

**PHILIPPINE TREATY PATTERNS 1946-2020:
ARE TREATY ACTIVITIES ALIGNED WITH FOREIGN POLICY
PRIORITIES?**

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At the commencement of each new congressional session, it is customary for Congress to ask the executive branch, through the Department of Foreign Affairs (“DFA”), for the list of international agreements and conventions that are proposed for concurrence by the Senate, or for allocation of budgetary resources by Congress. The assumption is that these agreements and conventions are the priorities of the Government.

The alignment of actual treaty activities by executive agencies on one hand, and the declared foreign policy priorities is crucial as government resources are finite, and therefore treaty activities must be geared towards the pursuit of identified national objectives. The all-important question therefore is whether there is alignment between treaty activities and identified priorities, and if not, why so?

There are varied reasons for States to enter into treaties with other States and international organizations. These may be to expand trade and secure investments, enhance cooperation, generate goodwill, or pursue national security interests. A partner country may also propose entering into an agreement on a certain subject, and in consideration of friendly relations, there may be a desire to accommodate it. By analyzing a country’s entry into and withdrawal from treaties through time, patterns and trends will emerge, which can present a vivid picture of the priorities that are being pursued, if any, and the political, social and economic conditions of the times.

The Philippines is, as of this writing, signatory to some subsisting 1,781 agreements, consisting of 1,165 bilateral agreements, 241 conventions within the auspices of the Association of Southeast Asian Nations (“ASEAN”)¹

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and 375 United Nations (“UN”) and other multilateral conventions. These agreements were concluded by various Philippine presidential administrations in a span of more than 70 years.

In the book *Philippine Treaties in Force 2020* co-edited by the first author of this paper, he noted that “a well-informed understanding of Philippine foreign diplomacy and the country's rights, duties and commitments is best derived from the treaties and other international agreements it has concluded with other countries and international organizations. The breadth and depth of our foreign relations are reflected in this growing number of agreements.”

previously the Philippine Ambassador to Malaysia and the DFA Spokesman. He has written scores of journal articles and newspaper commentaries, and is the author, main co-author and editor of seven books on Philippine diplomacy, Philippine presidency, and law, notably *Philippine Treaties in Force 2020* (University of the Philippines Law Center (UPLC), 2021); *Treaties: Guidance on Practices and Procedures* (UPLC, 2018); *Forging Partnerships: Philippine Defense Cooperation under Constitutional and International Laws* (UPLC/Foreign Service Institute, 2016), *Stewards of the Nation: The Presidents of the Philippines and their Inaugural Visions* (Anvil Publishing, 2018); and *Frontlines of Diplomacy: Conversations with Philippine Ambassadors* (Anvil Publishing, 2011). He has BA Economics (*cum laude*) and Law degrees from the University of the Philippines. He is Vice President of the Philippine Society of International Law (since 2017) and Member of the Editorial Board of the Philippine Yearbook of International Law (since 2017), and was elected in 2021 to the Executive Council of the Asian Society of International Law.

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The views in this paper do not necessarily reflect those of the Department of Foreign Affairs nor the Philippine Government.

¹ Including those between ASEAN and its dialogue partners.

As binding legal texts, treaties come into existence by a political and a legal process. Their interpretation and application are legal operations which take place in a more or less political context.² As Robert Kolb noted:

“when concluding a treaty on a certain subject matter, the States concerned thereby agree to extract that subject matter (for at least a certain time) from the chaotic flow of general political relations between them. They clothe it with a predictable legal regime, underpinned by a set of legitimate expectations as to mutual behavior. When and how this choice is appropriate is a political matter... It is thus no more than a tool of a multifaceted foreign policy.”³

By reviewing treaty activities through the years, this study hopes to gain understanding and insights into the state and development of Philippine foreign relations. Specifically, it has the following objectives: (1) describe the state and development of treaty activities from 1946 to 2020 and determine patterns and trends with respect to subject matter and country partners; (2) correlate treaty activities with identified foreign policy priorities, notably the “Nine Realities of Philippine foreign policy”; and (3) assess whether there is congruence with and deviation from the priorities, and where appropriate, make recommendations on possible agreements or classes thereof which may be pursued. Focus is on the period 1986 to 2020 as these years are more relevant to the study of contemporary foreign policy. By doing so, this study will hopefully contribute to an understanding of the state and development of Philippine diplomacy and international law.

The perspective taken by this study is therefore neither solely from international law that is concerned about treaties and their application and interpretation, nor from political science which deals with trends in international relations, but a combination of both.

Quantitative Analysis Approach

² GEORG NOLTE, *TREATIES AND THEIR PRACTICE - SYMPTOMS OF THEIR RISE OR DECLINE* 15-16 (2018).

³ ROBERT KOLB, *THE LAW OF TREATIES: AN INTRODUCTION* 5 (2017).

Foreign policy formulation and implementation are complex and multifaceted endeavors involving a state's political institutions, cultures, economic structures, and leadership goals,⁴ as well as the external environments with which these operate.

