

Industry Structure and Competitiveness

TEXTILE MANUFACTURING

Introduction

The textile industry began in the 1950s as an import substituting industry. It covers: (1) fiber production, and (2) yarn, fabric, garment, and made-up textile manufacture.

The textile industry comprises two (2) sectors. The primary processing sector includes spinning, twisting, weaving, knitting, dyeing and finishing. Spinning involves the conversion of natural and man-made fibers into yarns and threads. The weaving process turns out woven fabrics, while the knitting process, knitted fabrics. The finishing stage improves the appearance, texture and quality of fabrics through bleaching, dyeing, printing, and treatment. The secondary-processing sector includes garment and made-up textile goods manufacturing.

Although garment manufacturing, which is part of the industry, likewise started in the 1950s as a group of cottage-level enterprises that replaced the traditional home sewing, dressmaking and tailoring, it has never become significantly integrated with the other components of the textile industry. Garment manufacturing includes all items of clothing, such as men's, women's, children's and infant's wear, and the manufacture of other wearing apparel accessories such as hats, gloves, handkerchiefs, hosiery, and other related apparel.

Largely due to garment manufacturing, the textile industry has contributed significantly to export earnings, with garment manufacturing being one of the country's largest export earners. In the 1980s, the textile industry accounted for about 20% of the country's non-traditional exports and about 14% of total exports. It is likewise a major employer of labor in manufacturing. The industry employed a total of 40,000 workers in 1996. From

1995 to 1997, textile manufacture comprised 2.55%, 2.27%, and 2.04%, respectively, of the total value added in manufacturing.

Firms in the primary processing sector can be classified broadly into two (2) main categories, depending on the number of processing stages they undertake, *i.e.* integrated and non-integrated. Integrated firms perform all three (3) basic production stages of spinning, weaving and knitting, while non-integrated firms perform only one (1) or two (2) of these basic stages.

As shown in Figure 1, textile (or fabric) manufacturing starts from the production of filaments and yarns from either man-made or natural fibers. Yarns are further processed into sewing thread; ropes and twines; and woven and knitted fabrics. All these are considered consumer products. However, fabrics may be processed further, such as into wearing apparel.

The development of the textile industry as a whole is desirable. Garment manufacturing has surpassed fiber, yarn and fabric manufacturing in terms of revenues earned in recent years and is a top export earner of the Philippines. Thus, it cannot be emphasized enough that a parallel development in fabric manufacturing should be sought in order that the fabric manufacturing sector may also take advantage of the larger market served by garments, particularly as indirect exports of the garment sector. In this way, the textile industry can continue to defend its position as a major employer in manufacturing, as well as serve as an incentive to improve competitiveness *via* exposure to a more discriminating market.

The objective of this study is to analyze the state of competition within the textile (or fabric) manufacturing sector (the primary processing sector, but excluding the spinning sector) and how competition can help develop the textile (or fabric) manufacturing sector into a viable industry as a potential major input to garment manufacturing. An analytical framework specially developed for this purpose will be utilized and recommendations made, if necessary, on how to make the sector competitive or

improve its competitiveness. It is hypothesized that to improve the input sectors of the Philippine export industry (such as textiles or fabrics) will translate into competitiveness or better competitiveness of Philippine exports.

Competition and Competitiveness Analysis

I Defining the Relevant Market

A relevant market is defined as, "... a product or group of products and a geographical area in which it is produced or sold such that a hypothetical profit-maximizing firm, not subject to price regulation, that was the only present and future producer or seller of those products in that area likely would impose at least a 'small but significant and nontransitory' increase in price, assuming the terms of sale of all other products are held constant. A relevant market is a group of products and a geographic area that is no bigger than necessary to satisfy this test¹".

Simply put, a relevant market is defined by the product or service involved, the geographical area in which said product or service is sold, and the sellers and buyers of such product or service.

➤ Product Market

The relevant product market is defined as local and imported textiles.

In defining the relevant product market, the approach followed is: assuming a hypothetical monopolist for a product, would said monopolist profit by imposing at least a small but significant and non-transitory increase in price?

For instance, in the manufacture of exportable garments, *i.e.*, men's, women's, boys', girls' and babies' apparel; outerwear; and underwear, textiles are a major input. If a hypothetical monopolist in the production of textiles were to impose a small but significant and non-transitory increase in the price of its products, an increase would probably prove unprofitable since consumers would likely switch to imported textiles.

Since the price increase would likely be unprofitable, a relevant product market defined by locally manufactured textiles would be too narrow. Therefore, imported textiles should be considered part of the product market. If the question is again posed on whether a hypothetical monopolist producing local textiles and distributing imported textiles, as well, would profit from an increase in its prices, then the answer would be positive since there would be no other sources to which consumers could switch to.

Thus, the product market is defined as local and imported textiles.

➤ Geographical Market

The geographical market for the textile industry, i.e. fabrics, is defined as the Philippine national territory

The geographical market is defined thus: it is the region where a hypothetical monopolist, being the only present or future producer of the product, could profitably impose at least a small but significant and non-transitory price increase holding the terms of sale constant at all other locations. Defining the geographical market has become much more difficult with the increasing globalization of markets and the use of electronic trade, *e.g.* ordering through the Internet.

For purposes of this study, the geographical market for fabrics will be defined as the Philippine national territory.

¹ As defined by Section 1 of the U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines dated 2 April 1992.

➤ Participants in the Market

The relevant market participants are the textile millers and producers of the Philippines as well as the firms engaged in bleaching, dyeing, printing, and treatment of made-up fabrics .

Table 1 is indicative of the number of participants² in the market.

The number of establishments operating in the sector remained the same in 1988 and 1994, as shown in Table 1. However, the number of establishments classified as small decreased by 5.7% while the number of establishments classified as large increased by 22.5%. The share of the industry to total manufacturing value increased by 201.3%, between 1988 and 1994. Labor productivity improved from 0.34 to 1.00.

Table 1. Size Distribution of Plants, Census Value Added, and Labor Productivity

| 1977 PSIC Code (5-digit level) | Year | Number of Plants | Size of Plant | Census Value Added | | Labor Productivity |
|-----------------------------------|------|------------------|---------------|--------------------|--------------------|--------------------|
| | | | | at current prices | At constant prices | |
| 32113 | 1988 | Small | 403 | 3261 | 8821.20 | 0.34 |
| Spinning | | Large | 102 | 1618958 | | |
| 32114 | | Total | 505 | 1622219 | | |
| Texturizing | 1994 | Small | 380 | 16297 | 26576.71 | 1.00 |
| 32115; 32117 | | Large | 125 | 4339625 | | |
| Machine and Hand weaving | | Total | 505 | 4355922 | | |
| 32116 | | | | | | |
| Finishing of textiles | | | | | | |
| 32119 | | | | | | |
| Preparation of textiles, n.e.c. | | | | | | |

Source: National Statistics Office

² This number is overstated by the number of spinning mills, for which segregated data is not available.

In 1995, fifty-four (54) textile establishments reported closure, retrenchment, and job rotation/reduced work time and workers, due to economic reasons, *e.g.* lack of raw materials, high cost of production, lack of market/slump in demand, lack of capital, *etc.*

In 1997, the total number of textile firms was more than two hundred (200). The Textile Mills Association of the Philippines (TMAP), an association of textile millers and producers, had a membership of twenty-six (26) companies, of which fifteen (15) have already ceased operations primarily because of high power, labor, and financing costs; inability to compete with lower priced and better quality imports; and smuggling.

Another textile association in the Philippines is the Textile Producers Association of the Philippines (TEXPAP).

II Calculating Market Share

In order to make a correct evaluation of the degree of competition within a market and the presence of market dominance and abuse, the calculation of market shares is vital.

Market shares were estimated using cost-in-freight (CIF) values for imports and revenues for local textile manufacturing.

For the purpose of estimating the market shares of imports, importers were treated as a single market supplier. The lack of available data makes disaggregation according to importer impracticable. In addition to this limitation, import data are undervalued, on the one hand, since CIF values were used instead of landed cost (in cases where the importer is the end-user) or selling price (in cases where the importer is a trader). Assumptions to be used to adjust these values to the level of landed cost or selling price may further distort the true cost of the imported product. On the other hand, the import figure is overvalued since data cannot be disaggregated into the value of fabrics used

for the manufacture of garments and the value of fabrics used for the manufacture of other made-up textile articles, e.g. carpets, towels, etc.

For the purpose of estimating the market shares of individual local manufacturers, revenues of companies listed in the Top 7,000 Corporations plus imports were assumed to be the total market. Further, it was assumed that the share of companies excluded from the list was insignificant and will not affect the percentage shares of the largest revenue earner.

**Table 2. Market Shares of Imports and Top Fabric Manufacturers
(in percentage), 1995-1996**

| Participants | 1996 | 1997 |
|--|-------------|-------------|
| Imports | 50.5 | 53.4 |
| Litton Mills, Inc. | 8.2 | 7.1 |
| Solid Mills, Inc. | 4.3 | 3.6 |
| Fortune Integrated Textile Mills, Inc. | 3.4 | 3.5 |
| Avantex Mill Corp. | 3.0 | 2.9 |
| HHI Index | 2,656.5 | 2,935.6 |

Source of basic data: Top 7000 Corporations, Philippine Business Profiles and Perspectives, Inc.

III Evaluating Level of Concentration

The level of concentration, *i.e.* ownership of firms and industry structure, in the fabric manufacturing sector of the textile industry was computed using the Herfindahl-Hirschman Index (HHI). The HHI is an indicator used in the U.S.A. It is the sum of squares of the individual market shares of all the market participants.

Under American law, the HHI is not strictly mandated in any situation, even in mergers. Rather, it is used in guidelines of the U.S. Department of Justice when reviewing mergers. Courts have adopted the guidelines, including the HHI, as useful in analyzing mergers, and they look to the HHI for guidance in other areas of antitrust law as well. While the HHI has no “legal” authority, courts, regulators and economists recognize it as a useful tool in analyzing market concentration in mergers and other areas of antitrust

law. An HHI of 10,000 means a pure monopoly, while an HHI approaching zero indicates an atomistic market³.

