRADE AS AN ENGINE OF GROWTH IN DEVELOPING COUNTRIES: A REAPPRAISAL, (1983); JOHN TOYE, DILEMMAS OF DEVELOPMENT: REFLECTIONS ON THE COUNTER-REVOLUTION IN DEVELOPMENT THEORY AND POLICY (1987).

[75]The neoclassical factor endowment theory makes the important prediction that international wage rates and capital costs will gradually tend toward equalization; See Paul A. Samuelson, *International Trade and Equalization of Factor Prices,* ECONOMIC JOURNAL, June 1948, at 163. This prediction has not occurred. Just the opposite is happening, international income inequalities are increasing with each passing year. See TODARO, *supra* note 55, at 425.

[76]M. TODARO, *supra* note 58, at 426.

> *First*, the neo-classical trade model assumes that all productive resources are fixed in quantity and constant in quality across countries. It is assumed that they are fully employed, and that there is no international mobility of productive factors.
>
> *Second*, the technology of production is fixed or similar and freely available to all nations. Moreover, the spread of such technology works to the benefit of all. Consumer tastes are also fixed and independent of the influence of producers.'
>
> *Third*, within nations, factors of production are perfectly mobile between different production activities, and the economy as a whole is characterized by the existence of perfect competition. There are no risks or uncertainties.
>
> *Fourth*, the national government plays no role in international economic relations; trade is carried out among many atomistic and anonymous producers seeking to minimize costs and maximize profits. International prices are therefore set by the forces of supply and demand.
>
> *Fifth*, trade is balanced for each country at any point in time, and all economies are readily able to adjust to changes in the international prices with a minimum of dislocation.
> *Sixth*, the gains from trade that accrue to any country benefit the nationals of that country.[77]

The above assumptions, however, are not borne out by the real world. In reality, the world economy is characterized by rapid change, and factors of production are fixed neither in quantity nor in quality. The state, therefore, of constant change in productive resources, violates a fundamental assumption of the neo-classical trade model.

Also significant to consider, relative factor endowments and comparative costs are often determined, rather than purely in themselves, determining factors. Important to bear in mind also, since this model predicts that specialization occurs in factors of relative endowment, does this mean that lesser endowed countries

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[77] *Id.*

are doomed to a stagnant situation that perpetuates their comparative advantage in unskilled and unproductive activities?[78] One prominent Third World scholar put it so succinctly, "With few exceptions, the technological distance between the developing and developed countries is widening. Neoclassical trade theory, by postulating identical production functions for different products in various, countries, assumes this problem away."[79]

Another reality is that of unemployment and underemployment in developing nations. The assumption of full employment in traditional trade models ignores this reality.

Also, one of the most unrealistic assumptions of traditional trade models is the crucial assumption of the international mobility of productive factors. History has shown that capital and labor have always moved across national boundaries. The existence of multinational corporations further illustrated the impracticality of this assumption. These entities, carrying with them capital, technology, and labor, greatly complicate the simple theory of international trade, especially as regards the distribution of its benefits.[80]

The assumption of fixed consumer tastes and preferences dictating production patterns and the response of producers is another problem with this trade theory. In fact, capital and production technologies are disseminated throughout the world by means of multinational corporations. Bringing this closer to the Philippine situation, to give an, example, intellectual property and patent rights protection restricts the free availability of technology, and thus violates free trade assumptions. Similarly, to the extent

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[78]*Id.* TODARO gives the example of some countries like Taiwan, South Korea, Singapore, and Hongkong as countries which succeeded in transforming through purposeful effort their unskilled labor to skilled labor to capital-intensive production. However, he gives the warning that the possibilities of trade itself stimulating such a structural change is remote.

[79]Manmohan Singh, *Development Policy Research: The Task Ahead,* PROCEEDINGS OF THE WORLD BANK ANNUAL CONFERENCE ON DEVELOPMENT ECONOMICS, 12 (1989).

[80]M. TODARO, *supra* note 58, at 430.

that advertising produces distortive effects on consumer tastes and preferences, the assumption is violated.

Also important to note, by focusing on the atomistic behavior of competitive firms in competitive environments, standard trade theory conveniently ignores the crucial and evident presence of governments in international economic affairs. Governments are not passive players, but indeed possess power that affect the standard theory of trade. By means of tariffs, quotas, and subsidies, among others, governments affect the assumptions of free trade. When it pursues restrictive economic policies exclusively designed to deal with domestic issues like inflation or unemployment, these policies which have been unaccounted for.[81]

Lastly, the accrual of benefits to nationals is an implicit assumption of the trade model which supports free trade. The mobility of international factors themselves means that these are able to take advantage of gains from trade of other nations. But even granting that the national factors benefit from the gains from trade, there is a need to examine the logical notion. To whom do these factors belong? The owners of these factors necessarily benefit from the gains from trade. Who owns the land, the capital, and the skills? This leads to an examination of the distributive effects of gains from trade. Welfare gains from increased liberalization are not evenly distributed throughout the economy.[82]

Going now to an evaluation of the success of countries, which in the past were successful with EP growth strategies, the question may be asked. Why does there seem to be recent government fascination for EP-led growth? Governments, it seems, have idealized the examples of the NICs[83], without really understanding their unique histories.