International relations may be viewed from two angles – the “individual” and “international” levels of analysis. The individual level's unit of analysis is the “policy-relevant individual,” or in the Philippines' case, the President in light of his being the Head of State and Government who is also considered the “chief architect of foreign policy,” and his alter ego, the Secretary of Foreign Affairs, who is in charge of the DFA.

At the individual level, leadership is a key determinant that affects the “behavior” of a State in terms of its foreign relations activities.⁵ Leadership is the factor that “examines a leader's policy choices as decision maker and to what extent these make a difference in the state's behavior.” The leadership style of the Head of Government can be further comprehended by examining his “personal characteristics” which may be reflected in the latter's pronouncements, decisions, and educational background, among others. These factors may reveal the issue areas that he may prioritize. His “global perspective,” if any, will affect how he assesses and balances the demands of his nationals and other interests of his country vis-à-vis the international community.

The international level considers the state's characteristics –economic, political and defense situations of the country and the inter-state relations – as factors in its foreign policy behavior.⁶ A key to understanding the conduct of a country's foreign relations is the “bilateral determinant,” i.e., the state's relative power capabilities. The resources that a state possesses or lacks affects a state's foreign policy choices and the menu of activity that it can

⁴ James D. Fearon, *Domestic Politics, Foreign Policy, and Theories of International Relations*, 1 ANN. REV. POL. SCI. 289, 302 (1998).

⁵ Andrea Chloe Wong, *The Philippines as a Small State: Assessing its External Behavior and Foreign Policy in Bilateral Interactions with Small States* (2019) (Ph.D. dissertation, University of Canterbury), citing Lloyd Jensen, *Explaining Foreign Policy*, 77 AM. POL. SCI. REV. 812 (1982).

⁶ Bill Newmann, *A Brief Introduction to Theories on International Relations and Foreign Policy*, <http://www.people.vcu.edu/~wnewmann/468theory.htm>.

afford to pursue. Hence, the economic, political and/or security situations of the country will have a large bearing on its activities. States tend to cooperate with another state that has the capacity and resources to support it on matters of mutual concern, highlighting confluences of interests between them.

Assessing the impact of activities in the international arena is hampered by the absence of clear, objective measures of progress, or lack of it, unlike other matters of public concern such as economic growth which is measurable by gross domestic product figures, or campaign for foreign investments through data on actual investment inflows. The conduct of visits – State, Official or Working – may provide clues as to which countries the Government is prioritizing, but such information may not say much on the actual outcomes of the visit.

A good yet imperfect indicator is treaty activities because, as noted earlier, these represent firm undertakings by a country to another. At the same time, a single indicator – treaty activities – of a state's interactions cannot serve as a total representation of a country's inclination to specific kinds of actions and reactions. The aggregate number of signed and ratified treaties may be impressive, but numbers alone may not say much about their substantive contents nor the parties' level of commitment towards them. Some agreements may also be more consequential than others, for instance, a defense alliance compared to a cultural cooperation accord. Furthermore, it could not foretell the actual implementation, which would take place at a later time.

Nonetheless, treaty activities have usefulness as these provide a valuable view from which a state's conduct may be examined and compared in the international system.⁷ In a study of Japanese treaty patterns, L. Jerold Adams noted that "by studying treaty activity as an aggregate phenomenon, one is able to describe and measure the international climate as a whole as well as the external stance and activity of one state within international society."⁸

⁷ Gary L. Scott, *Treaties of the People's Republic of China: A Quantitative Analysis*, 13 *ASIAN SURV.* 496, 496. (1973).

⁸ L. Jerold Adams, *Japanese Treaty Patterns*, 12 *ASIAN SURV.* 242, 243 (1972).

Similarly, Gary L. Scott observed in a study of Chinese treaties that:

Treaty language may oftentimes be more reliable than normal government communiqués regarding state's attitudes toward the international environment ... The quantitative approach to the examination of Chinese treaties will be used in order to establish a framework of "hard" data within which one may work in making certain assumptions about Chinese foreign policy practices.⁹

Takashi Shinobu further demonstrated the value of the quantitative analysis approach in another study of Chinese foreign policy.¹⁰

Definitions and Parameters

In the Philippine constitutional system, the President or his duly authorized executive officials enter into, sign and ratify treaties, the ratification being subject to the concurrence of the Senate. The 1987 Constitution, in Article VII, Section 21, provides that "no treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate."

The president is "vested with the authority to deal with foreign states and governments, extend or withhold recognition, maintain diplomatic relations, enter into treaties, and otherwise transact the business of foreign relations."¹¹ In the realm of treaty-making, he has the sole authority to negotiate with other states, subject to constitutional limitations.¹² As the main architect of foreign policy, he is the sole organ and authority in the external affairs of the country.¹³

⁹ Scott, *supra* note 7 at 496-497.

¹⁰ Takashi Shinobu, *China's Bilateral Treaties, 1973-82: A Quantitative Study*, 31 INT'L STUD. Q. 439, 440 (1987).

¹¹ Pimentel v. Executive Secretary, G.R. No. 158088, July 6, 2005.