The HHI indicates that the textile-manufacturing sector is highly concentrated. The index increased from 2,656.5 in 1996 to 2,935.6 in 1997. Imports contributed to the sector's high concentration level. It accounted for 50.5% and 53.4% share of the market in 1996 and 1997, respectively. An HHI computed for local manufacturers alone would show an unconcentrated market for fabrics, with the highest revenue earner -- Litton Mills, Inc. -- cornering a mere 15.25% and 7.1% of the market in 1996 and 1997, and the rest individually accounting for less than 8.0% and 4.0% share, over the two-year period.

It should be noted that the HHI figures may be overstated since importers/traders were considered a single market player.

IV Other Factors Affecting Competition and Competitiveness

➤ Factors Affecting Entry Into and Exit From the Industry

The conditions for entering an industry have a significant impact on the degree of competition within a market. Ease of entry ensures that incumbent firms do not abuse market power and remain inefficient/complacent, since potential market participants, attracted by excess profits, can readily enter and provide stiff competition. There would be constant pressure to reduce costs to prevent entry so output and prices would be at competitive levels. Prices, in particular, would be maintained at the minimum level

³To aid in the interpretation of HHI, the U.S. uses the following approach:

| | | |
|--------------------------|---|------------------------|
| below 1,000 | ⇒ | not concentrated |
| between 1,000 and 1,800 | ⇒ | moderate concentration |
| between 1,800 and 10,000 | ⇒ | high concentration |

An HHI of above 1,800 is considered "highly concentrated" even though it seems a long way from 10,000, i.e., absolute monopoly power. This is because, in the merger context at least, U.S. antitrust

required to maintain profitability (*i.e.* in the short-run, price = marginal cost, and in the long run, price = marginal cost = minimum long-run average total cost). On the other hand, where barriers to market entry exist, anti-competitive actions are more likely.

The supply and demand for textiles is viewed within a global market context. The rest of the world actively exports such commodities to different countries, including the Philippines. Hence, entry barriers have an impact likewise on the ease or difficulty of entry of imports into the Philippine domestic market.

In the textile industry, the following factors constitute entry and exit considerations:

(a) Investment Cost

The capitalization of existing firms in the sector (based on the Top 7,000 Corporations, as of 1997) ran from a high of almost ₱2.0 billion to a low of ₱50 thousand. Firms requiring high capitalization are mostly integrated and finishing mills, but a number of firms in this sub-sector have capitalization of below ₱5.0 million.

(b) Size of the Market

No data are available on the size of the textile market in the Philippines.

(c) Laws and Regulations

Regulatory policies affect the entry of firms into the market particularly if the regulation warrants an incentive for higher profit for would-be participants.

laws are concerned not only with mergers that result in a monopoly, but also with mergers that result in a highly concentrated market.

(1) Tariff Policy – Table 3 presents the tariff rates of the textile industry from 1995 to 2000. A gradual phase down in duties can be observed from 1995 to 1997. In 1998, tariffs on twenty two (22) industry winners, as identified by the Board of Investments, were reviewed and resulted in the increase in duty on thread, fabrics and garments. The review also identified garment manufacturing as an export winner within the industry, based on its share to total Philippine exports. Another round of tariff increase was enjoyed by the industry in 1999. This temporary protection was given to cushion the impact of the Asian financial crisis on the industry, particularly the adverse effect on employment, which needed to be addressed, given that the industry is a major employer of labor in manufacturing.

Table 3. Historical Development of Tariff Rates (% ad valorem)

| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 |
|------------------------|------|------|------|------|------|------|
| Yarn | 20 | 10 | 10 | 10 | 10 | 7 |
| Thread | 20 | 10 | 10 | 15 | 15 | 10 |
| Fabric | 30 | 20 | 10 | 15 | 20 | 10 |
| Garments | 30 | 30 | 20 | 25 | 25 | 20 |
| Other Made-Up Articles | 30 | 30 | 20 | 25 | 25 | 20 |

Source: Tariff Commission

The tariff structure of the textile industry shows that there is an incentive for firms to take up fabric manufacturing since the sector enjoys relative high protection. Effective protection rates⁴ (EPR) were computed for fabrics commonly used in the manufacture of export garments. Figures show that the manufacture of twill and denim fabrics is protected, with EPRs computed at 270.7% and 36.8%, respectively (Table 4).

⁴ The effective protection rate (EPR) is defined as the percentage excess of domestic value added over world market value added due to the imposition of tariffs and other protective measures on a product. The higher the EPR of an industry or activity, the greater the protection enjoyed from tariffs and similar measures. The EPR estimates cited in this study were sourced from the Tariff Commission.

Table 4. Effective Protection Rates on Fabrics (1998, in %)

| | Twill | Denim |
|------------|--------------|--------------|
| EPR | 270.7 | 36.8 |

Source of Basic Data: Industry Survey

(2) Investment Incentives

➡ Import Liberalization – The removal of quantitative restrictions on textile imports was undertaken from 1982 to 1985 (Table 4A). Woven fabrics, the relevant product, were liberalized in 1986 and 1988 through Central Bank Circular Nos. 1100 and 1174 . To date, only used clothing remains regulated in the textile industry.

Table 4A. Removal of Import Restrictions on Textiles, By PSCC

| PSCC | DESCRIPTION | NUMBER OF PRODUCT LINES LIBERALIZED | | | | | | |
|------|---|-------------------------------------|------|------|------|------|------|------|
| | | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
| 26 | TEXTILE FIBERS (OTHER THAN WOOL TOPS) AND THEIR WASTES (NOT MANUFACTURED) | | | | | | | |
| 263 | Cotton | - | - | - | - | 1 | - | - |
| 266 | Synthetic fibers suitable for spinning | - | - | - | - | 7 | 3 | - |
| 267 | Other man-made fibers Suitable for spinning | - | - | - | - | 2 | | - |
| 268 | Wool and other animal hair | - | - | - | - | 1 | - | - |
| 269 | Old clothing and other old textile articles; rags | - | - | - | 4 | 2 | - | - |

| PSCC | DESCRIPTION | NUMBER OF PRODUCT LINES LIBERALIZED | | | | | | |
|------|--|-------------------------------------|------|------|------|------|------|------|
| | | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
| 65 | TEXTILE YARNS, FABRICS, MADE-UP ARTICLES, NES AND OTHER RELATED PRODUCTS | | | | | | | |
| 651 | Textile yarn | - | - | - | - | 10 | 69 | - |
| 652 | Other fabric woven | - | - | - | - | 1 | - | 19 |
| 653 | Fabrics, woven, of man-made fibers | - | - | - | - | 2 | - | 24 |

| | | | | | | | | |
|-----|--|----|----|---|---|-----|----|----|
| 654 | Textile fabrics, woven, other than cotton or man-made fibers | - | - | - | - | 3 | - | 27 |
| 655 | Knitted or crocheted fabrics | - | - | - | - | 2 | - | 7 |
| 656 | Tulle, lace, embroidery, ribbons, trimmings | - | - | - | - | 35 | - | - |
| 657 | Special textile fabrics and related products | - | - | 1 | 4 | 16 | - | - |
| 658 | Made-up articles, wholly or chiefly of textile materials | 3 | 14 | - | - | 18 | - | - |
| 659 | Floor coverings | 8 | 6 | - | - | 11 | - | - |
| | TOTAL | 11 | 20 | 1 | 8 | 111 | 72 | 77 |

Source: Austria (1994)

➡ Textile Modernization Program (TMP) – The Textile Modernization Program is being implemented by the Board of Investments. Its primary purpose is to help the textile industry become modern and internationally competitive. Under the program, the increase in capacities due to modernization should not exceed 25% of installed capacity, and the additional production should be exported, 50% for Filipino-owned firms, and 70% for foreign-owned firms.

Projects under the TMP are entitled to the following incentives:

- ✎ tax and duty-free importation of capital equipment, replacement and spare parts;
- ✎ tax credit on domestic capital equipment equivalent to 100% of taxes and duties that would have been raised had the equipment been imported;
- ✎ unrestricted use of consigned equipment; and
- ✎ exemption from taxes and duties on imported spare parts and supplies for consigned equipment.

➡ Advanced Tax Credit Scheme – The advanced tax credit scheme started in 1985 to reduce cost of production of garment manufactures by allowing local millers to offer tax- and duty-free textiles to garment exporters with bonded manufacturing warehouses (BMW). The Board of Investments will issue local millers tax credit certificate (TCC) equivalent to the tax and duty garment exporters would have paid, had they bought imported raw materials. Hence, the scheme allowed local textiles to be priced competitively with imported textiles.⁵

➡ Phasing-out of the Multi-Fibre Agreement (MFA) – This means the termination of the Quota System. Under the GATT, quotas for garment exports shall expire in 2004. This means that the Philippines will not have sure export markets (e.g. U.S.A.) for its garment products. The challenge is for local garment manufacturers to develop new export markets before 2004 by offering more competitive products in terms of price and/or quality and/or design.

(3) Smuggling – Although by nature, smuggling constitutes unfair trade, this practice allows the entry of imported textiles, without payment of appropriate duties and taxes, into the domestic market.

➤ Other Factors Affecting Competitiveness

This section discusses the particular factors affecting the competitiveness of the textile industry that are peculiar to it.

(a) Technology and Trade Liberalization

Textile manufacturing was a recipient of high tariff protection since the early 1970s. With hindsight now, the textile manufacturing sector failed to modernize

⁵ Austria, 1994.

as it was shielded from competition by tariffs. With trade liberalization ushering in tariff reduction and the removal of non-tariff restrictions, local textiles became less competitive *vis-à-vis* imported textiles, which were of better quality and more competitively priced.

(b) Backward Linkages

The integration of the textile manufacturing sector and the garment manufacturing sector should have been a logical development of the textile industry. However, the textile manufacturing sector was heavily protected and remained an infant industry. The garment manufacturing sector developed into a top export earner despite the lack of local textiles. The garment manufacturing sector is heavily dependent on imports for its raw material requirements, as most locally produced materials are not acceptable in terms of quality. Moreover, imported materials are more competitively priced.