At the start it must be realized that NICs industrialized rapidly in the context of a relatively liberal international trade

[81] *Id.*, at 434.
[82] H. HILL, *supra* note 65, at 98.
[83] Newly Industrialized Countries

environment during the period 1964-1974.[84] Thus, a similar environment may be needed before another round of successful EP strategies are seen. Without this environment, EP strategy, after all, may not succeed.

A warning by a noted leading development economist should do government policy-makers good. He cautions:

> One cannot express the thought that the success stories of NIC's would not have been quite so impressive if they had not been built partly on the failures of the countries sticking overly long to the IS strategy and their consequent export lag.[85]

In a study of the experience of developing countries,[86] the conclusion has been that neither a fully inward-looking nor a fully outward-looking scenario functions best at all times. It all depends on the fluctuations of the world economy. Hence, when the world economy was expanding rapidly in the period from 1960-1973, the more open developing countries outperformed the more closed ones. But when there was a slowdown between 1973 and 1977, the more open developing countries had a difficult time. In the period 1977-1983, when world economic conditions were even more unfavorable, high growth rates due to export earnings did not come.[87]

Impliedly, even if most countries of the world begin adopting EP-oriented strategies, there is really no absolute theoretical foundation for incontestably asserting that these policies would also bring miraculous success. If developing countries adopt the EP strategy in the fanciful belief that by simply adopting these strategies, economic growth is assured, their faith is surely misplaced. There is no assurance that similar results would automatically follow readily from the adoption of these strategies.

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[84]H. HILL, *supra* note 65, at 96.

[85]J. H. BHAGWATI, FOREIGN TRADE REGIMES AND ECONOMIC DEVELOPMENT: ANATOMY AND CONSEQUENCIES OF EXCHANGE CONTROL REGIMES 216 (1978).

[86]R .M KAVOUSSI, INTERNATIONAL TRADE AND ECONOMIC DEVELOPMENT: THE RECENT EXPERIENCE OF DEVELOPING AREAS 379 (1985).

[87]Hans W. Singer & Patricia Gray, *Trade Policy and Growth of Developing Countries: Some New Data,* WORLD DEVELOPMENT, March 1988, at 388.

The choice of an EP strategy should be studied in the context of the peculiarities of a country's situation, its social and institutional structures and its unique historical circumstances. It should not be a political reaction to the successes of past models. The mere exhortation of the successes of other countries, as if by magical invocation their success will become ours, does not pass the test of logic.

Although on the whole EP strategy has proven superior, only some of the underlying reasons for its effectiveness have yet been unravelled. Foremost, it has been discovered that the most powerful force that can be used to accelerate development seems to be the desire of individuals to improve their economic state. Government plays an important role only to the extent that it is able to maintain conditions necessary for this desire to flourishes.[88] These conditions are often found in more liberal economic environments.

To conclude, it is worth stating that in applying EP strategies to the Philippine situation, policy-makers should draw out the more relevant lessons, and take advantage of them. A choice of an EP strategy should be taken with the consideration of all factors, with intensive deliberation, and with forethought of all its implications, specially the willingness to live with them.

The Political Economy of Trade Strategy

In 1986, with the award of the Nobel Economics prize to its founder, the world recognized one of the most valuable, if perplexingly simple, theories of modem economic thought. This was the theory of the school of Public Choice. This theory sought to explain many economic and political problems. Why were opportunities not being maximized? Why was good policy often frustrated by non-economic goals? Why did special interest groups proliferate, and expand in disproportionate power?

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[88]R. BALDWIN, *supra* note 71, at 12.

Instead of assuming the problem away and simply bewailing government intervention, as other economists were wont to do, Public Choice economists studied the problem itself, with the tools provided by economics. A theory was raised. Politics, it was theorized, was in charge of economic activity, and hence the behavior of bureaucrats and legislators should be examined to provide insights into the problem of inefficient decisions.

An analogy was drawn. If businessmen are self-interested, why not assume that government officials are similarly situated? If the normal individual is assumed to be a profit-maximizing being, how can a politician be any different?. Why not assume a state of political entrepreneurship? After all, economists of the past spent centuries studying and creating models of human behavior, why not apply the framework of self-interest when studying governments in the pursuit of their own self-interest, what do politicians really maximize, and how do they do it?

Some answers have been found to these questions. It has been postulated that the bureaucrat, like the businessman, is indeed a self-interested being. This self-interest, however, is manifested in different ways from normal business pursuits.[89] The ordinary concept of profit would not suffice. A framework of maximizing goals was then identified.