¹² *Id.*

¹³ J. Eduardo Malaya & Jarie R. Osias, *From "Chief Architect" to "Primary Architect" of Foreign Policy: Treaty Making in Light of Pangilinan v. Cayetano on the Withdrawal from the Rome Statute of the International Criminal Court*, 66 ATENEO L. J. (2022). Previously, the President was called the "chief architect of foreign policy." See *Bayan v. Zamora*, G.R. No. 138570, Oct. 10, 2000.

The Constitution vests the President with supervision and control of the executive departments, bureaus, and offices,¹⁴ including the DFA. The DFA is the lead agency that advises and assists the President in planning, organizing, directing, coordinating and evaluating the total national effort in the field of foreign relations.¹⁵

There have been 17 Philippine presidents as of this writing, and 13 since the establishment of the Third Philippine Republic in 1946,¹⁶ namely Manuel Roxas (1946 – 1948), Elpidio Quirino (1948 – 1953), Ramon Magsaysay (1953 – 1957), Carlos P. Garcia (1957 – 1961), Diosdado Macapagal (1961 – 1965), Ferdinand E. Marcos (1965 – 1986), Corazon Aquino (1986 – 1992), Fidel V. Ramos (1992 – 1998), Joseph Estrada (1998 – 2001), Gloria Macapagal Arroyo 2001 – 2010), Benigno Aquino III (2010 – 2016), Rodrigo Duterte (2016 – 2022), and Ferdinand "Bongbong" Marcos, Jr. (2022 – present).

This paper uses the term “treaty” as such is defined in the Vienna Convention on the Law of Treaties (“VCLT”), that is, “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.”¹⁷ It employs the international law concept of treaty, as distinguished from the understanding of the term in Philippine domestic law which pertains to an international agreement requiring ratification by the President and concurrence of the Senate to said ratification before the agreement becomes valid and effective.¹⁸ The term “treaty” in domestic law is further differentiated from

¹⁴ CONST. art. VII, § 17.

¹⁵ Exec. Order No. 292 (1987), Title I, Book IV, § 2.

¹⁶ The four presidents before 1946 were Emilio Aguinaldo (Jan. 23, 1899 – Mar. 23, 1901), Manuel L. Quezon (Nov. 15, 1935 – Aug. 1, 1944), Jose P. Laurel (Oct. 14, 1943 – Aug. 17, 1945), and Sergio Osmeña (Aug. 1, 1944 – May 28, 1946). Aguinaldo’s presidency presaged the First Philippine Republic in 1899, while Laurel served during the Second Philippine Republic, which was constituted during the Japanese Occupation of the Philippines.

¹⁷ VCLT, art. 2(1)(a), May 23, 1969, 1155 U.N.T.S. 331. The Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (“VCLTIO”) extends the definition of the term to international agreements concluded between one or more States and one or more international organizations, or between international organizations. See VCLTIO, art. 2(1)(a).

¹⁸ CONST. art. VII, § 21.

“executive agreement,” which is an international agreement requiring only presidential ratification for its effectivity.¹⁹ Both “treaty” and “executive agreement” in domestic law are considered “treaties” in international law.

In the international law sphere, a treaty is an agreement “governed by international law,” i.e., the obligations or commitments therein are legally binding and enforceable between and among the parties. Thus, political declarations, joint statements, joint communiques, agreed minutes, and similar instruments are not considered as agreements and also not covered in this study.²⁰

The data set in this study is based on the entries in the *Philippine Treaties in Force 2020*,²¹ a comprehensive listing of treaties entered into by the Philippines from 1946 to 2020, and edited by the first author of this study and lawyer Gale Dampil-Mandigma. The data set does not cover agreements which have expired by their own terms, been revoked or denounced by the parties, replaced or superseded by other agreements, or otherwise not in force. It also does not include agreements which took effect after mid-2020.²²

The focus of this study are bilateral agreements and only marginally on agreements concluded under the auspices of the ASEAN, UN and other international organizations. This is the chosen approach since a country has more autonomy of action with respect to agreements with another country, the so-called “bilateral agreement” than with regional and multilateral conventions. For purposes of this study, the terms “treaty,” “international

¹⁹ Exec. Order No. 459 (1997), § 2.

²⁰ Similarly not included are (a) agreements concluded with foreign government agencies below the national or federal level (e.g., region, province, constituent state); (b) administrative arrangements, implementing arrangements, and agreements in implementation of specific projects (“project agreements”); and (c) agreements which partake of a commercial nature, even if entered into with foreign government-owned corporations.

²¹ J. EDUARDO MALAYA & CRYSTAL GALE DAMPIL-MANDIGMA, *PHILIPPINE TREATIES IN FORCE 2020* (2021). Treaties in Force included as exceptions to the legally-binding criterion the memoranda of understanding, joint communiques on the establishment of diplomatic relations with other countries, and certain significant declarations, such as the ASEAN-China Declaration on the Conduct of Parties in the South China Sea, in order to also cover commitments of the country which are politically significant.