(c) Economic Conditions and Unfair Competition

High interest rates, labor and power rates contribute to high production cost and consequently *uncompetitive* textile products. Refer to Part V of the Analysis on Cost of Production. Additionally, the perennial problem of smuggling has severely disadvantaged local textile manufacturing in the domestic market.

(d) Compliance with Environmental Protection Standards

Installation of environmental protection equipment as well as observance of proper waste disposal, which are required both by local and international laws, are additional considerations for existing firms and potential entrants to the industry.

V Assessment of Industry Performance

➤ Domestic Industry

The textile-manufacturing sector is composed mainly of large⁶ establishments whose ownership is distributed among unrelated parties, but several of these firms' majority shareholders belong to the same family. Small establishments are mostly family-owned and managed.

➤ Employment

The total number of workers employed for spinning, weaving, texturizing, textile finishing and knitting mills was generally decreasing from 1981 to 1986 by an average 6.6% yearly, increasing from 1987 to 1989 by an average 6.9% yearly, and decreasing from 1990 to 1995 by an average 8.9% yearly (Table 5).

Table 5. Employment Data for Spinning, Weaving, Texturizing, Textile Finishing and Knitting Mills

| Year | No. of Workers Employed |
|-------------|--------------------------------|
| 1981 | 84,919 |
| 1982 | 71,706 |
| 1983 | 77,285 |
| 1984 | 71,145 |
| 1985 | 70,169 |
| 1986 | 70,029 |
| 1987 | 79,003 |
| 1988 | 84,399 |
| 1989 | 85,220 |
| 1990 | 81,866 |
| 1991 | 67,860 |
| 1992 | 64,018 |
| 1993 | 55,272 |
| 1994 | 48,585 |
| 1995 | 48,136 |

Source: National Statistics Office

⁶ based on NSO classification

➤ Financial Performance

The list of Top 7,000 Corporations lists fifty-five (55) firms belonging to the textile-manufacturing sector.

Aggregate gross revenues of this sector increased by 8.2%, or from P10.7 B in 1996 to P11.6 B in 1997. However, net income fell by 863.7% because of aggregate net loss sustained by the sector in 1997. Consequently net profit margins contracted further from 0.8% to -5.6%. Aggregate assets, liabilities and equity decreased over the two-year period by 13.0%, 10.4%, and 3.6%, respectively. Debt to equity ratio stood at 1.96:1.0 in 1996, and 1.82:1.0 in 1997.

Overall, industry performance deteriorated in 1997 *vis-à-vis* 1996.

➤ Production

In 1996, annual growth of textile manufacturing was -5.85%. By June 1997, it posted a larger negative growth of 32.07% (TMAP). The annual production capacity of the surviving members of TMAP in 1997 aggregated to only 232,342 MT.

Raw materials contribute the largest share to the cost to produce and sell fabrics. Imported raw materials account for more than 80% of total cost of materials. Electricity and direct labor, as cited by industry sources, account for significant shares of the high cost of manufacture (Table 6).

Table 6. Cost to Produce and Sell Fabrics, 1998 (in %)

| Cost Component | Polyester-Cotton Blend | Twill | Denim |
|-----------------------|-------------------------------|--------------|--------------|
| Raw Materials | 29.28 | 49.74 | 61.38 |
| Direct Labor | 8.85 | 5.87 | 4.19 |
| Mfg. Overhead | 39.45 | 30.41 | 21.62 |

| | | | |
|------------------------|--------|--------|--------|
| Electricity | 16.04 | 9.64 | 6.79 |
| Selling & Adm. | 6.38 | 4.34 | 6.02 |
| Cost to Produce & Sell | 100.00 | 100.00 | 100.00 |

Source: Textile Manufacturers Association of the Philippines

Table 6A. Total Ring-Yarn Costs, 1995

| Cost Element | Brazil | India | Italy | Japan | Korea | Thailand | USA | Philippines |
|-----------------------------------|--------|-------|-------|-------|-------|----------|-------|-------------|
| US \$ per kg. of yarn | | | | | | | | |
| Waste | 0.38 | 0.38 | 0.46 | 0.47 | 0.47 | 0.47 | 0.42 | 0.47 |
| | 8% | 9% | 9% | 8% | 10% | 10% | 8% | 10% |
| Labor | 0.21 | 0.05 | 0.89 | 1.00 | 0.18 | .01 | 0.53 | .010 |
| | 4% | 1% | 17% | 18% | 4% | 2% | 11% | 2% |
| Power | 0.21 | 0.33 | 0.23 | 0.59 | 0.20 | 0.23 | 0.18 | 0.38 |
| | 5% | 8% | 4% | 10% | 4% | 2% | 11% | 2% |
| Auxiliary Material | 0.13 | 0.12 | 0.13 | 0.17 | 0.14 | 0.17 | 0.14 | 0.17 |
| | 3% | 3% | 2% | 3% | 3% | 4% | 3% | 4% |
| Capital (depreciation & interest) | 1.82 | 1.37 | 1.29 | 1.17 | 1.26 | 1.23 | 1.54 | 1.23 |
| | 38% | 32% | 25% | 20% | 28% | 27% | 31% | 26% |
| Raw Material | 2.01 | 2.04 | 2.27 | 2.32 | 2.30 | 2.31 | 2.15 | 2.31 |
| | 42% | 47% | 43% | 41% | 51% | 51% | 43% | 50% |
| Total Yarn Costs | 4.76 | 4.29 | 5.27 | 5.72 | 4.55 | 4.51 | 4.96 | 4.65 |
| | 100% | 100% | 100% | 100% | 100 % | 100 % | 100 % | 100% |
| (Index: Italy = 100) | (90) | (81) | (100) | (109) | (86) | (86) | (94) | (88) |

Definition of Total Yarn Cost Elements:

Waste

In spinning, revenue from the sales of waste (waste from slivers, filters, flats and grid droppings, etc) is considered when calculating the waste costs.

Labor

The wage costs are calculated on the basis of the wages paid to operatives and to skilled and unskilled labor for maintenance work. All social charges and shift-work premiums are included. For reserve personnel, a percentage figure is added.

Power

The energy costs include the costs relating to the actual power consumption of the machines, the illumination and the air conditioning. It is assumed that the mill is lit for the entire production time.

Auxiliary Material

The costs for spare parts, lubricants, cleaning materials, and maintenance work on the buildings represent the costs for auxiliary material

Depreciation

This element includes depreciation of machines, accessories and buildings. The machinery costs are inclusive of free delivery to the mill, erection and—where applicable--of customs duty and taxes.

Interest

Cost of capital interests

Raw material

Cotton

Total Yarn Costs

The sum of the above group of costs gives the total yarn costs

Source: Textile Manufactures Association of the Philippines

Table 6B. Comparison of Cost Components in the Cotton Fabric Production

| Cost Element | Production Costs By Country | | | | | |
|--|---|--|---|---|---|--|
| | Philippines | | Korea | | Japan | |
| | Costs Percent (US\$/kg) of Total | | Costs Percent (US\$/kg) of Total | | Costs Percent (US\$/kg) of Total | |
| Materials | 0.590 | | 0.558 | | 0.411 | |
| 3/ | 48.5 | | 57 | | 41 | |
| Labor | 0.040 | | 0.058 | 6 | 0.042 | |
| | 3.5 | | | | 4 | |
| Energy | 0.115 | | 0.302 | 6 | 0.063 | |
| | 10 | | | | 6 | |
| Financial costs (Interest rate + depreciation) | 0.450 | | 0.302 | | 0.494 | |
| | 38 | | 31 | | 49 | |
| TOTAL | 1.195 | | 0.979 | | 1.010 | |
| | 100 | | 100 | | 100 | |

Source: DBP 1994

It is in fine woven fabrics that the industry fails to produce competitively the requirements both of the garments export sector and domestic demand. This is because of the higher cost of producing all-cotton yarn (cotton, an input to yarn is mostly imported) and higher spinning and weaving costs of fabrics (Tables 6A and 6B).

The *uncompetitiveness* in yarn manufacture can be traced to higher spinning cost of producing a cotton yarn⁷ that is relatively greater than that of the Philippines' competitor Asian countries – Thailand, South Korea, and India.

Similarly, the cost of producing a yard of cotton fabric in the Philippines is higher than in South Korea, India, and the United States, which can also be attributed to higher power cost. The cost of power is pointed out, as the spinning sector is energy intensive.

Due to the weak backward linkage with the textile manufacturing sector, the garment manufacturers are constrained to import fabrics under consignment. Local fabrics are produced at too high a cost for limited runs for each fabric style needed by the garment export industry. The need to import raw materials implies longer turnaround time. The average turnaround time for the Philippines until 1993 was 90 to 120 days. Given the short span of fashion, a longer turnaround time makes the garment manufacturing sector *uncompetitive*. Raw materials account for 48% of the cost to produce and sell garment (in this example denim pants) while direct labor and manufacturing overhead represent the remaining cost.

Table 7. Cost to Produce and Sell Denim Pants

| Cost Component | Percent Share |
|------------------------------|----------------------|
| Raw Materials | 48.3 |
| Direct Labor & Mfg. Overhead | 50.0 |
| Selling & Adm. | 1.7 |
| Cost to Produce & Sell | 100.00 |

Source: Industry Survey

➤ Imports

Aside from local manufacturing, imports contributed a significant share to total market supply of fabrics (Table 8). In terms of value, imports of fabrics contracted from 1994 to

⁷ Intal (1997).

1996, and increased in 1997. The relatively greater share of imports in the domestic market, implies preference of garment manufacturers for imported fabrics.

Table 8. Volume and Value of Imports of Fabrics and Percentage Share to Total Philippine Imports

| Year | Volume | | Value (CIFUS\$000) | | % Share to Total Philippine Imports |
|------|--------|--------|-----------------------|--------|---|
| | NK | SQ.M. | NK | SQ.M. | |
| 1994 | 29125 | 526914 | 194889 | 317647 | 0.86 |
| 1995 | 13576 | 418425 | 112412 | 373910 | 0.39 |
| 1996 | 10699 | 308383 | 83866 | 332730 | 0.24 |
| 1997 | 12300 | 434231 | 93698 | 357319 | 0.24 |

Source: NSO Foreign Trade Statistics

In terms of percentage share to the country's total value of imports, fabrics accounted for an average 0.43% from 1994 to 1997.

