



**PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA**

NV-EPG-19-2019

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Secretariat of the Human Rights Council Advisory Committee and, with reference to the latter's Notes Verbales Nos. OHCHR/HRCTMD/AC21//NVIF and OHCHR/HRCTMD/AC21//NVTACB both dated 07 December 2018 on the studies conducted by the HRC Advisory Committee, has the honor to provide the contributions/inputs of the Philippines in the attached documents relating to:

- "The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation" (HRC resolution 34/11), and;
- "The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights" (HRC resolution 37/23).

The Permanent Mission of the Philippines assures the Human Rights Council Advisory Committee on the Philippines' continued commitment in advancing the promotion, protection and fulfilment of all human rights.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Human Rights Council Advisory Committee the assurances of its highest consideration.

Geneva, 21 January 2019

THE HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE SECRETARIAT

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**INPUTS FROM THE GOVERNMENT OF THE PHILIPPINES
TO THE HRC ADVISORY COMMITTEE STUDY ON
“THE ROLE OF TECHNICAL ASSISTANCE AND CAPACITY-BUILDING IN
FOSTERING MUTUALLY BENEFICIAL COOPERATION IN PROMOTING AND
PROTECTING HUMAN RIGHTS”
(AS MANDATED IN HRC RESOLUTION 37/23)**

Paragraph 5 of resolution 37/23 of the Human Rights Council (HRC) entitled “The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights” requested the HRC Advisory Committee to conduct a study on the role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights, and to submit a report thereon to the Human Right Council before its forty-third session in March 2020.

The Philippines fully commits to the importance of constructive dialogue as well as in the positive contribution in providing States technical assistance and capacity building, upon the consent of the State concerned, to strengthen mechanisms and create more impact on the ground in the implementation of the States’ policies, efforts and programs to advance the promotion, protection and fulfil of human rights. The Philippines places high importance to the unique peer review process through the Universal Periodic Review (UPR) mechanism.

Recommendation

In this regard, the Philippines recommends that technical assistance and capacity-building on human rights cooperation, upon the consent of the State concerned, should be **Universal Periodic Review (UPR) -focused**.

The Philippines believes that declarations of support or cooperation during a country’s UPR should be a citable foundation and/or reference regarding the formulation of technical assistance and capacity-building between and among States in promoting and protecting human rights.

This has the positive effect of strengthening the UPR process as a genuine multilateral human rights mechanism that promotes cooperation of States through technical assistance and capacity-building in the field of human rights.

**INPUTS FROM THE GOVERNMENT OF THE PHILIPPINES
TO THE HRC ADVISORY COMMITTEE STUDY ON
“THE NEGATIVE IMPACT OF THE NON-REPATRIATION OF FUNDS OF ILLICIT
ORIGIN TO COUNTRIES OF ORIGIN ON THE ENJOYMENT OF HUMAN RIGHTS,
AND THE IMPORTANCE OF IMPROVING INTERNATIONAL COOPERATION”
(AS MANDATED IN HRC RESOLUTION 34/11)**

The Philippines' Anti-Money Laundering Council (AMLC-Philippines) takes an active role in the implementation and monitoring of the United Nations Convention Against Corruption (UNCAC), as mandated by Executive Order No. 171 s.2014.

It is estimated that hundreds of billions of Philippine pesos or 20% of the Philippines' yearly national budget is lost to corruption, as observed in the Philippine Mutual Evaluation Report of 2009.

AMLC filed 30 applications for bank inquiries from 2013 to 2018. Majority of those conducted from 2013 to 2015 were related to the Priority Development Funds (PDAF) scam by subject lawmakers. In 2018, the AMLC also filed four money laundering complaints predicated on graft and corruption, and plunder.

In a study conducted by the AMLC-Philippines on the Philippine exposure to external threats¹ based on suspicious transaction reports (STRs) filed from 2013-2017, majority of corruption-related offenses were generated and remained in the Philippines. Inflow and outflow of alleged illicit funds only account for less than 1% of the reported values in the STRs filed. The study was also able to identify source countries for the illicit funds, as well as destination countries.

The Philippines shall conduct further study on the exposure of the country to external threats, including corruption. This will be included in the Third Second National Risk Assessment² (NRA), which is scheduled in 2020.

CHALLENGES IN THE UTILIZATION OF NON-REPATRIATED ASSETS

Illicit funds or assets which are proceeds of crimes may be forfeited through the filing of a civil forfeiture case under the Philippines' Republic Act No. 9160 or the Anti-Money Laundering Act, as amended and A.M. No. 05-11-04-SC (Rules of Procedure in Cases of Civil Forfeiture, Asset Preservation under Republic Act No. 9160). A foreign State may seek repatriation of funds in the Philippines through a request for Mutual Legal Assistance.