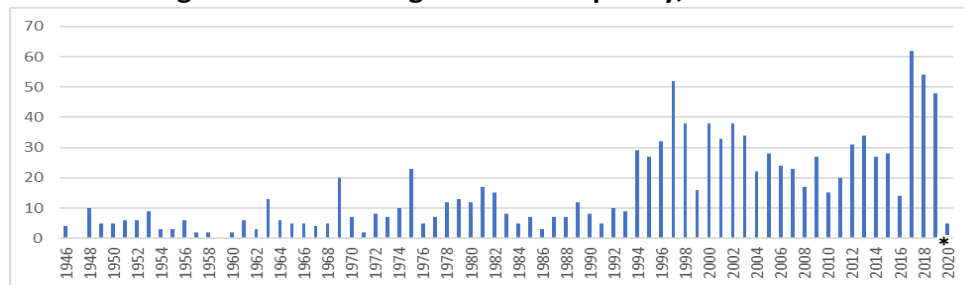
²² MALAYA & DAMPIL-MANDIGMA, *supra* note 21.

agreement” and “agreements” are used interchangeably. They refer to bilateral agreements, unless otherwise indicated.

I. AGREEMENT FREQUENCIES, SUBJECT MATTERS AND PARTNERS

As earlier mentioned, the Philippines is party to 1,165 subsisting bilateral agreements from 1946 to 2020. A graph of the agreement frequency year by year over the course of some 70 years is shown below.

Figure 1. Bilateral Agreement Frequency, 1946-2020



*partial

From 1946 to 1993, the country entered into an average of seven bilateral agreements annually, with highs of 10 agreements in 1948 at the start of the Quirino administration, 13 in 1963 in the second year of the Macapagal administration, 20 in 1969 during the first Marcos administration, and 23 in 1975, four years after the imposition of Martial Law in the country. The active treaty-making during the Quirino and Macapagal administrations can be attributed to their earlier experience in diplomacy and familiarity with foreign affairs issues. Quirino served as Vice President to his predecessor Manuel Roxas for two years and held for some time the foreign affairs portfolio in a concurrent capacity after he assumed the presidency,²³ while Diosdado Macapagal previously served as Chief of the Legal Division at the DFA and as second secretary at the Philippine Embassy in Washington DC.²⁴

From 1994 onwards, starting with the second year of the Ramos presidency, there has been an upward trend in the number of agreements signed, and this has continued to the present time, with peaks of 54 in 2014

²³ J. EDUARDO MALAYA (ED.), *FRONTLINES OF DIPLOMACY: CONVERSATIONS WITH PHILIPPINE AMBASSADORS* 271 (2011).

²⁴ J. EDUARDO MALAYA & JONATHAN MALAYA, *STEWARDS OF THE NATIONS: AGUINALDO TO DUTERTE AND THEIR INAUGURAL VISIONS* 214-215 (2018).

–midway in the Macapagal-Arroyo presidency –and 62 agreements in 2017, similarly midway in Duterte’s. The Ramos Administration ushered in robust foreign policy making and active engagement with the international community, a trend which continued to the present time.

The table below shows the number of international agreements entered into per presidential administration and their annual average.

Table 1. Agreements Signed per Presidential Administration

Administration	Number of Agreements Signed	Annual Average
Roxas	5	2
Quirino	40	8
Magsaysay	13	3
Garcia	11	3
Macapagal	26	7
Marcos	194	9
C. Aquino	46	8
Ramos	178	30
Estrada	67	22
Arroyo	255	28
B. Aquino	157	26
Duterte	173	43
TOTAL	1165	

A. By Subject Matter

Countries enter into various forms and types of agreements and multilateral conventions, such as the establishment of political consultations mechanism, facilitation of trade and cultural exchange, and protection of labor and human rights. These can be grouped by subject matter as follows: diplomacy and administrative; socio-cultural; economic; trade and finance; and security and defense.²⁵

These broad categories cover the following subcategories:

- Diplomacy and administrative: establishment of general relations, setting up of bilateral consultations mechanisms, visa facilitation (mostly exemption from visa requirements for holders of diplomatic and official passports).
- Socio-cultural: cultural cooperation, tourism, labor, education.
- Economic: air services (i.e., setting terms for access and frequency of flights by commercial airlines),²⁶ merchant shipping (minimum standards in shipping vessels), agriculture cooperation, and scientific and technological accords.
- Trade and Finance: trade facilitation, fiscal matters/avoidance of double taxation, investment promotion and protection.
- Security and Defense: defense cooperation, maritime cooperation, anti-terrorism, and transnational crime.

In the 70-year period since 1946, the agreements entered into by the Philippines can be grouped into the following subject matter categories: economic - 331, comprising 28.41%; diplomacy and administrative - 317, or 27.21%; socio-cultural - 212, or 18.20%; trade and finance - 196, or 16.82%; and security and defense - 109, or 9.36%.

Of the 317 diplomacy and administrative agreements, the top subcategories were the establishment of diplomatic relations, setting up of bilateral consultations mechanisms, and visa facilitation. Majority of the 331 economic agreements pertained to air services, merchant shipping, and

²⁵ These broad categories are adopted from *Philippine Treaties in Force 2020*. See MALAYA & DAMPIL-MANDIGMA, *supra* note 21 at 293-320.