Most glaringly, corruption and bribery could be a source of maximizing behavior. But aside from the obvious gains from illegal activities, other maximization behavior is less apparent, though just as pervasive and influential on decision-making. The bureaucrat or politician can also maximize political popularity and power. He can maximize future salary, perquisites, prestige, and opportunities after retirement. Even political patronage, payment of political favors, and political compromise can be labelled as maximizing goals.

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[89]*See* Gary Becker, *A Theory of Competition Among Pressure Groups for Critical Influence*, QUARTERLY J. OF ECON., Aug. 1983, at 371.

Furthermore, evidence indicates that there seems to be no political invisible hand[90] that directs politicians in a society towards making decisions for improving total general welfare. It has been shown that politicians are able to get away from the invisible hand[91] of democratic elections. Correction by election has not proven to be a very efficient mechanism, not only because of intrinsic theoretical shortcomings in the process itself, but also because of the faulty existing institutional framework for implementing it.

Notwithstanding failure of the election machinery, irrationality of the decision-making process of politics prevails because of high information costs. To explain, as government deals with innumerable transactions, citizens are unable to keep pace with efficient information gathering. They are thus unable to act effectively for their selves.

Take the example of a tariff which increases the domestic price of toothpicks by 5 centavos. With the tariff, each political consumer loses only 5 centavos by his ignorance of the transaction. The total efficiency losses, however, would be substantially more once the losses of millions of consumers are added. More in fact, than the gains that may be enjoyed by the protected industry.

But unlike the special interest group which is able to function more effectively, as shown by the existence of the tariff, there is no similar group for asserting the small losses born by the millions of consumers. The lobby of special interest groups is better organized, and better funded, and can thus protect its interest while the majority of consumers could not care less, specially because their losses are insubstantial. Only from the viewpoint of the entire system can the huge losses be seen.

The findings of the public choice theory can be brought into the discussion of trade strategy development. In international

[90] TODD G. BUCHHOLZ, NEW IDEAS FROM DEAD ECONOMISTS 249 (1989).

[91] *See* William A. Brock & Stephen Magee, *The Invisible Foot and the Waste of Nations, in* NEOCLASSICAL POLITICAL ECONOMY (David Colander, ed., 1984).

political economy, in fact, one of the most dynamic areas of research relates to the effect of institutionalized agenda and agenda-setting power on final outcomes of the legislative process.[92] This is but an affirmation of the reality that pervasive political intervention characterizes economic management.[93] In the Philippines, as has been shown by our previous historical discussion, this is no less true. Policies are determined not by a conscious economic-efficient goal, but rather by a combination of various factors. Even in situations where economic-efficient goals have been identified, there is a danger that in the process of actual policy formulation and consequent legal encryption, an outcome different from the one intended results. Somewhere along the way, the original policy is mutated. Nowhere is this phenomenon clearer than in the field of trade protectionism.

Protectionism in the Philippine Setting

An overview of Philippine trade strategies would be incomplete without a discussion on trade protectionism. This phenomenon best illustrates the dynamics of special interest versus general interest. Trade protectionism is a reality that we would do well to understand because it has played an integral role in the county's past, as our history well shows, and it will continue to affect the future, both in the domestic and international spheres.

In its broad sense, protectionism is a philosophy that spotlights the economic and power interests of specific internal systems.[94] There is a preoccupation with the immediate welfare of these systems, and the focus is on the well-being of particular segments, as distinguished from the whole. It seeks to maintain the status of these internal systems, and promote their gain, usually to the exclusion of other systems.

[92]THE NEW INTERNATIONAL POLITICAL ECONOMY 139 (Murphy & Tooze, eds., 1 991).

[93]Stephan Haggard, *The* Political *Economy of the Philippine Debt Crisis*, in THE POLITICS OF ADJUSTMENT IN THE THIRD WORLD 247 (Joan Nelson, ed., 1990).

[94]ROBERT ISAAC, INTERNATIONAL POLITICAL ECONOMY - MANAGING WORLD ECONOMIC CHANGE 21 (1991).

In its limited sense, protectionism refers to the actual process by which the political, economic and social forces of identifiable segments are used to bear down on government in an attempt to determine the policy formula of a country.

The Philippine experience with protectionism has been long and varied. As early as the Spanish era, when protectionism from silk-producing Spanish cities forced colonial administrators to regulate the galleon trade,[95] to the American period, when the interplay of expansionist and protectionist forces in the United States Congress determined the course of Philippine government,[96] to the post-colonial bonanza of local protectionist interests, as furthered by the policy of import-substitution, the Philippines has weathered protectionist influences. As the country moves towards an outward-looking strategy, it will pay to examine the nature and understand the fundamentals of protectionism.

From the start, it is important to realize that protectionism is not necessarily hurtful in all cases, and its advocates certainly have some theoretical ground in certain qualified instances. First, let us examine protectionism from an objective perspective. For this purpose economic theory provides us with a useful analytical framework for understanding protectionist arguments, both the fallacious and the well-founded.