➤ Exports

Textile exports contracted from 1995 to 1996 but recovered in 1997 representing an average 0.14% share of the country's total export value (Table 9).

Table 9. Volume and Value of Exports of Fabrics and Percentage Share to Total Philippine Exports

| Year | Volume | | Value (CIFUS\$000) | | % Share to Total Philippine Exports |
|------|--------|-------|-----------------------|-------|---|
| | NK | SQ.M. | NK | SQ.M. | |
| 1994 | 12092 | 20210 | 43706 | 18559 | 0.32 |
| 1995 | 4497 | 15924 | 20297 | 18725 | 0.12 |
| 1996 | 3449 | 32382 | 14137 | 14137 | 0.07 |
| 1997 | 4131 | 39070 | 17248 | 17248 | 0.07 |

Source: NSO Foreign Trade Statistics

➤ Effective Protection Rate⁸ and Domestic Resource Cost⁹

As mentioned, estimated effective protection rates (EPRs) for fabrics --- twill and denim --- are 270.7% and 36.8% (refer back to Table 7) while estimated EPR for the output --- denim pants --- is 28.7%.

Textile manufacturing remained inefficient¹⁰ (Table 10). It is noted, however, that past tariff reforms resulted in slight improvements in efficiency. Clearly, further reforms in the tariff structure can enhance relative efficiency in the sector.

Table 10. DRC/SER Estimates for Textiles and Garments

| PSIC Code | Description | 1983 | 1988 |
|-----------------|---------------------|--------|--------|
| TEXTILES | | | |
| 32111 | Integrated Textiles | -10.65 | 2.16 |
| 32112 | Fiber and Filament | 3.81 | 100.11 |
| 32113 | Spinning | 4.23 | 1.69 |
| 32115 | Weaving | 3.48 | 1.88 |
| 32116 | Finishing | 3.74 | 1.58 |

| PSIC Code | Description | 1983 | 1988 |
|-----------------|--------------------------------------|------|-------|
| GARMENTS | | | |
| 32121 | Knitted Fabrics | 2.89 | 1.72 |
| 32122 | Hosiery, Knitted under/outerwear | 1.92 | 2.32 |
| 32131 | Industrial bags | 2.28 | -5.41 |
| 32132 | Manufacture of made-up textile goods | 2.99 | 1.79 |
| 32221 | Men's and Boys' Garments | 1.01 | 1.19 |

⁸ The effective protection rate (EPR) is defined as the percentage excess of domestic value added over world market value added due to the imposition of tariffs and other protective measures on product. The higher the EPR of an industry or activity, the greater the protection enjoyed from tariffs and similar measures.

⁹ An activity or industry is said to have comparative advantage if the domestic cost it incurs (expressed in shadow prices) to earn or save a unit of foreign exchange is less than or equal to the shadow price of foreign exchange. A decline in the DRC/SER ratio implies an improvement in an activity's comparative advantage position. The criteria for efficiency used in Tecson (1996) was used to determine degree of efficiency.

¹⁰ based on 1988 DRC/SER results by Tecson (1995)

| | | | |
|-------|-----------------------------|------|------|
| 32222 | Women's and Girls' Garments | 0.81 | 0.82 |
| 32229 | Ready-made clothing | 0.71 | 1.25 |

Source; Tecson (1995)

The garments manufacturing sector (men's and boys' garments, women's and girls' garments and ready-made clothing) is efficient inspite of relatively low protection and inefficient backward linkage. However, DRC/SER estimates showed a slight decline in efficiency.

➤ Revealed Comparative Advantage¹¹

Being noncompetitive price- and cost-wise, the textile-manufacturing sector cannot compete in the world market. The country does not have the comparative advantage to export fabrics as shown by its RCA values estimated at below 1.0. Note, however, that the textile-manufacturing sector has export capability in coarse fabrics like denims. Note, further, that the weak backward linkage with textile manufacturing sector did not deter the garment sector from surviving and competing globally. The relative preference for imported inputs somehow proved to be beneficial to this sector. RCA estimates were generally unstable from 1992 to 1995 but still, the garments sector managed to establish its niche in the world market in 1996 ranking 17th (SITC 843), 18th (SITC 844), 19th (SITC 845 & 846) and 20th (SITC 842) world exporter of garments (Table 11).

Table 11. RCA Estimates of Textiles and Garments, 1992-1996

| SITC | DESCRIPTION | 1992 | 1993 | 1994 | 1995 | 1996 |
|------|--------------------------|------|------|------|------|------|
| 266 | Synthetic fibers to spin | 0.22 | 0.18 | 0.22 | 0.01 | 0.04 |
| 267 | Other man-made fibers | 0.36 | 1.26 | 0.62 | 0.06 | 0.07 |

¹¹ Revealed Comparative Advantage (RCA) is an indicator of a country's export competitiveness. It is computed as the share of a product's exports to total country exports over the share of the product's total exports in the world market. A greater-than-one RCA estimate indicates that the country has comparative advantage to export the product in the world market.

| | | | | | | |
|-----|--------------------------------------|------|------|------|------|------|
| 652 | Cotton fabrics, woven | 0.10 | 0.04 | 0.02 | 0.00 | 0.09 |
| 653 | Woven man-made fabrics | 0.09 | 0.10 | 0.20 | 0.02 | 0.27 |
| 655 | Knitted fabrics, etc. | 0.73 | 0.84 | 1.59 | 0.14 | 1.66 |
| 842 | Men's outerwear, not knit | 1.61 | 1.54 | 1.54 | 0.15 | 3.19 |
| 843 | Women's outerwear, not knit | 1.77 | 1.61 | 1.63 | 0.19 | 4.32 |
| 844 | Undergarments, not knit | 1.35 | 1.26 | 0.80 | 0.12 | 3.55 |
| 845 | Outerwear, knit, non-elastic | 3.42 | 3.43 | 3.17 | 0.29 | 3.78 |
| 846 | Undergarments, knitted | 5.04 | 3.34 | 2.78 | 0.23 | 4.09 |
| 847 | Textile clothing accessories, n.e.s. | 0.48 | 0.94 | 1.38 | 0.14 | 2.12 |
| 848 | Headgear, non-textile clothing | 1.71 | 1.50 | 1.32 | 0.10 | 2.55 |

Source of basic data: UNCTAD International Trade Statistics

V Conclusions and Recommendations

➤ Conclusions

(a) Import –Dependent Domestic Market

The domestic market for textiles is generally characterized as import dependent. The estimated HHI values indicate a highly concentrated market, with imports accounting for the high concentration. Its share to total market was 50.5% and 53.4% in 1996 and 1997, respectively.

(b) No Linkage Between Textile and Garment Manufacturing Sectors

There is no significant linkage between the textile and garment manufacturing sectors. Garment manufacturers rely heavily, if not exclusively, on consigned imported fabrics and accessories.

(c) No Dangerous Concentration of Market Power

The likelihood of importers, however, of exercising market power is remote considering the existence of such a wide supplier base. An HHI index computed for local manufacturers alone would show an unconcentrated market for fabrics, with the highest revenue earner cornering a mere 15.25% and 7.1% share of the market, in 1996 and 1997, and the rest individually accounting for less than 8.0% and 4.0% share, over the same period.

(d) Certain Trade Policies Encourage New Investment

The level of required investment, tariff policy, trade liberalization and government incentives encourage entry into the industry. Particularly, recent upward adjustments in tariff rates have proved to be an incentive for the entry of firms in textile manufacturing, as indicated by relative high EPRs.

➤ Recommendations

(a) Using Competition Policy

Competition policy can address issues, which have a substantial impact on the competitiveness of the textile manufacturing sector, and consequently, the garment manufacturing sector.

At first blush, it appears that improving the competitiveness of the textile manufacturing sector would be an exercise in futility. The textile manufacturing sector as a supplier of inputs to the garment manufacturing sector has been chronically inefficient.

However, it must be remembered that the quota system for garment exports is due to expire in 2004. The quota system has helped tremendously in sustaining the garment manufacturing sector. However, it cannot rely any longer on a captive quota market, so to speak, and must compete for orders on its own. It must improve its competitiveness.

The phasing-out of the Multi-Fibre Agreement (MFA) by 2004 offers trade opportunities for garment exporters, as industrialized countries lower their trade barriers and open their markets to developing countries like the Philippines.

Building competitiveness in the textile manufacturing sector will remain irrelevant to the garment manufacturing sector, unless the conditions for developing a strong linkage between these two (2) sectors are provided.

(1) Strengthening Backward Linkages

One way is to strengthen backward linkages, *e.g.* improve the efficiency and productivity of the local textile manufacturing sector so that garment manufacturing sector can source its textile requirements locally. Without a sure market through the quota system, Philippine garments may become *uncompetitive* inasmuch as its foreign competitors can source their textiles and accessories in their home countries at home country prices. Liberalizing the importation of textiles is not the only solution.

Providing access to technology, *e.g.* investments in new machines, improved industrial relations, human resource development programs such as training in textile finishing, and productivity-linked incentives for workers, will enable the textile manufacturing sector to improve productivity, upgrade product quality, and consequently open new markets.

A competition policy of trade liberalization can strengthen the textile manufacturing sector by improving access to raw material inputs and equipment.

(2) Exploiting Comparative Advantages

Another way is to examine its comparative advantages over other garment exporting countries in the field of garment manufacturing, *e.g.* better dyeing, printing and finishing, innovative designs, fabric research and development, *etc.*, and exploit these advantages. The textile industry is not comprised solely of fabric manufacturing. Current resources of the textile manufacturing sector can be channeled towards these activities wherein the Philippines may have a comparative advantage.

(3) Liberalizing Textile Importation

After the liberalization of inputs for improving the competitiveness of the textile manufacturing sector, a competition policy liberalizing the importation of textiles can be gradually phased in to serve as a spur to the textile manufacturing sector to make productive and efficient use of its own liberalization privileges.

➤ Working Strategies

Both the textile and garment manufacturing sectors can utilize competition policy to improve their respective sectors.

