Philippine Coastal/Ocean Law and Policy: Sliding back to “business as usual”? 

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Overview

Key coastal/ocean use sectors: significant developments
- Fisheries
- Shipping
- Marine environmental protection
- Petroleum exploration & development
- Seafaring
- High seas fishing

Administrative Reforms

Observations/Conclusions
Key Coastal/Ocean Use Sectors in the Philippines

- Coastal
  - Coastal fisheries
  - Shipping
  - Petroleum exploration & development
  - Marine environmental protection

- Ocean
  - Seafaring
  - High seas fishing
Coastal Fisheries

- Fisheries contribution to PH economy, 2013
  - GDP: 1.9% (at constant 2000 prices)
  - Employment: 1.6 M + (last census 2002)
    - Municipal fishers: 1.37 M
    - Commercial fishers: 16,497
    - Aquaculture: 226,195
Coastal Fisheries

-production, 2013

Total volume: 4.7 M MT, dropped 0.2% from 2008, 3.28% from previous year
- Overall stagnation and decline based on official figures; less than 1% growth annually

Differential production trends per sector
- Municipal: -1.28%
- Commercial: +2.43%
- Aquaculture: +6.63%
Coastal Fisheries

- Differential value contribution trends per sector
  - Aquaculture sector - highest at 38%
  - Municipal sector – 33%
  - Commercial sector – lowest at 29%
Coastal Fisheries

- Significant developments
  - Establishment of regular “closed seasons” for major fisheries areas in the South
  - Continued dissemination of coastal management good practices among local government units
  - Increasing popularity of coastal tourism
Coastal Fisheries

- Decline in municipal fishing production, coupled with increased production in commercial fishing sector
  - Clear indicators of over-fishing, impacting on artisanal fishers sector
  - Growth in commercial fisheries production, a rush to the bottom?

- Increasing incidence of “fish-kills” in coastal, riverine, and lake areas since 2010; becoming characterized as “seasonal”

- Coastal resort residential development projects
Despite decline in near-shore catches, gov’t continues to pursue expanding fisheries production through combination of closed seasons and promotion of aquaculture.

Impact of over-fishing and decline to first affects/intensifies against smaller, artisanal sector that comprise much larger population.

- Fisheries production overall being “re-allocated between sectors
- Problem of distributive justice: government efforts benefit primarily the better-off commercial/aquaculture operators

Local fisheries declines will be source of sharp social tensions in near future.
Fish-kills indicative of declining coastal environment conditions

- Frequency of occasional and seasonal stresses exceeding breaking points
- Possible causes: pollution, over-exploitation (in case of aquaculture areas), eutrophication,
Philippines is leading country in establishment of marine protected areas (MPAs), from simple “fish sanctuaries” designated by local governments in coastal waters to offshore MPAs like Tubbataha Reef Natural Park.

- 240 nationally-designated protected landscapes and seascapes as of 2012, 28 of which are seascapes & marine reserves, and many of which are coastal- or island-based.
- More than 1,620 locally-designated marine protected areas as of 2012.
Marine Environmental Protection

- No new NIPAS site designated since 2011
  - Processes for original sites; no new major national MPA since Tubbataha Reef Natural Park Act in 2009
  - Opposition to new NIPAS designations becoming apparent on land

- Local MPA management still requires much improvement, monitoring
  - Lack of consistency in implementation, capacity issues
2013 Tubbataha Reef Grounding Incidents expose serious capacity challenges

- Two successive groundings on Tubbataha Reef Natural Park in early 2013
- Highlighted lack of long-range, offshore, rapid response capability for salvage, spills, etc.
Much interest in marine environmental protection, tied to two local interests
- Tourism potential; possible alternative economic source
- Fisheries sustainability; effects of decline