Traditionally there have been six basic arguments for protectionism. The first argument for protectionism is that it keeps money in the country. This argument has its origins in the philosophy of mercantilism.[97] This argument says that money paid for imports is money lost to the source of the import. This argument, however, has been shown to be fallacious. Money does not represent the final good which citizens consume, but merely the means by which such consumption is measured. When trade expands production possibilities of countries, either by increased

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[95]*See* section on the *Mechanics of Mercantilism,* on page 411.

[96]*See* sections on the *Interplay of American Protectionism and Expansionism and Law as an Instrument of Trade Strategy,* on pages 418 and 420.

[97]*See* section on the *Mechanics of Mercantilism,* on page 411.

specialization or by improved production efficiency, consequent rises in total production and productivity occur; hence, gains are derived from trade.

The first argument fails in that it assumes that trade results in a situation wherein if one benefits, the other must necessarily suffer. Economics has shown that trade is able to promote better utilization of comparative resources, resulting in benefits for both.

The second argument for protectionism is that it keeps local employment high. This is another fallacious argument which has been debunked. Total local employment is, in fact, improved by trade. The argument, so powerful in the rhetoric of special interest groups, works only at the level of specific sectors. Certainly, in the specific areas where a country is inefficient, dislocations will occur. The more inefficient segments are reduced, but this is more than compensated for by increased employment in other sectors which come about because of consumption and production gains derived from trade. The efficient sectors become larger, and new sectors are opened as production increases as a whole. On the level of principle, at least, total welfare is improved. The third argument for protectionism is that it discourages nonessential imports. This belief is not supported by reality. In fact, tariffs used to discourage these imports only serve to protect domestic producers of similar non-essential products. Consumption of these products continue, and a further distortion is created whereby local scarce resources are attracted from more efficient uses to protected industries. The fourth argument is that protectionism raises government revenue. Government revenues from tariffs depend on the quantity of imports. If a tariff is so imposed as to raise the domestic price sufficiently, and thus discourage demand, imports will go down. Though the per import tariff is high, this is offset by the lessened quantity imported. The result is that total revenue may in fact decrease. The fifth argument is that protectionism creates a home market for domestic industry, resulting in capital accumulation, and industrial growth. This argument, so often used by local chambers of commerce and industry,[98] is the only argument for protectionism that, at least, in its theoretical foundations can stand the test of logic. In principle, at least, this argument is valid.

The infant industry argument stems from this theory. This argument holds that a young industry is like an infant that requires protection, so that in time, it can grow and adjust to competition. After it attains maturity in terms of cost efficiency, skill and technology acquisition, and productivity, it can then compete effectively, causing prices to fall and consumers to benefit.

Experience, however, has diminished the persuasive value of this argument. A fundamental foundation for this argument does not obtain in reality. Protectionism, instead of encouraging efficiency and innovation actually causes protected industries to grow complacent and ineffective, and thus capital accumulation is not the logical result. The presence of captive markets does not penalize companies for inefficiency, and thus causes serious misallocation of resources. True, some industries develop from infants into successful adults. Most infants, however, seek the path of least resistance, and wallow in the comfort of the cradle of protection.

The preceding discussion has shown that, in theory, protectionism does not have solid objective foundations. Although in certain instances they may seem sound in theory, these have not been validated by experience.

It may thus seem initially puzzling why protectionism enjoys a pervasive influence in the country. This disproportionate power protectionism wields is actually accounted for by its political implications.

On a subjective level, protectionism is more socially persuasive. Primarily, this is because the economic corrections that occur in the process of development are more visible than the

[98]G. SICAT, *supra* note 59, at 663.

economic gains. Dislocations caused by economic processes leading to total improved welfare are more prominently emphasized than the gains. The resultant benefits that may possibly accrue from trade can be minimized because they are potentialities that have yet to be seen, they have yet to be enjoyed, and their beneficiaries are still unidentifiable.

On the other hand, sacrifices have to be made today by forces who have political and economic voices that can be heard. This is where politics comes into play. Given the maximizing behavior of bureaucrats and politicians, at the very least, in terms of staying in power, protectionist tendencies are given articulation if they can be couched to take advantage of the maximizing behavior of government. Whether in the form of direct monetary compensation, or in the form of political popularity, or staying in power, the maximizing behavior of the people in government accounts for this dichotomy.

The subjects of dislocation are necessarily more vociferous in their contentions because the effects of localized dislocation are more readily felt than benefits spread over a larger number of people, over a length of time.

Corollarily, sectors, which may possibly be affected by corrective mechanisms resulting from trade, organize and assert themselves more assiduously because to them, the cost of failure is too high. Losses, although more than compensable in the long-run, are concentrated among fewer subjects, and such loss is to be borne earlier. The subjects therefore press for their interests more aggressively.