²⁶ Air Services Agreements cover the basic framework under which commercial airlines are granted economic bilateral rights to fly between two countries. The terms on the frequency, designated airlines of the two signing countries, origin and intermediate points, traffic rights, type of aircraft and tax issues are usually spelled out in a Memorandum of Understanding.

agriculture, scientific and technological cooperation. For the 212 socio-cultural agreements, the top subcategories were cultural cooperation, tourism, labor, and education.

Of the 196 trade and finance agreements, the top subcategories were trade facilitation, avoidance of double taxation, and investment promotion and protection. Lastly, security and defense agreements were mainly on defense cooperation, maritime cooperation, anti-terrorism, and transnational crime.

When the data were segregated into the pre-1986 period (1946-1985) and post-1986 period (1986-2020), as seen in the table below, economic agreements ranked first in both periods, reaching almost a third of all agreements (30.90%) pre-1986 and more than a quarter (27.59%) for post-1986. After 1986, economic (27.59%) and diplomacy and administrative (27.37%) agreements comprised more than half of those concluded.

Security and defense agreements ranked last in both pre-and post-1986 periods, but their numbers rose significantly post-1986 with 89 agreements, as compared with 20 in pre-1986. This indicates a preoccupation with defense and security matters post-1986, with the diversification of the country's defense partnerships with countries beyond its traditional ally, the United States.

Table 2. Agreement Frequency and Percentage by Major Subject Matter for periods 1946-1985 and 1986-2020

Subject Matter	1946-1985	Percentage	1986-2020	Percentage
Economic	89	30.90 %	242	27.59 %
Diplomacy and Administrative	77	26.74 %	240	27.37 %
Trade and Finance	67	23.26 %	129	14.71 %
Socio-Cultural	35	12.15 %	177	20.18 %
Security and Defense	20	6.95 %	89	10.15 %
Total	288	100 %	877	100 %

Accords on the establishment of diplomatic relations and on visa exemption dominated the 77 diplomacy and administrative agreements concluded in the pre-1986. This was expected of a newly independent country in its initial engagements with the rest of the international community. From 1986 onwards, agreements on the setting up of bilateral consultations mechanisms with other foreign ministries rose, to provide structure for the deepening of relations.

Agreements on cultural exchanges, which are meant to foster friendship and goodwill, made up most of the socio-cultural agreements prior to 1986, reflecting the initial contacts with other countries. Thereafter, agreements on tourism, education and labor cooperation, which are more substantive in nature, started to increase in numbers.

On the economic treaties, air services agreements were consistently entered into through the years. Foreign commercial airlines operate in the country, thus the need to have frameworks for their access and frequency of flights. The operations of Philippine Airlines, Cebu Pacific and AirAsia Philippines and the widening reach of their respective flights, as well as the need to enhance air transport to the Philippines to aid the tourism industry, underscore the importance of air services accords. Merchant shipping agreements, notably on the recognition of certificates under regulation 1/10 of the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, gained ground during the Arroyo presidency. This reflected the need to promote and protect the employment of Filipino seafarers in the world's maritime industries and ensure their rights and welfare.

Meanwhile, the frequency of trade and defense cooperation agreements have remained consistent through various presidential administrations.

B. By Subject Matter and Presidential Administration

A further examination of the subject subcategories reveals the hierarchy of agreements in terms of frequency during the pre- and post-1986 periods, respectively.

Table 3. Agreement Subcategories, 1946 - 1985

No.	Agreement Sub-Categories	Total
1	Trade Cooperation	42
2	General Relations	30
3	Air Services	25
4	Cultural Cooperation	23
5	Visa	20
6	Fiscal Matters/Double Taxation	17
7	Defense Cooperation	13
8	Economic/Technical/Technological Postal Matters Scientific and Technological	11
9	Social Security	8
10	Inter-Country Adoption, Technical Cooperation	6

Table 4. Agreement Subcategories, 1986 - 2020

No.	Agreement Sub-Categories	Total
1	Bilateral Consultations	64
2	Defense Cooperation	51
3	General Relations	41
4	Investment Promotion	40
	Merchant Shipping	40
5	Agriculture	38
6	Visa Fiscal Matters/Avoidance of Double Taxation	37
7	Trade Cooperation	36
8	Tourism	35
9	Air Services	32
10	Scientific and Technological	29

The top three subject matters dealt with in treaties during the 1946-1985 period were trade cooperation (at 42), general relations (30) and air services (25). On the other hand, in the post-1986 period, the top subject matters were the establishment of bilateral consultations mechanism (64), defense cooperation (51), and general relations (41), followed closely by investment promotion and merchant shipping (40) and agriculture (38).

Prioritization on two of the so-called “Three Pillars of Philippine foreign policy” can be noted in the early years after 1986 – i.e., pursuit of national security (as exemplified by defense cooperation, bilateral consultations mechanism) and economic security (investment promotion, agriculture). The promotion of the rights and welfare of overseas Filipino workers – the third pillar –has yet to reach the top ranks, although labor cooperation and merchant shipping agreements started to be signed in the mid-nineties.