(a) A Development Plan for an Integrated Industry

The textile and garment manufacturing sectors have approximately five (5) years within which to develop and complement each other strengths, before the expiration of the MFA.

The Garments and Textile Exports Board should bring together both sectors for the formulation of an integrated development plan with specific steps to take within a definitive time-frame. The objective is to develop competitiveness not extend protectionism.

The integrated development plan must specify what liberalization measures will assist both sectors, specify what aspects of the textile industry should be developed and/or strengthened (*n.b.* comparative advantages), what each member of each sector will undertake, the designation of a working group, and a monitoring system for the implementation of the plan.

(b) Advocacy

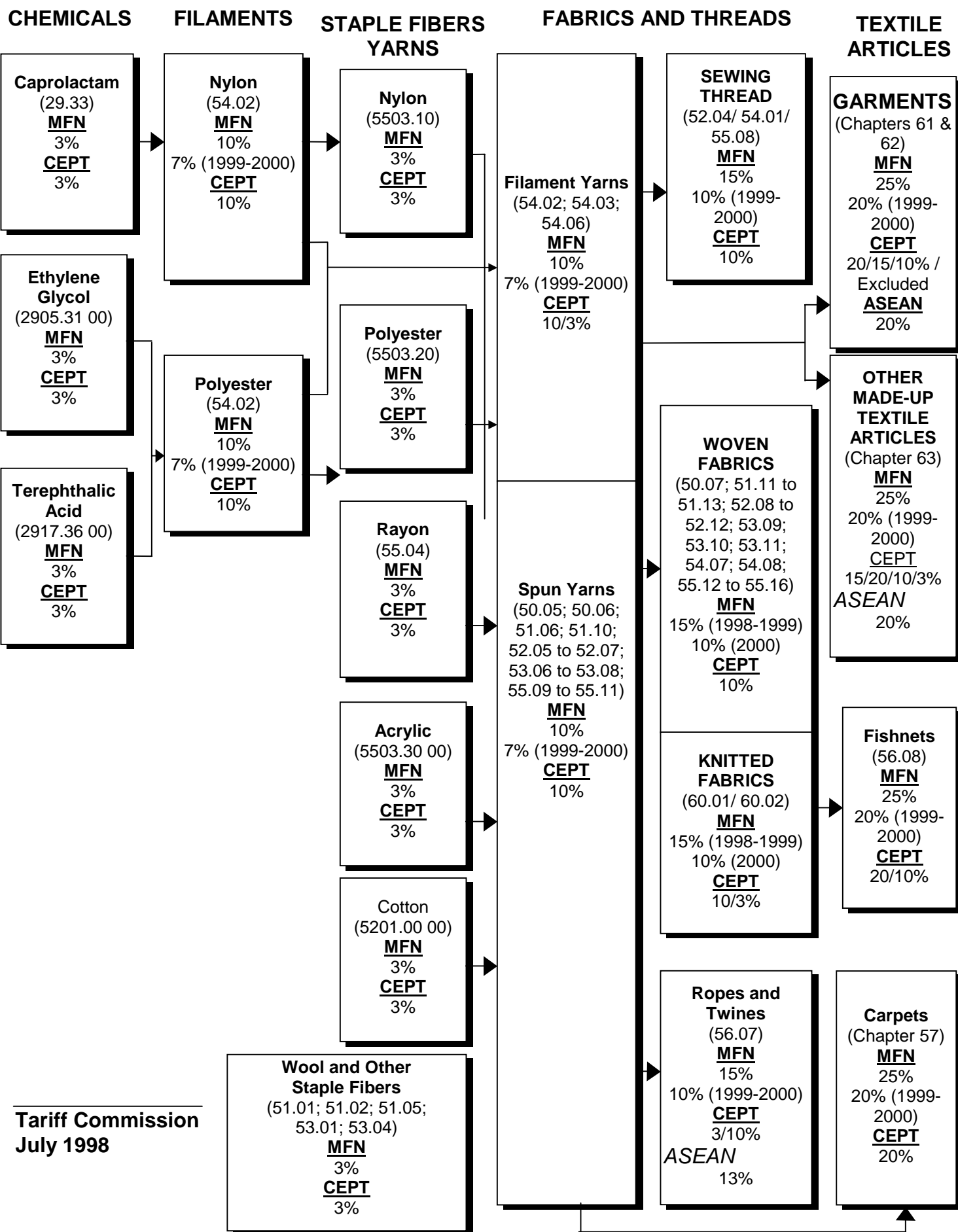
The working group will direct and supervise advocacy efforts. An advocacy group, whether composed of members of the sectors or independently contracted professional lobbyists, is vital in order to ensure the passage of executive and/or legislative measures designed to assist both sectors in developing and/or improving their competitiveness, to rally members of the sectors into active participation in the integrated development plan, to network and advertise the superiority of Philippine fabrics and garments among foreign buyers, and to raise public awareness and support for the industry.

Table 6. Selected Financial Indicators of the Textile Industry
(1995 and 1996, in P'000)

| | Gross Revenues | | Net Income | | Total Assets | | Total Liabilities | | Stockholders Equity | |
|-------------------------------------|----------------|------------|------------|-----------|--------------|------------|-------------------|------------|---------------------|-----------|
| | 1996 | 1997 | 1996 | 1997 | 1996 | 1997 | 1996 | 1997 | 1996 | 1997 |
| Textile Manufacturing Sector | 10,705,768 | 11,588,032 | 85,599 | (653,704) | 19,927,952 | 17,334,607 | 13,192,779 | 11,825,451 | 6,735,173 | 6,400,000 |

Source: Top 7,000 Corporations

TEXTILE INDUSTRY



Tariff Commission
July 1998

EXECUTIVE ORDER NO. _____

CONSTITUTING THE FAIR COMPETITION POLICY ADVISORY COUNCIL

WHEREAS, Article XII, Section 19 of the Constitution provides that unfair competition shall not be allowed;

WHEREAS, a significant number of legislative and executive measures have already been promulgated which promote economic development and foster competition in the Philippine market, yet the Philippines lacks a comprehensive and effective competition policy rationalizing and embracing these measures which enhance and maintain competition and ensure continuing economic reform and progress;

WHEREAS, there is a need for a council, with representatives from the public and private sectors, to spearhead the formulation of a competition policy framework, develop a pool of competition experts, and promote public awareness, acceptance and education on competition policy.

NOW, THEREFORE, I, **JOSEPH E. ESTRADA**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

Section 1. Constituting the Fair Competition Policy Advisory Council.

The Fair Competition Policy Advisory Council (hereinafter the "Council") is hereby constituted under the Office of the President. It shall be chaired by the Director General of the National Economic Development Authority (NEDA), and be composed of public and private sector representatives, as follows:

Public Sector Representatives:

Executive Branch

1. Secretary of Trade and Industry - Chairman
2. Secretary of Finance
3. Secretary of Agriculture
4. Secretary of Foreign Affairs
5. Director General of the National Security Council

Duly designated representatives of the above mentioned members must at least have the rank of Undersecretary.

Legislative Branch

The Chairman of the Council shall invite members of Congress, specifically the following, to participate in the Council's projects as may be appropriate:

1. Chairman of the House Committee on Economic Affairs

2. Chairman of the Senate Committee on Economic Affairs
3. Chairman of the House Committee on Trade and Industry
4. Chairman of the Senate Committee on Trade and Industry.

Private Sector Representatives:

At least six (6) private sector representatives shall be invited by the President to seat as regular members of the Council. Representatives from the academe, the Bar, the business sector, and the consumers groups shall be nominated by the Chairman.

Other representatives from the private sector may from time to time be invited by the Chairman to participate in the Council's projects.

Section 2. Functions of the Council. The functions of the Council shall be to:

- a) Undertake and prepare studies with the end in view of developing and recommending a fair competition policy framework for the Philippines to the President;
- b) Collate, compile, distribute and disseminate resource materials on competition policy in order to promote awareness of and acceptance by the public;
- c) Conduct workshops and seminars, information campaigns, and train or develop a pool of experts, on the subject;
- d) Extend technical assistance to the Philippine delegation to the Asia Pacific Economic Cooperation (APEC) and other international bodies in regard to competition law and policy;
- e) Draft and recommend proposed administrative and legislative measures for respective consideration and adoption/enactment by the Executive or Legislative Branch of government; and
- f) Perform such other related acts as may, from time to time, be required by the President.

Section 3. Technical Working Groups. The Council may constitute and designate such number of technical working groups as it may deem necessary.

Section 4. Assistance from Other Government Agencies and Offices. The Council may seek the assistance of any government office in undertaking its functions.

All government agencies and personnel will be enjoined to extend all assistance as may be required by the Council in lawfully undertaking its functions.

Section 5. Funding. The initial funding of the Council may come from the President's contingent fund and shall be subject to applicable rules and regulation of the Commission on Audit.

The Council is likewise authorized to accept donations, grants or any other form of assistance from the private sector subject to regular reporting and strict accounting and audit by a reputable accounting firm.

Section 6. Term of the Council. The Council shall exist for a term of eighteen (18) months reckoned from the time it first convenes, unless sooner terminated or extended by order of the President.

Section 7. Effectivity. This Executive Order shall take effect immediately.

DONE in the City of Manila, this ____ day of _____ 1999, in the year of our Lord Nineteen Hundred and Ninety-Nine.

By the President:

RONALDO __. ZAMORA
Executive Secretary

-oOo-

(Draft bill for discussion purposes)

Republic of the Philippines
SENATE/HOUSE OF REPRESENTATIVES
Manila/ Quezon City

____th Congress

Introduced by _____

**AN ACT CREATING THE PHILIPPINE FAIR COMPETITION COMMISSION,
REGULATING AND PENALIZING THE ABUSE OF DOMINANT POSITION,
RESTRICTIVE AGREEMENTS, UNLAWFUL MERGERS, ACQUISITIONS AND
COMBINATIONS IN RESTRAINT OF TRADE, UNFAIR COMPETITION AND
OTHER ANTI-COMPETITIVE PRACTICES AND CONDUCT, AND
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

Be it enacted by the Senate and the House of Representatives in Congress assembled:

Article I
Title and Policy

Section 1. **Title** – This Act shall be known as the “Philippine Fair Competition Act of 1998.”