Conversely, although the advantages brought to society are larger than the disadvantages, the prize of success is too little for individual recipients to actively campaign for it. After all, the benefits are spread over a larger group of people, and are to be enjoyed at a future time.

Only a perfect representative government can appreciate the breadth and extent of benefits, but as has been explained by Public

Choice theory, irrationality in the political decision-making mechanisms often results from official-maximizing behavior. The will of the people who are supposed to benefit, do not find political confirmation. Only with a government which has a maximizing behavior extraneous of non-efficient variables can economics really show the path to economic development.

Today, it might prove disheartening to note that accusations abound that protectionist forces within the country are functioning as efficiently and effectively as ever. They have been blamed for the delay in the implementation of trade liberalization measures. If some quarters are to be believed, protectionism has its claws deeply embedded in government.[99] Fingers have been pointed to accuse several key persons in government of harboring protectionist sentiments. They have been accused of derailing the tariff reform efforts of the government. The sectors that are alleged to have enjoyed their protection include the local appliance industry, the petrochemical industry, the iron and steel manufacturing industry, and the veneer and plywood industry, among others.[100]

Close attention must be paid to day to day decisions which put in place the actual operationalization of broad strategic goals. Dilatory tactics, specially at the legislative level, are just as effective at retarding development as outright opposition. In the fast-paced environment of the future, these tactics will only serve to confuse our sights and retard the country's over-all economic development. To give us clues on bettering our sights in the dynamic context of policy-making, let us now examine how economic planning has fared in the country in the past.

Economic Planning in the Philippines

After a period of restoration in the aftermath of World War II, the Philippines began adopting post-war development planning. The National Economic Council was created and tasked with the

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[99]Antonio Martinez, *Sabotaging* the *Tariff Reform Program and Philippines 2000*, SMART FILE, SERIES 36-37 (1995).

[100]*Id.*, at 11.

preparation of development plans. It was inadequately staffed, however, and post-war planning became too ambitious.[101] Later, as reality intruded on these grandiose goals, plans had to be rescaled and re-evaluated.

The country, after the war, was inhibited by an ambiguous economic policy. Within itself, government was too often involved in policy debate, and at the core were both the supporters and opponents of import and exchange controls. In the midst of this policy squabble, draft plans were constantly being adopted and discarded.

Politics often predominated, and one of the results was that the chief position in the National Economic Council was changed periodically. Necessarily, this weakened the economic planning machinery and eventually, had a pernicious effect on government policy direction.[102]

It is said that actual technocratic management in the Philippines began in 1962, with the creation of a body called the Program Implementation Agency. In 1965, under Marcos, it became the Presidential Economic Staff. In the 1970's, this became the National Economic Development Authority.

But despite the various changes in names in planning agencies, the pattern of anemic strategic economic planning continued. At first, it seemed that with the declaration of Martial Law in the 70's, economic planning would come of age. After all, martial rule created a situation of a stronger center and resulted in more centralized planning agencies. The centralization of power, however, was not used so much to centralize economic planning as it was abused to consolidate political power. In fact, it was with the manipulation of discretionary economic policies that new and old elites became established. The formal decision-making machinery was limited by Marcos' control over the budget, the authority to

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[101] G. SICAT, *supra* note 59, at 420.
[102] *Id.*

make law through presidential decrees, letters of instruction, and a network of appointees in implementing agencies, including the Central Bank.[103]

Although the creation of the National Economic Development Authority (NEDA) appeared to provide an institutional focus for economic reform, it never achieved predominance in terms of real policy determination.[104] The reason behind this was that competent technocrats were unable to fully chart the economic direction of the country. Industrial promotion was centered on the Board of Investments and the Ministry of Trade and Industry, instead of the NEDA, and since both institutions maintained close links to the import-substituting private sector, the NEDA was disempowered, to say the least.[105]

Indeed, NEDA's first director, Gerardo P. Sicat, has acknowledged the role of politics in economic planning. He has admitted that:

> in their work, technocrats interact with national leaders, party politicians, other power brokers, other technocratic colleagues, the bureaucracy, and the general public ... economic management is inextricably tied to the political economy. Policies and programs are devised in accordance with some level of perception of their political feasibility... in this process, they have to generate needed support from within the political authority.[106]

It has also long been recognized that implementation of policy is not simple. It has been suggested that implementation outcomes are not clear cut in that they are either successfully implemented or not. Rather, a third outcome is often the case: policy is significantly changed during implementation and the final

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[103]S. HAGGARD, *supra* note 93, at 225.