Analyzing further the data set by subject matter and presidential administrations indicates the thematic focus of the various administrations, as follows:

Table 5. Agreement Frequency by Subject Matter and Presidential Administration, 1946-2020

	ROXAS	QUIRINO	MAG SAYSAY	GARCIA	MACA PAGAL	MARCOS	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Economic	0	14	0	1	9	66	19	50	11	83	31	47	331
Diplomacy & Administration	5	15	5	5	9	38	8	51	25	64	51	41	317
Socio-Cultural	0	2	0	1	4	28	2	30	12	51	44	38	212
Trade and Finance	0	2	5	2	2	56	14	37	15	34	14	15	196
Security and Defense	0	7	3	2	2	6	3	10	4	23	17	32	109
Total	5	40	13	11	26	194	46	178	67	255	157	173	1,165

The following observations can be made on treaty activities during the 1946-1986 period, corresponding to the post-World War II years and the 20-year duration of the Ferdinand E. Marcos presidency:

- The Quirino administration was fairly active in treaty-making, with some 40 agreements in effect as of this writing, notably as follows: 15 on diplomacy and administration (mostly on the establishment of diplomatic relations), 14 economic and 7 security (including the 1951 PH-US Mutual Defense Treaty). As earlier mentioned, he was Vice President and concurrent Secretary of Foreign Affairs to President Roxas, making him at ease dealing with foreign affairs matters. He organized the Philippine foreign service, and made the young

Republic's presence felt overseas by opening diplomatic and consular missions in Washington D.C., New York, London, Rome and other major capitals. He also went on a round-the-world goodwill tour, visiting Washington D.C., Paris, Berlin, the Vatican, Cairo, Karachi, and Bangkok, among others.²⁷

- Next to Quirino in agreement output was Macapagal, with 26 agreements signed, which can be attributed, as also earlier mentioned, to his earlier diplomatic stints with the DFA.²⁸
- The low numbers of agreements entered into during the Roxas and Magsaysay presidencies – at 5 and 13, respectively – can be explained by the short duration of their administrations. Roxas and Magsaysay died while in office and did not complete their four-year term.
- The low number of agreements signed during the Garcia presidency is indicative of his administration's focus on domestic industrialization and rebuilding, as exemplified by the Filipino First policy, than on external engagements.
- A total of 194 agreements were signed during the Marcos administration, and this is on account of its 21-year duration. However, the Marcos's administration's annual average was a modest 9, which is comparable to Quirino's (8), Macapagal's (7) and C. Aquino (8).
- Eighty-nine of the 288 agreements entered into prior to 1986 –or almost a third of the agreements –involved economic matters, 25 of which were air services agreements. There were only 20 agreements on security and defense during this period, mostly with the country's sole treaty ally, the United States.

The composition of agreements entered into post-1986 began to change.

- During the Corazon Aquino administration (1986-1991), 46 agreements were signed, of which 19 (or 41.30%) were economic in nature, mainly air services, agriculture cooperation and scientific and technological accords, while 14 (30.43%) were on trade and finance, specifically trade and investment promotion and avoidance of double taxation. There were some agreements on diplomacy and

²⁷ MALAYA & MALAYA, *supra* note 24 at 156.

²⁸ The DFA Office of Legal Affairs was renamed "Office of Treaties and Legal Affairs" in 2018.

administrative (8), security and defense (3) and socio-cultural (2). These trends seemed to reflect the administration's preoccupation with economic stabilization, which was much needed after the political turmoil and economic stagnation in the first half of the eighties.²⁹

- The Ramos administration (1992-1998) conducted robust diplomatic activities, with the number of agreements signed rising almost fourfold than during the preceding Aquino administration. With its "economic diplomacy" thrusts, Fidel V. Ramos spearheaded the further strengthening of the country's trade, investment and official development assistance ties with other countries.³⁰ In terms of subject matter, the agreements entered into comprised the following: diplomacy and administrative (51 out of 178, or 28.65%), economic (50 out of 178, or 28.09%), trade and finance (37 or 20.79%), socio-cultural (30 or 16.85%), and security and defense (10 or 5.62%).
- Joseph Estrada served only two years and a half of the regular six-year term, and this is reflected in the low number of agreements signed. Twenty five of the 67 agreements were on diplomatic and administrative (37.31%), 15 on trade and finance (22.39%), 12 on socio-cultural (17.91%), 11 on economic (16.42%) and four on security and defense (5.97%).
- The highest number of agreements post-1986 was during the term of Gloria Macapagal Arroyo (2001-2010), with a total of 255 agreements. This can be attributed to the nine and a half years that she was in office,³¹ and her internationalist outlook, being the daughter of a previous president and having spent years overseas as a graduate student. There was once again priority accorded to economic agreements (83 out of 255, or 32.55%), followed by diplomacy and administrative agreements (64 or 25.1%). Twenty-three agreements, or 9.02%, entered into during this period dealt with security and defense, indicating continued diversification of the

²⁹ DEPARTMENT OF FOREIGN AFFAIRS, *Historical Background* (n.d.), [https://dfa.gov.ph/about/history-of-
dfa#:~:text=The%20DFA%20had%20a%20heyday,Tariffs%20and%20Trade%20\(GATT\).](https://dfa.gov.ph/about/history-of-dfa#:~:text=The%20DFA%20had%20a%20heyday,Tariffs%20and%20Trade%20(GATT).)