National MPA establishment hampered by extended process; non-designation of additional sites consistent with administration’s lack of priority for environment since 2010
Shipping sector naturally important for the archipelago
- Domestic fleet numbered 22,034 (totalling 2.78M GRT) as of Dec 2014
- Overseas fleet in decline, only 116 (totalling 2.71M GRT) PH ships engaged in overseas trade

Enactment of Philippine Coast Guard Act in 2010 intended to enhance domestic ship safety and environment protection
Shipping

- Ship safety still a serious challenge
  - Marine casualties still occur, especially with smaller vessels of traditional design (e.g., M/B Kim Nirvana capsizing, July 2015)
  - Large carriers not immune, despite improvement in standards (e.g., collision and sinking of M/V St. Thomas Aquinas, August 2013)
Notes

- Although maritime safety improved, persistence of problems identifiable in small- and medium-scale operators of traditional vessels plying inter-island routes.

- Comparatively fewer modern companies in domestic scene.
  - Major players since the 1970s merged/bought out (e.g., Aboitiz sold its interests to Negros Navigation, which was bought by 2GO).
  - Shipping business not attractive for investors; low profit margins, stringent equity requirements as public utilities.
  - Cabotage laws keep shipping in hands of Filipinos, but investments in shipping limited.
Philippines is a net energy importer, despite significant indigenous energy production.

Total energy generation, 2013: 76 Terawatt-hours; mostly generated by fossil fuels, but 11% geothermal and 21% hydropower.
Petroleum Exploration & Development

- Total primary energy consumption provided by oil (41%), coal (22%)
  - Total oil consumption 299,000 barrels per day (bbl/day), compared with production of only 26,000 bbl/day
  - Total coal consumption about 20M short tons, almost half of which is produced domestically; single source (Semirara)
  - Total natural gas production 99 billion cubic feet, all of which is consumed domestically, single platform (Malampaya) providing 30% of national power needs
Petroleum Exploration & Development

- Offshore and inshore areas offered for petroleum exploration by Department of Energy in 2012 and 2015
  - PECR 4 resulted in award of 3 contracts, after 11 bids received for 15 contract areas offered
  - PECR 5 ongoing: only 3 bids received for 3 of 11 contract areas offered

- Since enactment of Renewable Energy Act 2008, a few coastal/ocean-based RE projects awarded
  - 8 ocean energy projects (total 31MW) on-site feasibility studies ongoing
SCS disputes completely halt all offshore petroleum exploration west of Palawan

Government declared “force majeure” on all service contracts in Western Palawan region

Western Palawan region lone most promising area for petroleum

Slow pace of exploration due to continuing bureaucratic quagmire: national/local government permits/fees and other requirements

Tañon Strait Case (Resident Marine Mammals v. Reyes et al) pose additional challenges to offshore petroleum sector
Over 367,166 Filipino seafarers recorded to have been deployed overseas in 2013, employed as officers and crew of foreign vessels

- Number of seafarers grew 11.11% since 2009
- Does not include seafarers who secured employment through direct-hire (i.e. not through local manning agents)

Seafarers sector remitted more than 5.1B USD to the PH in 2014, about 25% of total foreign exchange remittances from overseas workers
European Maritime Safety Agency (EMSA) audits in 2013, 2014 threatened a possible ban on Filipino officers from serving in EU countries due to non-compliance with international standards under the Standards of Training, Certification and Watch-keeping Convention (STCW Convention), particularly requirements for:

- quality-control standards for maritime education and training institutions, and
- a single and accountable Maritime Administration agency with jurisdiction over seafarers’ education/training and practice of profession
  - Jurisdiction fragmented across multiple agencies such as CHED, DOLE, MARINA, PRC, TESDA
Despite issuance in 2013 of EO 75 requiring inter-agency cooperation and coordination, second EMSA audit in 2013 found little improvement in the essential problems.