Section 2. **Declaration of Policy** – It is the policy of the State to maintain and enhance free and full competition in trade, industry and all commercial economic activity; penalize all forms of unfair trade, anti-competitive conduct and combinations in restraint of trade, in order to ultimately enhance consumer welfare.

Article 2
Scope of the Law and Definition of Terms

Section 1. **Applicability** - This Act shall be enforceable in the whole territory of the Republic of the Philippines and applies to all areas of trade, industry and commercial economic activity. The Act shall be applicable to all matters specified in Articles 3, 4, 5 and 6, having substantial effects in the Republic of the Philippines, including those that result from acts done outside the Republic of the Philippines.

Section 2. **Limitations** - This Act does not derogate from the direct enjoyment of the privileges and protections conferred by Republic Act No. 8293 (1997), otherwise known as the Intellectual Property Code, and other laws protecting intellectual property, including inventions, industrial models, trademarks and copyrights. It does, however, apply to the use of such property in such a manner as to cause the anti-competitive effects prohibited herein.

This Law shall apply neither to the combinations or activities of workers or employees, nor to agreements or arrangements between two or more employers, when such combinations, activities, agreements or arrangements are designed solely to facilitate collective bargaining in respect of conditions of employment.

Section 3. **Definition of terms** – Whenever used in this Act, the following terms shall be taken to mean as follows:

- (a) "Competition" - the process by which economic agents, acting independently in a market, limit each other's ability to control the conditions prevailing in that market.
- (b) "Commission" – the Philippine Fair Competition Commission created in Article 7 of this Act.
- (c) "Firm" - any natural or legal person, governmental body, partnership or association in any form, engaged directly or indirectly in economic activity. Two firms, one of which is controlled by the other, shall be treated as one firm. Two or more firms that are controlled by a single firm shall be treated as one firm. The Commission shall, from time to time, adopt a regular setting of what constitutes control.
- (d) "Goods" - all property, tangible and intangible, and services.
- (e) "Market" - a collection of goods that are capable of being substituted for each other and that buyers are or would be willing to substitute, and a specific territory, which may extend beyond the borders of the Republic of the Philippines, in which are located sellers among whom buyers are or would be willing to substitute from whom they would buy.

Article 3 **Abuse of Dominant Position**

Section 1. **Dominant Position** -- A firm shall be deemed to have a dominant position if, acting on its own, it can profitably and materially restrain or reduce competition in a market for a significant period of time.

Section 2. **Safe Harbor** – A firm shall not be deemed to have a dominant position unless its share of the relevant market exceeds the percentage set by the Commission in its guidelines. A firm having a market share exceeding a percentage set by the Commission, may or may not be found to be dominant, depending on the economic situation in that market, including the competing firms' market shares and their abilities to expand those shares, and the potential for new entry into the market.

Section 3. **Prohibited Acts of a Dominant Firm** - Actions of a dominant firm, including, but not limited to:

- (a) creating obstacles to the entry of competing firms or to the expansion of existing competitors; or
- (b) eliminating competing firms from the market that have resulted or may probably result in a significant limitation of competition,

are prohibited.

Section 4. ***Permissible Acts*** -- Section 3 of this Article does not prohibit actions by a firm which, solely by increasing the efficiency of the firm taking those actions, or which pass the benefits of greater efficiency on to the consumers, create obstacles to the entry of new firms, or reduce the competitiveness of existing firms.

Section 5. ***Power to Break Up a Firm Abusing Its Dominant Position*** - Where a firm has abused its dominant position and no other remedy under this Act or under an applicable regulatory statute would be likely to rectify the situation or prevent recurrence of the abuse, the Philippine Fair Competition Commission may reorganize or divide the firm, provided there is a reasonable likelihood that the resulting entity or entities would be economically viable.

The power to reorganize or divide contained in this Article shall be exercised in a manner designed to minimize any increases in the costs of providing the goods supplied by the abusive firm.

Article 4 **Restrictive Agreements**

Section 1. ***Restrictive Agreements that are Illegal Per Se*** - An agreement, concluded in any form, including by concerted practice, between competing firms or firms that could easily become competitors, having or likely to have any of the following principal effects, is conclusively presumed to significantly limit competition and is, thus, prohibited:

- (a) fixing or setting prices, tariffs, discounts, surcharges or any other charges; or
- (b) fixing or setting quantity of output; or
- (c) fixing or setting prices at auctions or in any other form of bidding, except for joint bids so identified on their face to the party soliciting the bids; or
- (d) dividing the market, whether by territory, by volume of sale or purchases, by type of goods sold, by customers or sellers, or by other means; or
- (e) eliminating from the market actual or potential sellers or purchasers; or
- (f) refusing to conclude contracts with actual or potential sellers or purchasers.

Section 2. ***Other Restrictive Agreements*** - An agreement, other than those enumerated in Section 1 of this Article, concluded in any form, including by concerted practice, may likewise be prohibited by the Commission if said agreement has, or would likely have, as its result a significant limitation of competition.

An agreement, other than those enumerated in Section 1 of this Article, shall be presumed to significantly limit competition, if:

- (a) it is entered into by and among competing firms or firms that could easily become competitors and the firms participating in the agreement collectively exceed twenty (20) percent of a market affected by the agreement; or
- (b) it is entered into solely by and among non-competing firms and -
 - (1) at least one of the parties holds a dominant position in a market affected by the agreement; or
 - (2) the limitation of competition results from the fact that similar agreements are widespread in a market affected by the agreement.

Section 3. ***Balancing Efficiencies*** - An agreement prohibited under Section 2 of this Article may nevertheless be permissible and allowed by the Commission if said agreement has brought about, or is likely to bring about, gains in real, as opposed to merely pecuniary, efficiencies that -

- (a) are greater than or more than offset the effects of any limitation on competition that result or are likely to result from the agreement; or
- (b) consumer well being is expected to be enhanced as a result of the agreement.

Section 4. ***Burden of proof*** - The burden of proof to show that the agreement is not prohibited lies with the parties seeking the exemption pursuant to Section 3. Such parties are required to, among others, demonstrate that if the agreement were not implemented, it is not likely that the relevant real efficiency gains would be realized by means that would limit competition to a lesser degree than the agreement.

Article 5

Mergers and Acquisitions

Section 1. ***Review of Concentrations*** - A concentration shall be deemed to arise when:

- (a) two or more previously independent firms merge, amalgamate or combine the whole or a part of their business; or
- (b) one or more natural or legal persons already controlling at least one firm, acquire, whether by purchase of securities or assets, by contract

or by other means, direct or indirect control of the whole or parts of one or more other firms.

Section 2. **Control** - For the purpose of this Article, control is defined as the ability to materially influence a firm, in particular through:

- (a) ownership or the right to use all or part of the assets of an undertaking; or
- (b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of a firm.

Section 3. **Compulsory Notification** - Parties to an agreement that will produce a concentration larger than the minimum size as may be provided in regulations issued pursuant to Section 7 of this Article, are prohibited from consummating such concentration until thirty (30) days after providing notification to the Commission, in the form and containing the information specified in regulations issued pursuant to section 7. An agreement consummated in violation of this requirement shall be considered void and subject the parties to the corresponding penalties therefor.

Section 4. **Further Information** – The Commission may, in writing, request the parties to the agreement, for further information, before the expiration of the thirty (30) day period referred to in section 3 of this Article. The issuance of such a request has the effect of extending the period within which the concentration may not be consummated for an additional thirty (30) days, beginning on the day after substantially all of the requested information is supplied to the Commission.

Section 5. **Voluntary Notification** – Parties to an agreement who are not subject to the notification requirement in Section 3 of this Article may voluntarily notify and, if they do so, be subject to the same procedures, restrictions and rights as are applied to cases of compulsory notification.

Section 6. **Effect of Notification** - If, before consummation of a concentration, the Commission determines that such concentration is prohibited under Section 8, and does not qualify for exemption under Section 9, of this Article, the Commission may:

- (a) prohibit consummation of the concentration;
- (b) prohibit consummation of the concentration unless and until it is modified by changes specified by the Commission; or
- (c) prohibit consummation of the concentration unless and until the pertinent party or parties enter into legally enforceable agreements specified by the Commission.

Section 7. **Regulations of the Commission** - The Commission shall from time to time adopt and publish regulations stipulating:

- (a) the minimum size or size of concentrations subject to the notification requirement of Section 3 of this Article;
- (b) the information that must be supplied for notified concentrations;

- (c) exceptions or exemptions from the notification requirements of Section 3 for specified types of concentrations; and
- (d) other rules relating to the notification procedures in Sections 3, 4 and 5 of this Article.

Section 8. ***Prohibited Concentrations*** - Concentrations that will significantly limit competition as may be determined by the Commission are prohibited.

Section 9. ***Permissible Concentrations***. Concentrations prohibited under Section 8 of this Article shall, nonetheless, be free from prohibition by the Commission where the parties establish that either:

- (a) the concentration has brought about or is likely to bring about gains in real, as opposed to merely pecuniary, efficiencies that are greater than or more than offset the effects of any limitation on competition that result or are likely to result from the concentration; or
- (b) a party to the concentration is faced with actual or imminent financial failure, and the concentration represents the least anti-competitive arrangement among the known alternative uses for the failing firm's assets.

Section 10. ***Burden of Proof*** - The burden of proof under Section 9 lies with the parties seeking the exemption.

A party seeking to rely on the exemption specified in Section 9 (a) must demonstrate that if the concentration were not consummated it is not likely that the relevant real efficiency gains would be realized by means that would limit competition to a lesser degree than the concentration.

A party seeking to rely on the exceptions specified in Section 9 (b) must:

- (a) demonstrate that reasonable steps have been taken within the recent past to identify alternative purchasers for the failing firm's assets; and
- (b) fully describe the results of that search.