³⁰ *Id.*

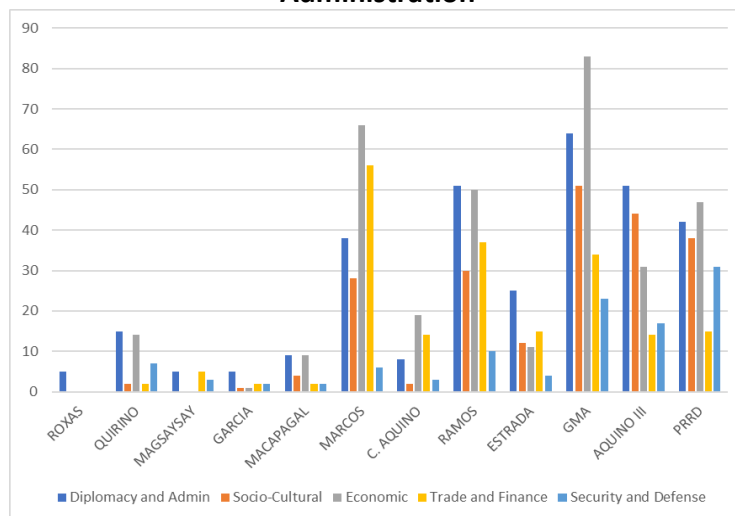
³¹ Initially to complete the unexpired term of her predecessor Estrada (Jan. 2001 – June 30, 2004) and then to serve her own six-year term.

country's defense engagements with countries beyond the United States.³²

- During the Benigno S. Aquino administration (2010-June 2016), a total of 157 agreements were entered into, and of these, 51 dealt with diplomacy and administration (32.48%), followed by socio-cultural (44) and economic (31). The total output was short of but still comparable to that of Ramos, but the administration largely maintained the pace set by his two predecessors.
- Midway through the Duterte presidency, 173 agreements had been entered into during his administration, with economic agreements (47 or 27.17%) and diplomacy and administrative agreements (41 or 23.70%) making up half of the total agreements concluded. Notwithstanding the country's controversial withdrawal from the Rome Statute of the International Criminal Court and the then threatened termination of the PH-US Visiting Forces Agreement, active agreement-making by the administration still kept apace.

Below is a graph of the number of agreements entered into by the various presidential administrations, as a way of summing up this section.

Figure 2. Agreement Frequency by Subject Matter and Presidential Administration



C. By Treaty Partners

³² DEPARTMENT OF FOREIGN AFFAIRS, *supra* note 29.

Vice President and Secretary of Foreign Affairs Elpidio Quirino made an auspicious start for Philippine foreign relations when he undertook a round-the-world goodwill tour in the late forties which took him to Washington D.C., Paris, Berlin, the Vatican, Cairo, Karachi, and Bangkok, and was marked by the signing of agreements with these countries. There has since then been concerted efforts by various administrations to first deepen relations with North America, principally the United States, and then with Europe, Southeast Asia and then rest of Asia, and other regions.

Agreements with Southeast Asian countries gained prominence during the first Marcos administration, prompted by the good neighborliness and sense of regional community with the establishment of the ASEAN in 1967, and this trend continues to this day.

The Arroyo and first Marcos administrations had the most numbers of agreements with Europe – at 72 and 68, respectively (see Table 6) – as well as with Africa – at 14 and 9, respectively, underscoring major outreach to the latter continent during their times in office. The Arroyo, first Marcos and Ramos administrations led in the number of agreements with Asia – at 57, 31 and 30, respectively, while Arroyo and Ramos did the same for the Middle East – at 34 and 26, respectively.

As shown on Table 6, for the period 1946 to 2020, the country's top partners by regional locations were those in Europe at 336 agreements, Asia (outside Southeast Asia) at 221, Southeast Asia at 191, and the Middle East at 146. The least number of agreements were those in Africa (50) and Oceania (48).

At the specific country level, the Philippines' top bilateral partners pre-1986 period were the U.S. (43 agreements), Indonesia (32), Japan (12), Spain (10), and Germany (West), Israel and South Korea (all 8) (see Table 7).

There were remarkable changes in top country partners in the post-1986 period, as follows: China (46), Russia (33), Spain (27), Thailand (26) and South Korea (25) (see Table 8). The US was relegated from first to eighth, while China and Russia took first and second place, respectively. Thailand and

South Korea also replaced Indonesia and Japan among the top partners in the Asian region.