¹ Threats (Crimes) originating within and outside the country's jurisdiction that involve money laundering of proceeds generated from various predicate offenses.

² The National Risk Assessment (NRA) on Money Laundering (ML) and Terrorist Funding (TF) is a government-wide assessment of the overall exposure of the country to money laundering and its related predicate offenses, terrorism and terrorist financing. The period covered by the 2nd NRA is 2015 – 2016.

In the Philippine legal framework, however, during the pendency of the proceedings and prior to the order of forfeiture, the property or funds are still owned by the respondents to the case. There is no authority for the AMLC-Philippines to use confiscated funds other than their repatriation to the requesting State. It is only upon the finality of a judgment on forfeiture can the State dispose of the said funds and property, and only in accordance with the judgment rendered by the court. As such, there is no legal basis for the utilization of non-repatriated assets for other purposes other than those stated in the judgment of the court.

BEST PRACTICES ON INTERNATIONAL COOPERATION

International cooperation has proven to be essential in the repatriation of illicit funds. The Philippines successfully exercised such initiatives in the following cases of illicit funds:

- **“PDAF scam” case** In the course of investigation conducted by local authorities on alleged unlawful appropriation and use of the Priority Development Funds (PDAF) of subject lawmakers (“PDAF scam”), it was discovered that the mastermind and her family members transferred money to the United States of America (USA). The AMLC thus sought the assistance of the Financial Intelligence Unit (FIU)-USA of the said jurisdiction through the **Egmont Secure Web**. Feedback from the foreign FIU yielded positive results, providing material information showing how the money was transferred as well as senders and recipients of the same. The information gathered also established that money changers were acting as conduits in the transfer of funds.

Moreover, the Philippines’ AMLC, National Bureau of Investigation, and the Office of the Ombudsman acted on the **Mutual Legal Assistance Treaty (MLAT)** request from the USA for the production of documents in relation to the seizure and eventual forfeiture of the properties of the mastermind and members of her immediate family in the said jurisdiction, which were acquired at the time that the PDAF scam was ongoing.

Close coordination with US authorities have resulted to the filing of a civil forfeiture case against illicit assets found in the USA approximately amounting to US\$12.5 million, and the indictment of the mastermind and her cohorts in converting to their own benefit about US\$20 million PDAF by purchasing real estate properties and shares in two businesses in the USA.

Recently, a USA federal grand jury has indicted the mastermind and her cohorts for conspiring to funnel in and out of the USA some US\$20 million Philippine public funds obtained through this multi-year bribery and fraud scheme.

- **Bangladesh Bank Heist** Although not related to corruption, the case of the Bangladesh Bank Heist demonstrates the effectiveness of the countries’ international cooperation. Bangladesh has no existing MLA Treaty with the Philippines, but **regular coordination** between the AMLC-Philippines and the Bangladesh financial intelligence unit resulted in the repatriation of illicit funds.

The AMLC-Philippines hosted the "First Operation High Rollers U\$101 Bank Heist Case Coordination Meeting" upon the request of the Interpol-Lyon, France. This meeting was attended by police officials from Interpol Lyon, Country Y, China, Japan, Singapore, and representatives from various Philippine law enforcement agencies. All representatives mutually agreed to work together to trace the movements and freeze the assets of the suspects. The AMLC-Philippines and representatives of the Bangladesh government held periodic meetings.

Civil forfeiture cases were filed against personalities who were found to be involved in the laundering of funds. In an Order dated 16 September 2016, the court granted the third-party of Bangladesh through the Department of Justice (DOJ) and declaring that the People's Republic of Bangladesh as the rightful owner of the amount totalling US\$4,630,000 and PHP488,280,000. The aforementioned forfeited amount was ordered to be released in favour of the People's Republic of Bangladesh. **END.**



REFERENCE: OHCHR/HRC/TMD/AC21/NVIF

Subject: The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights

The secretariat of the Human Rights Council Advisory Committee presents its compliments to all Permanent Missions to the United Nations Office and other international organizations at Geneva and, with reference to its note verbale of 16 August 2018 concerning the implementation of resolution 34/11 of the Human Rights Council on "*The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation*", has the honour to inform them that the deadline for submission of inputs has been extended to **7 January 2019**. A copy of the aforementioned note verbale is attached for ease of reference.

The secretariat of the Human Rights Council Advisory Committee avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office and other international organizations at Geneva, the assurances of its highest consideration.

7 December 2018