Section 11. ***Prescription*** - The Commission may determine, within three (3) years after consummation, that either:

- (a) a non-notified concentration; or
- (b) a notified concentration in which the provisions of Sections 3 to 5 of this Article are not fully complied with,

has led or will probably lead to a significant limitation of competition and does not qualify for exemption set out in Section 9 of this Article. If it so determines, the Commission may:

- (a) undo the concentration by dissolving it into its constituent elements;

- (b) require other modifications of the concentration, including sale of a portion of its operations or assets; or
- (c) require the surviving firm or firms to enter into legally enforceable agreements specified by the Commission and designed to reduce or eliminate the competition limiting effects of the concentration.

Article 6 Unfair Competition

Section 1. ***Unfair Competition*** - Unfair competition is prohibited, including:

- (a) the distribution of false or misleading information which is capable of harming the business interests of another firm;
- (b) the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, suitability for use, or quality of goods;
- (c) false or misleading comparison of goods in the process of advertising;
- (d) fraudulent use of another's trademark, firm name, or product labeling or packaging; or
- (e) unauthorized receipt, use, or dissemination of confidential scientific, technical, production, business or trade information.

Article 7 The Commission

Section 1. ***Philippine Fair Competition Commission*** - There is hereby created an independent collegial body to be known as the Philippine Fair Competition Commission. The Commission shall be composed of a Chairman and four (4) Associate Commissioners, all of whom shall be appointed by the President for a term of seven (7) years without reappointment. The Chairman and two (2) of the Associate Commissioners first appointed shall serve for a period of seven (7) years, while the other two (2) Associate Commissioners shall serve for five (5) years as shall be indicated in their respective appointments.

Appointment to any vacancy shall only be for the unexpired term of the predecessor. In no case shall a member of the Commission be designated or appointed in a temporary or acting capacity. The Chairman of the Commission can only be removed for patent disability to discharge his/her functions.

Section 2. ***Qualifications*** - The Chairman and the Associate Commissioners shall be citizens of the Philippines, at least thirty-five (35) years of age, of recognized probity, integrity, and competence in the field of law, economics, finance banking, commerce, industry and/or consumer welfare, and must not have been a candidate for an elective national or local office in the immediately preceding election, whether regular or special:

Provided, that the Chairman and at least one (1) Associate Commissioner shall be members of good standing of the Integrated Bar of the Philippines and in the active practice of law for not less than ten (10) years prior to their appointment.

Section 3. **Rank and Salary** - The members of the Commission shall have the same rank, privileges, and salaries as the Chairman and members of a Constitutional Commission. Their salaries shall be set, and from time to time be adjusted by the President. In no case shall their salaries be decreased during their term of office.

Section 4. **Prohibitions and Disqualifications** - The members of the Commission shall not, during their tenure, hold any other office or employment. They shall not during their tenure, directly or indirectly, practice any profession, participate in any business or financially interested in any contract or any franchise, or special privilege granted by the government of any subdivision, agency or instrumentality thereof, including government-owned and controlled corporations or their subsidiaries: *Provided*, however, that they may, with the prior permission of the President, teach part time in any institution of learning. They shall, at all times, strictly avoid conflict of interest situations in the conduct of their office. They shall not be qualified to run for any office in any public election, regular or special, immediately preceding their cessation from office. They shall not be allowed to appear or practice before the Commission for a period of one (1) year following their cessation from office.

Section 5. **Meetings, Notice, and Quorum** - The Commission shall meet as often as may be necessary on such days as the Chairman, or in his/her absence, as a majority of the Commissioners may fix. The notice of meeting shall be given to all members at least one (1) day before the scheduled date of the meeting.

The presence of at least three (3) Commissioners shall constitute a quorum. In the absence of the Chairman, one of the Associate Commissioner chosen by those present shall act as the presiding officer of the meeting.

Section 6. **Secretariat** - The Commission shall have a Secretariat with a staff complement as may be determined by the Chairman in consultation with the Department of Budget and Management.

The Secretariat shall be headed by an Executive Director who shall be appointed by the President. He/she shall act as the secretary of the Commission and shall be responsible for the effective implementation of the policies, rules and standards set by the Commission and oversee and coordinate the day-to-day activities of the different operating units of the Commission.

Article 8

Powers and Functions of the Commission

Section 1. **Powers and Functions** - To carry out the objectives of this Act, the Commission shall have and exercise the following powers and functions:

- (a) To enforce and effectively administer the provisions of this Act and other fair trade laws, subject to the powers vested in the courts and other administrative agencies under this Act;

- (b) undertake and prepare industry studies to determine industry structures, and the state of competition and competitiveness of Philippine industries, and collate, compile, distribute and disseminate resource materials on competition policy, with the end in view of creating a national database on competition;
- (c) conduct workshops and seminars, information campaigns for the public, and train or develop a pool of experts on competition;
- (d) extend technical assistance to the Philippine delegation to the Asia Pacific Economic Cooperation (APEC) and other international bodies in regard to competition law and policy;
- (e) draft and recommend proposed administrative and legislative measures for respective consideration and adoption/enactment by the Executive or Legislative Branch of government;
- (f) make submissions to the government authorities engaged in designing or administering legislation or regulations which could affect competition in any market in the Philippines, intervene in hearings and proceedings held with regard to the adoption or administration of such laws or regulations, and publish the submissions and interventions above referred to, *provided* that confidential information is not divulged;
- (g) administratively adjudicate violations of this Act and rules and regulations issued pursuant thereto, by conducting a formal investigation, independent of the corresponding criminal and civil action for said violation(s). The imposition of administrative penalties in the formal investigation is without prejudice to the imposition of penalties in the criminal action and/or judgment in the civil action and *vice versa*.

As soon as a formal charge is filed with the Commission and even prior to the commencement of the formal investigation, the Commission may *motu proprio* or upon verified application of any person, issue preliminary orders prohibiting firms from carrying on the anticompetitive or unfair practices referred to in this Act and, if necessary, requiring such firms to take other specified actions to eliminate the harmful effects of such practices and to ensure against recurrence of such practices. Before issuing any orders, the Commission shall be satisfied that the proposed measures are urgently required to avoid serious, imminent and irreparable harm to the economic interests of the Philippines, as expressed in this Act. Where the effectiveness of the order would not thereby be prejudiced, the Commission may permit the firms that would be subject to the order to present their views regarding the proposed order. The Commission shall provide by rules and regulations the other procedures and restrictions for the issuance of such preliminary orders.

All orders may, under this Section, lose effect twenty one (21) days after they are issued, unless renewed by express decision of the Commission.

Upon its decision becoming final and executory, the Commission on its own initiative or upon motion of the winning party shall issue a writ of execution. The Commission shall deputize the Philippine National Police, National Bureau of Investigation or Armed Forces of the Philippines in the enforcement of any of its decisions and orders. Orders and decisions issued under this Section may be appealed to the pertinent appeal court, but do not lose their effect pending the outcome of the appeal;

- (h) conduct its own administrative investigations for the purpose of:
 - (1) obtaining information relative to any activity that constitutes any past or present violation of this Act and other fair trade laws; and
 - (2) gathering and compiling trade information relative to:
 - (i) the nature, organization and resources of any person, firm, entity or association doing business in and/or with the Philippines or a Philippine firm;
 - (ii) determining and evaluating the practices, acts methods, schemes, arrangements and other trade conditions prevailing in an industry.
- (i) the officials authorized to conduct the preliminary or administrative investigations, including formal investigations for purposes of administrative adjudication referred to in the Section 1 (g) of this Article, shall have the power to administer oaths, issue subpoena *duces tecum* to compel the attendance of witnesses and the production of necessary papers and documents, and to punish direct and indirect contempt as granted to superior courts under the Rules of Court;
- (j) initiate or institute the appropriate civil action or proceeding before the proper court or administrative agency in the implementation of the provisions of this Act and other fair trade laws or restrain any threatened violations thereof;
- (k) institute the appropriate information and prosecute criminal cases for any and all violations of this Act and other fair trade laws after conducting a preliminary investigation *motu proprio* or upon complaint of any person, when there is sufficient ground to engender a well founded belief that the violation(s) complained of is/are being or has/have been committed, and in addition, and subject to the rules on prosecution of civil action under the Rules of Court, institute the appropriate action for the recovery of civil liability;

- (l) To recommend the amendment of existing franchises when, based on its own evaluation, the same has adversely affected the growth of the relevant market or industry;
- (m) To periodically conduct an inspection of any pertinent:
 - (1) factory, shop, laboratory, establishment, store, warehouse, any means of transportation, and the like;
 - (2) papers, documents, and records found in such factory, shop, laboratory, establishment, store, warehouse, means of transportation, and the like;
 - (3) equipment, finished or unfinished products, raw materials, containers, labeling and other pertinent properties found in such factory, shop, laboratory, establishment, store, warehouse, means of transportation, and the like;
 - (4) activity being undertaken in such factory, shop, laboratory, establishment, store, warehouse, means of transportation and the like, which may be necessary to determine violations or which may aid in the enforcement of this Act, other fair trade laws, or rules and regulations issued pursuant thereto.

The officials authorized to conduct said inspection may obtain a reasonable quantity of samples of the properties (except equipment) mentioned in Section 1 (m) (3) of this Article, to take pictures or video tapes of the places things mentioned in Section 1 (m) (1) and 3 of this Article, and secure copies of the papers mentioned in Section 1 (m) (2) of this Article.

All acts authorized under this subsection shall be conducted at reasonable promptness, in a professional manner and without undue disturbance to any legitimate work or activity being undertaken inside the premises of such places. Receipts shall be issued for samples which may thereafter be so obtained;

- (n) require any person, firm, entity or association to submit to it periodically or whenever necessary, such report, data, information, paper or document in such form as may be prescribed by the Commission;
- (o) request the different government agencies for assistance in obtaining information necessary for the proper discharge of its responsibilities under this Act, and examine, if necessary, the pertinent records and documents in the possession of such government agency;
- (p) promulgate such rules and regulations as may be necessary to implement the provisions and intent of this Act. Such rules shall be take effect fifteen (15) days following their publication in at least two (2) newspaper of general circulation or in the Official Gazette; and

- (q) To perform such other functions as it may deem appropriate for the proper enforcement of this Act.

Section 2. **Advance Rulings** - Parties may apply to the competition office for advance rulings, binding on that office, regarding eligibility for exemptions. If it chooses to grant an advance ruling, the competition office may include in it specified conditions and requirements. The advance ruling shall by its terms exist for a specified period of time.