[104]*Id.*

[105]*Id.*

[106]Gerardo P. Sicat, *National Economic Management and Technocracy in Developing Countries,* in ECONOMIC POLICY AND DEVELOPMENT: NEW PERSPECTIVE 89 (Shishido & Sato, eds.,1985).

outcome is vastly different from that intended.[107] Our discussion of Public Choice economics certainly proves true in this setting.[108]

Finally, at this point, it would be timely to relate economic planning, economic reality, and trade strategy behavior. And this relationship is best illustrated by pointing to the often aborted attempts at liberalization. Apparently, most counties only flirt with liberalization. It has been the accusation that:

> most attempts at economic liberalization arise not from an intellectual conviction of the net benefits from freer trade but from distress, when the country is reeling under economic catastrophe.[109]

This certainly explains the conflicting direction that seems to have plagued the country in the past. The past attempts at liberalization, in this light, may be seen as mere palliatives of prevailing problems, rather than as strategies for growth. More generally, this explains the failure of economic policies of the past. The weaknesses were not in the strategies themselves but rather in the conflict and incoherence of planning and implementation. This indecisive, conflicting, and ambiguous nature of policy development, in turn, was caused by the clash of competing forces within and outside government, as they strove to assert themselves. This was manifested in the decisions made by decision makers, including the maximizing behavior of politicians, who maximize popularity and power, and other bureaucrats with varying maximization goals.

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[107]Merilee S. Grindle & John W. Thomas, *Policymakers, Policy Choices, and Policy Outcomes: Political Economy of Reform in Developing Countries*, in REFORMING ECONOMIC SYSTEMS IN DEVELOPING COUNTRIES 99 (Perkins & Roemer, eds., 1991).

[108]*See* section on *The Political Economy* of *Trade Strategy* on page 409.

[109]GERALD SCULLY, CONSTITUTIONAL ENVIRONMENTS AND ECONOMIC GROWTH 216 (1992).

III. LESSONS FROM LAW

Law and Trade Strategy

In determining trade strategy, the constraints of local and international reality must be recognized. The demands of strategic planning permit no less. Historical, economic, and political influences are just a few of the variables which must be factored. And in nowhere are these influences more clearly manifested than in the legal framework of a country. Let us now examine these variables as they are embodied in the legal regime.

Legal considerations affect our trade strategies on two levels. First, in the domestic sphere, and secondly, in the international sphere. To begin, let us first discuss legal considerations in the domestic level.

In the domestic sphere, a discussion of law and trade strategy is relevant because it is primarily through the medium of law, and the various rules and regulations emanating from them, that government intervenes in economic matters.

More important, it cannot be over-emphasized that the existing legal structure necessarily sets the stage within which any growth strategy can be pursued.[110] The existing legal framework circumscribes any action incompatible with it. And foreseeably, problems may arise because the very nature of law is that it easily lends itself to multitudinous configurations, depending on the prevailing social interpretation.[111] It is these various modes that law affects and in turn affected by any strategy undertaken.[112]

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[110]GERALD SCULLY, CONSTITUTIONAL ENVIRONMENTS AND ECONOMIC GROWTH (1992). (discussing empirical evidence on the effect of the Constitutional setting on economic growth)

[111]DENNIS LLOYD, THE IDEA OF LAW (1987) 208.

[112]*See* LLOYD, *supra* note 102. *Id.*, at 199-225. (on the chapter Law and Society).

Applying the above discussion to the Philippine context, in identifying and pursuing a strategy, one of the greatest concerns of government should be the Constitutional implications of any potential strategy. This is because the Constitution contains principles "that the people have an original right to establish, for their future government, such principles, as , in their opinion, shall be most conducive to their own happiness."[113]

More importantly, the operative constitutional regime which governs the country does not sanction any deviation from its principles. The nature of the Constitution is such that:

> it is the written instrument agreed upon by the people...as the absolute rule of action and decision for all departments and officers of the government... and in opposition to which any act or rule of... government, or even of the people themselves, will be altogether void.[114]

To illustrate the potentially inescapable conflict that may occur between a chosen strategy and the Constitution, or at least an interpretation of the same, let us examine some Constitutional provisions.

The Constitution provides that "No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate."[115] Given the nature of modern international commercial relations, where trade and other international agreements have become commonplace, the implications of this provision on the mode by which government implements any strategy are apparent.

The problem is not simple.[116] The provision carries with it not only a whole interpretative tradition,[117] of which government

[113]Marbury vs. Madison, 1 Cranch 137 (1803).

[114]COOLEY, CONSTITUTIONAL LIMITATIONS 3 (1868).

[115]CONST. art. VII, sec. 21.

[116]*See* Francis Sayre, *The Constitutionality of Trade Agreement Acts*, 39 COLUMBIA L. R. 651.

must be constantly aware, it likewise brings with it political implications from the inevitable dynamics the provision demands of the various branches of government. This difficulty arises because the provision requires an interaction between the different branches; the executive, which normally directs trade policy; the legislative, to which the power of concurrence is granted; and the judicial, which has to mediate between the other two, in case of conflict.