Hurried enactment of RA 10635, spearheaded by newly-elected seafarers’ ANGKLA party-list representative, resolved much of the impasse after failure to pass second 2013 audit.
Government intransigence on STCW compliance historically due to agencies’ refusal to give up fragmented jurisdictions over seafarers

Legislative action carried out with pivotal assistance of seafarers’ partylist representative in Congress under pressure of looming ban

RA 10635 established MARINA as Single Maritime Administration, sole agency responsible for STCW compliance
High Seas Fishing

- High seas fishing sector, a specialized group within commercial fishers sector
  - Relatively few high seas fishing companies operating in Western, Central and South Pacific high seas and EEZ of small island coastal states
  - PH one of the founding members of the Western and Central Pacific Fisheries Commission Convention (WCPFC); also a member of the IOTC and ICCAT
  - PH controls 625 catcher vessels (about 10% of total) operating in the WCPFC convention area
  - PH exports tuna/tuna products mostly to Japan, US, and EU
High Seas Fishing

- In June 2014, the EC issued a warning against the PH for failing to take adequate measures to address Illegal, Unreported, and Unregulated (IUU) fishing, and threatened a ban on imports of fish/fishery products from PH.
- Hurried amendment of Fisheries Code to address EU requirements enacted through RA 10654 in December 2014.
- Passage of amendments sufficient to avert the trade ban; warning lifted in April 2015.
High Seas Fishing

- Legislative action on amendments to Fisheries Code prompted by looming ban and 6-month deadline
- Fisheries Code amendments limited in scope to only those relevant to IUU fishing
EO 57 issued in 2011 established the National Coast Watch System and the inter-agency National Coast Watch Council to take charge of PH maritime issues and maritime domain awareness

- Originally devised by the PN to address maritime security issues in the Southern Philippines, expansion into NCWS intended to enhance maritime surveillance and law enforcement nationwide

NCWS and NCWC non-operational until 2015

- National Coast Watch Center inaugurated only in April 2015, with funding from the US
Administrative Reforms

- Typhoon Haiyan (Yolanda) exposed serious flaws in disaster-risk response and management system and capabilities
  - Massive damage from winds, storm-surge with tsunami-like impacts
  - Civil defense capabilities overwhelmed
  - Activation of defense arrangements with US provided only logistics response
Administrative Reforms

- Internal operational adjustments undertaken after Haiyan failure; resulting in more effective DRMM
  - Appointment of new Director, former PN Flag Officer in Command
  - Greater use of science-based management tools: Project NOAH
  - Attention toward maritime impacts of disasters: oil spill response, salvage
Government unable to implement EO 57 for several years primarily due to tug-of-war between PN and PCG over jurisdiction, assets, and functions

- Although NCWS/NCWC was the brain-child of PN, it was unexpectedly turned over to PCG
- Inability to agree on/issue Implementing Rules and Regulations, indicates lack of leadership on part of Executive

DRMM reforms prompted by catastrophic failure
General Observations

- National PH coastal/ocean management activities post-PEMSEA-SDS
  - Integrated management and capacity for coordinated management/response still elusive (fisheries decline/reallocation; petroleum exploration, marine environment protection, DRRM)
  - Lack of priority and leadership on part of Executive led to national policy deadlocks that were not effectively resolved (STCW compliance, NCWS implementation, petroleum exploration)
  - Crisis-orientation: policy-making in response to threat of international sanctions (RA 10635 for STCW compliance, RA 10654 for IUU)
But on the bright side…

- Marked increase in public awareness/consciousness about coastal/ocean activities and issues
- Trend toward increasing localization of coastal management and marine environmental protection
- Higher visibility of ocean use sectors esp. fishing and seafaring
  - Public policy crises given substantial press coverage
Conclusion

- PH after PEMSEA-SDS, still much to do

- Despite initial efforts, clear danger/proof of slide-back to “business-as-usual” in coastal management: reactive, un-integrated, localized, and short-term

- National leadership clearly needed; absence of over-all “champion” (instead of sectoral champions) clearly demonstrated