Advance rulings may be renewed upon application by the parties. An advance ruling may be revoked or modified if:

- (a) a significant change in circumstances has occurred since the ruling;
- (b) the applicant infringed a condition or a requirement specified in the ruling;
- (c) the decision to grant the ruling was materially influenced by inaccurate, fraudulent or misleading data; or
- (d) the applicant abused the exemption granted to it.

The competition office shall arrange for publication of its advance rulings, omitting any confidential information. It may arrange similar publication of all other decisions taken under this Act, again omitting any confidential information.

Section 3. **Rules on Confidentiality and Conflict of Interest** - Officials of the Commission, as well as their agents and consultants, shall maintain the confidentiality of all business, commercial or official information of which they become aware during the course of their official activities, except that which is otherwise public. Disclosure of such confidential information may occur in the course of administrative or judicial proceedings arising under this Act, or otherwise as permitted by a court of competent jurisdiction.

All members of the Commission shall inform the Office of the Chairman of the Commission of any position held or activity carried out in an economic field by the member, including all agents thereof. The Chairman shall take all necessary steps to ensure there is no conflict of interest arising from such positions or activities, including requiring that such positions be resigned or activities cease.

Article 9 Penalties

Section 1. **Administrative Penalties** – After formal investigation, the Commission may impose one or more of the following administrative penalties:

- (a) censure of the erring firm(s); and/or
- (b) issuance of a Cease and Desist order which must specify the acts that the respondent shall cease and desist from and shall require him to submit a report of compliance therewith a reasonable time which shall be fixed in the order; and/or

- (c) condemnation or Seizure of Products or Property, in such manner as may be deemed appropriate by the Commission and in coordination with the proper authorities and remain in the custody of the Commission subject to the finality of the decision: *Provided*, That perishable goods shall be disposed of and the proceeds of such disposition shall be subject to the final order or decision of the Commission in the case; and/or
- (d) other analogous penalties as may be deemed proper by the Commission.

Section 2. ***Imposition of Administrative Fines*** - Administrative fines may be imposed in such an amount deemed reasonable by the Commission, which, in the case of an individual, shall not be less than Three Hundred Thousand Pesos (P300,000.00) nor more than One Million Pesos (P1,000,000.00), and in the case of a corporation or other judicial entity, not less than Three Million Pesos (P3,000,000.00) nor more than One Hundred Million Pesos (P100,000,000.00), and in both instances, an additional fine of Ten Thousand Pesos (P10,000.00) for each day of continuing violation: *Provided*, That in case of violations by corporations, associations, partnership or other juridical entities, individual fines may still be imposed on the officers directly or indirectly responsible for the implementation of the prohibited act. The fine imposed herein shall be regardless of the limit on the criminal fine in this Act and other fair trade laws violated.

Section 3. ***Criminal Penalties*** - Any person who shall commit a prohibited act defined under Articles 3, 4, 5, and 6 or shall violate any provision of this Act shall be guilty of a felony and, upon conviction thereof, shall suffer the penalty of imprisonment of not less than five (5) years but not more than twenty (20) years and a fine of not less than Three Hundred Thousand Pesos (P300,000.00) in the case of an individual, and not less than Three Million Pesos (P3,000,000.00) in the case of a corporation or other juridical entity: *Provided*, That in case of violation by corporations, associations, partnerships or other juridical entities, the penalty of imprisonment shall be imposed on the officers directly or indirectly responsible for the implementation of the prohibited act.

In addition to the foregoing penalties, the court may order the closure or dissolution of the establishment or firm where circumstances warrant and any property owned under any contract or by any combination, or pursuant to any conspiracy, and subject thereof as mentioned in the preceding sections, shall be forfeited in favor of the government.

Section 4. ***Award Of Damages*** – Any person who shall be injured in his/its business or property by any other person or corporation shall recover the amount of damages sustained by reasoned of the act declared to be unlawful by this Act, including the costs of suit and reasonable attorney's fees: *Provided*, That this Section shall be without prejudice to the filing of the appropriate criminal action against the offending party.

Section 5. ***Alien Violation*** -- If the person committing the violation of this Act be an alien or a foreign firm, he/its foreign officers/representatives shall, in addition to the above penalties, be deported after paying his/its fine and/or serving his sentence without need of any further proceedings.

Section 6. ***Public Officer as Offender*** – If the offender is a public officer, he shall, in addition, suffer the penalty of perpetual disqualification from holding a public office.

Article 10

Final Provisions

Section 1. ***Appropriations*** - The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Section 2. ***Repealing Clause*** – All laws, decrees, orders, rules and regulations and all other issuance or parts thereof inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

Section 3. ***Separability Clause*** - If any part or provision of this Act is held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall remain in full force and effect.

Section 4. ***Effectivity Clause*** - This Act shall take effect immediately upon publication in the Official Gazette or at least two (2) newspapers of general circulation approved.

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Executive Order No. 106, Series of 1993, Lifting the Suspension of the Application of the Tariff Concessions Granted by the Philippines on Refractory Bricks under the ASEAN Preferential Trading Arrangements.

Executive Order No. 109, Series of 1993, Policy to Improve the Provision of Local Exchange Carrier Service.

Executive Order No. 110, Series of 1993, Strengthening the Export Development Council (EDC) amending for this purpose Executive Order No. 98 to Increase the Government and Private Sectors Members of the Council.

Executive Order No. 115, Series of 1993, Increasing the Special Duties on Crude Oil and Oil Products under Section 104 of the Tariff and Customs Code of the Philippines, as amended.

Executive Order No. 116, Series of 1993, Amending Section 1 of Executive Order No. 94, dated 01 June 1993.

Executive Order No. 145, Series of 1993, Modifying The Rates of Duty on Certain Imported Articles as provided for under the Tariff and Customs Code of 1978, as amended, in order to Implement the 1994 Philippine Schedule of Tariff Reductions on Articles Included in the Accelerated and Normal Programmes of the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA).

Executive Order No. 146, Series of 1993, amending Executive Order No. 43 of 1992, by modifying the margins of the preference and the applicable ASEAN preferential tariffs on certain items included in the coverage thereof.

Executive Order No. 147, Series of 1993, Modifying The Rates of Duty on Certain Imported Articles as provided under the Tariff and Customs Code of 1978, as amended, in order to Implement the 10% Margin of Preference (MOP) Granted by the Philippines under the Agreement on the Global System of Trade Preferences among Developing Countries as set forth in the Philippine Schedule of Concessions Annexed to the Agreement.

Executive Order No. 148, Series of 1993, Modifying the Rates of Import Duty on Certain Imported Articles as provided under Presidential Decree No. 1464, as amended, otherwise known as the Tariff and Customs Code of the Philippines of 1978.

Executive Order No. 153, Series of 1994, Modifying the Rates of Duty on Certain Imported Articles as provided for under the Tariff and Customs Code of 1978, as amended, in order to Implement the Ninety Per Centum Margin of Preference on Certain Products Included in the Nestle ASEAN Industrial Joint Venture (AIJV) Projects, as provided for in Article III, Paragraph 1 of the Revised Basic Agreement of AIJV.

Executive Order No. 160, Series of 1994, Reducing the Special Duties on Crude Oil and Oil Products Prescribed in Executive Order No. 115, Series of 1993.

Executive Order No. 172, Series of 1994, Increasing the Minimum Tariff Rate From Zero to Three Percent on Articles under Section 104 of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464), as amended.

Executive Order No. 173, Series of 1994, Amending Executive Order No. 153, Series of 1994 entitled Modifying the rates of duty on certain imported articles as provided under the tariff and customs code of 1978, as amended, in order to implement the minimum ninety per centum (90%) margin of preference on certain products included in the Nestle Asean Industrial Joint Venture (AIJV) Projects, as provided for in Article III, paragraph 1 of the Revised Basic Agreement on AIJV.

Executive Order No. 180, Series of 1994, Strengthening the Export Development Council (EDC) amending for this purpose Executive Order (E.O.) No. 110, Further Amending E.O. No. 98.

Executive Order No. 151, Series of 1994, Creating a Presidential Commission to Investigate Administrative Complaints Involving Graft and Corruption.

Executive Order No. 185, Series of 1994, Opening the Domestic Water Transport Industry to New Operators and Investors.

Executive Order No. 189, Series of 1994, Modifying the nomenclature and Rates of Import Duty on Certain Imported Articles under Section 104 of the Tariff and Customs Code of 1978, as amended.

Executive Order No. 204, Series of 1994, Modifying the nomenclature and rates of import duty on certain articles under Section 104 of the Tariff and Customs Code of 1978.

Executive Order No. 212, Series of 1994, Accelerating the Demonopolization and Privatization Program for Government Ports in the Country.

Executive Order No. 213, Series of 1994, Deregulating Domestic Rate.

Executive Order No. 219, Series of 1995, Establishing the Domestic and International Civil Aviation Liberalization Policy.

Executive Order No. 227, Series of 1995, Reducing the Rates of Import Duty on Cement and Cement Clinker under Section of Presidential Decree 1464, otherwise known as the Tariff and Customs Code of 1978, as amended.

Executive Order No. 237, Series of 1995, Modifying the Rates of Import Duty on Certain Imported Articles as amended, in order to Implement the Decision Taken by the 35th meeting of the Committee on Industry Minerals and Energy (COIM) to Constant Velocity Joint Driveshafts Assembly and Parts Thereof Under the Agreement on Asean Industrial Joint Venture (AIJV).

Executive Order No. 264, Series of 1995, Modifying the Nomenclature and the Rates of Import Duty on Certain Imported Articles Under Section 104 of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464), as amended.

Executive Order No. 287, Series of 1995, Modifying the Rates of Duty on Certain Imported Articles as Provided for Under the Tariff and Customs code of 1978, as amended, in order to implement the 1996 Philippine Schedule of Tariff Reduction Under the New Time Frame of the Accelerated Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA).

Executive Order No. 288, Series of 1995, Modifying the Nomenclature and the Rates of Import Duty on Certain Imported Articles Under Section 104 of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464), as amended.

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