Aside from the more general instructions having implications for state policies,[118] the Constitution contains provisions which have immediate, actual, and direct bearing on economic and development strategy choices. In fact, an entire Article is devoted to provisions on the National Economy and Patrimony.[119] The first section of said Article already identifies the broad long-run goals of society. It provides:

> The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

In its Declaration of Principles and State Policies, the Constitution provides that "The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.[120] But as to the exact method of *developing* such self-reliance and independence, few clues are provided.

It must also be noted that although the Constitution is clear and consistent in its announcement of society's broad and long-run

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[117]*See* Commissioner of Custom vs. Eastern Sea Trading, 3 SCRA 351 (1961); USAFFE Veterans Association, Inc. vs. Treasurer of the Philippines, 105 Phil 1030 (1959).

[118]*e.g.*, provisions on the Declarations of Principles and State Policies (Art 11); on Social Justice and Human Rights (Art XIII).

[119]CONST., art. XII, secs. 1-22.

[120]CONST., art. 11, sec. 19.

goals, *i.e.*, "a more equitable distribution of opportunities, income, and wealth", "a sustained increase in the amount of goods and services produced", and "an expanding productivity", as to more concrete policies, the Constitution is silent.

These indications yield the conclusion that the Constitution is far from rigid in its over-all pronouncements concerning specific, short-run objectives implementing its basic goals.

Analyzing the totality of its provisions, it is possible to say that the Constitution does not advocate a precise and total adoption of an inward-looking philosophy nor does it exactly permit an unbridled outward-looking arrangement. Certainly, some provisions have a distinctively inwardly-inclined intonation,[121] but other provisions allow for more outward-looking strategies.

For example, the framers of the Constitution, perhaps unknowingly, echo the cry of neo-classical trade theorists,[122] when they wrote the provision requiring the promotion of:

> industrialization and full employment... through industries that make *full and efficient* use of human and natural resources... competitive in both domestic and foreign markets"[123]

The Constitution further instructs that:

> The State shall pursue a trade policy that serves the *general welfare* and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity.[124]

Is not this provision sanctioning the pursuit of a trade policy that best serves the people, regardless of orientation? Is not the

[121] *See* CONST. art. XVI, sec. 11; art XIV, sec. 4; art XII, sec. 11, (provisions on equity interest requirements).

[122] *See* section on *Should the Philippines Embrace EP* Strategy?, (discussing neo-classical trade theory, on page 34.)

[123] CONST., art. XII, sec. 1, par 2.

[124] CONST., art. XII, SEC. 13.

test of the choice of strategy dependent on whether the general welfare is improved, regardless of whether it is inward or outward-looking?

It can thus be seen that the Constitution can possibly support a variety of strategy options. Seemingly, it is sufficiently broad and encompassing to allow such flexibility. Perhaps the ambiguity in the Constitution's general economic framework was deliberate, an admission by its framers that there was, and could never be, any single and specific path towards the attainment of society's aspirations. They could only point to the end sought to be achieved, and provide for a variety of signposts along the way. The actual road would still have to be travelled.

Or perhaps the equivocality was unintentional, merely an unwitting acknowledgment of the basic historical reality that the future was uncertain, and that, to a certain extent, decisions had be made according to the felt necessities of the time.

The Role of International Law in Trade Relations

With the proliferation of commercial treaties, and other international agreements as indispensable instruments for the furtherance of economic goals, policy-makers should be aware of the various legal implications entailed in the use of such instruments.

Policy-makers with limited legal background should be made aware that treaties and other international agreements are not to be trifled with, either as convenient political pulpits for the articulation of vague economic goals and aspirations, or loose social arrangements to encourage comity and diplomacy between nations.

Treaties (and other international agreements)[125] should not be treated lightly. They are rarely temporary arrangements, and they produce consequences which should be anticipated, as there may be no turning back. It can never be overemphasized that these agreements do not merely constitute moral obligations, but more dangerously, create legally binding obligations on the parties. The principle of *pacta sunt servanda*[126] exists as a fundamental rule in international law. It requires that treaties must be performed in good faith.[127]

Note that since every State has to execute in good faith the obligations incurred by treaty, it is bound to make such modifications in its internal laws as may be necessary to ensure the fulfilment of the obligation undertaken. It cannot use, as against other parties, its own constitution to evade obligations incumbent upon it,[128] and injury which may be caused by breach of any obligation may result in an internationally binding obligation to grant reparations.

With these implications, policy-makers, agreement negotiators, and their staff should be more wary of any agreements made which will qualify as internationally legally binding obligations. With more reason that in this area, intensive planning and preparation is demanded. There is no room for mistake or ambiguity because these may have profound effects on the country's legal and economic position.

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[125]Note the definition of a treaty under the Vienna Convention on the Law of Treaties, UN Doc. A/CONF. 39127, (1969), 63 A.J.1.L.875 (1969), 8 I.L.M. 679 (1969):

> "Treaty means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and *whatever its particular designation.*"

[126]Literally, an agreement must be kept.

[127]VIENNA CONVENTION ON THE LAW OF TREATIES, art. 26.

[128]VIENNA CONVENTION ON THE LAW OF TREATIES, art. 27.

CONCLUSION

The Philippines is faced with the certainty of living in an increasingly interdependent world. On matters of the environment, technology, politics and economics, the world is increasingly becoming borderless.[129] Whether for good or for bad, independent of whether the country adopts an inward-looking or outward-looking philosophy, this stark reality must be accepted and confronted.

Recognition of this basic fact has long ceased to be a matter of choice. Regardless of internal developments, the rapidity of change will accelerate, and will affect this country, as it will all others.

New problems, new solutions, new developments, and new relations will present themselves. Behind every fresh opportunity will lurk innumerable threats. New strengths and new weaknesses will be exposed. And only countries with vigilant, adaptive, and flexible planning and monitoring mechanisms will be able to harness the benefits and avoid the pitfalls of the future.

Nowhere is this interdependence between countries more pronounced than in matters of trade. Whether as importers, or as exporters, as suppliers of raw materials, or as manufacturers of capital goods, as consumers or as producers, the world has become one integrated marketplace.

It is in this dimensional context that the Philippines must define its place in the new international order. As trade increases in importance, economic growth will depend on the effectivity of growth strategies. Both export-promoting and import-substituting strategies are similarly involved because exports and imports are both affected. The country's strategic positioning mechanisms themselves must be resolved.

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[129] *See* LESTER BROWN, WORLD WITHOUT BORDERS (1972); PAUL KENNEDY, PREPARING FOR THE TWENTY-FIRST CENTURY (1993), (discussing recent analysis of global interdependence).

In deciding the particular strategy to undertake, fundamental goals need to be initially identified. Only after definite and specific goals are set can meaningful planning begin. But simple general statements of promoting

> exports as a focal strategy for sustainable... development to achieve Philippine NIChood towards the year 2000... through *discipline and hard work*... confron[ting] the challenge of winning international markets"[130]

will not be enough. More must be done. Planning to the minutest detail, and preparation for all eventualities, by careful study and analysis are imperative.

As in the past, just as important, or perhaps even more so, the operational apparatus for implementing strategies will be as pivotal as the strategy itself. It is important that in the flux of change, in determining strategy and in implementing them, the important lessons taught us by economics, law, and history are not mislaid.

Economic analysis has provided the lesson that it is not so much the strategy taken as it is the decisive and consistent implementation of such strategy that brings about growth. Coherence of policy, inambiguity of purpose, and efficiency of execution are the hallmarks of any successful development strategy.

The study of economics should also have made us aware that theory, be it economic, social, or political has its limits. While the existence of a theoretical framework is always better than blind administration, to be of any guidance, theory must be tempered with reality to produce the best possible effect, to fill in the gaps of theory, so to speak.

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[130] REP. ACT NO. 7844, (1994), sec. 2, An Act To Develop Exports As A Key Towards the Achievement of the National Goals Towards The Year 2000.

Corollarily, economics teaches us that loose rhetoric must be avoided. It simply has no place in the future. It obscures issues, diverts focus, and arouses emotionalism, at a time when reason and logic would serve us better.

Equally important to the guidance provided by economics, the study of law should allow us to appreciate the reality that all developments occur within a matrix of possibilities and constraints. Enshrined in every legal regime are the histories, aspirations, and values of every society. All legal systems contain the lessons, predetermined values, cardinal constitutive principles, and hierarchy of goals, all embodied in its legal tradition. These necessarily influence any strategy sought to be undertaken.

It must be recognized that the legal regime both affects and is affected by any strategy undertaken. All strategies must take into account the dual nature of law; that it can function not only as an instrument by which government implements and executes its strategy; but also, that at the same time, it can provide the obstacles for the attainment of the very same goals.

In the international sphere, the force of law cannot be any less discounted. Law, as a universal phenomenon, not only permeates the national sphere, but has always and continues to regulate relations between nations, only now, with increasing vigor. Recent developments with the GATT[131], and the WTO[132] have strengthened the international legal framework governing international trade relations. A clearer understanding of the nature of such entities, both as institutional frameworks, and as legally binding instruments is indispensable. No effective strategy can arise without taking their effects into account, and factoring them as variables in any trade strategy.

Finally, the study of history should have made us aware that the future can never be a predestined certainty. Various

[131] GENERAL AGREEMENT ON TARIFFS AND TRADE.
[132] WORLD TRADE ORGANIZATION.

forces, strongest among them the political, economic, legal, technological and even the ecological, combine to form a complicated matrix of determinants. These diverse forces sometimes compete, sometimes complement, but inevitably will be by their synthesis that the course of the future is charted. It now remains each country's difficult task of applying old principles to new problems, distilling new ideas from old lessons, always alert, ever conscious of the warning that those who fail to heed the lessons of the past are doomed to repeat it.

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