Table 6. Agreement Frequency by Geographic Region and Presidential Administration

	ROXAS	QUIRINO	MAG SAYSAY	GARCIA	MACA PAGAL	MARCOS	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Europe	1	14	3	1	3	68	17	49	16	72	40	52	336
Asia (outside Southeast Asia)	0	6	3	4	1	31	9	30	8	57	27	45	221
Southeast Asia	0	3	0	3	7	36	1	36	15	40	24	26	191
Middle East	0	2	0	1	3	11	2	26	9	34	29	29	146
Latin America	1	2	1	0	1	8	6	16	11	23	12	7	88
North America	3	12	5	2	9	19	6	7	3	5	9	5	85
Africa	0	0	1	0	2	9	3	6	5	14	5	5	50
Oceania	0	1	0	0	0	12	2	8	0	10	11	4	48
Total	5	40	13	11	26	194	46	178	67	255	157	173	1,165

Figure 3. Agreement Frequency by Regional Grouping, 1946-2020

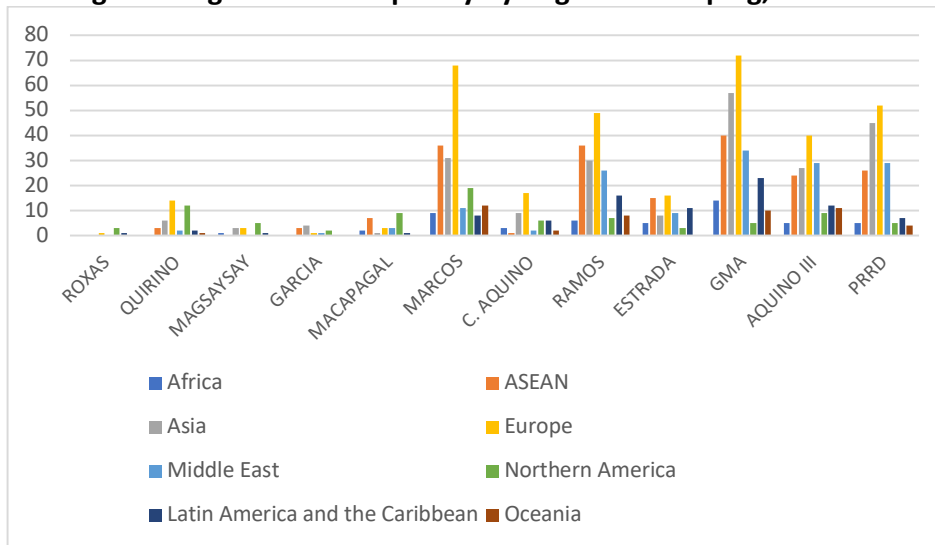


Table 7. Top Agreement Partners, 1946 – 1985

No.	Bilateral Partner	Total
1	United States of America	43
2	Indonesia	31
3	Japan	12
4	Spain	10
5	Germany, Israel, South Korea	8
6	Australia, Austria, Canada, China, Pakistan	7

Table 8. Top 10 Agreement Partners, 1986 – 2020

No.	Bilateral Partner	Total
1	China	46
2	Russia	33
3	Spain	27
4	Thailand	26
5	South Korea	25
6	Viet Nam	22
7	Indonesia	20
8	India, Iran and U.S.	19
9	Qatar	18
10	Australia	17

II. TREATY ACTIVITIES AND THEIR CORRELATION WITH FOREIGN POLICY PRIORITIES

A. Foreign Policy Priorities of Philippine Presidents

The 1987 Philippine Constitution provides basic guidelines on the conduct of relations with the international community, as follows:

Art. II, Sec. 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

Art. II, Sec. 7. The State shall pursue an independent foreign policy. In its relations with other states, the paramount consideration shall be national sovereignty, territorial

integrity, national interest, and the right to self-determination.

Government strategies, policies and programs that are adopted and implemented have to be informed and guided by these constitutional parameters, especially the pursuit of the national interest.

B. Contours of Early Philippine Diplomacy: The first 40 years

The ten men and two women have served as presidents since the establishment of the Third Philippine Republic in 1946 and have left their imprints in the country's political and diplomatic history. They made pronouncements on their respective foreign policy priorities during inaugural addresses, state of the nation addresses, or speeches at significant occasions. A few issued formal guidelines for the Secretary of Foreign Affairs and the rest of the executive agencies to follow.

In 1982, Pacifico Castro posited that there were five distinct periods of Philippine diplomacy, namely period of initiation (1946-1957), period of *immobilisme* (1957-1965); period of innovation (1966-1981), period of integration (1981-1991) and period of consolidation (1992 - onwards to the 21st century). This framework was critical of the period 1946-1957 during which Philippine diplomacy, as then conducted by the Garcia and then Macapagal administrations, was said to "have lapsed into *immobilisme* during a ferment in other parts of the world... geopolitics instead of economics was the main preoccupation of Filipino actors in diplomacy..."³³ At the same time, this framework can be characterized as laudatory of the succeeding Marcos Sr. administration.³⁴

A balanced rendering of the periods of Philippine diplomacy would be as follows: period of initiation (1946-1971), martial law period (1971-1985), post-EDSA period (1986-2015), and contemporary period (2016 to the

³³ PACIFICO A. CASTRO, TOWARDS AN INTEGRATED PHILIPPINE FOREIGN POLICY. ON DIPLOMACY, LAW AND GOVERNMENT 1-21 (1982). See also BENJAMIN B. DOMINGO, THE RE-MAKING OF FILIPINO FOREIGN POLICY 17-25 (1993).

³⁴ Castro's framework continues to have currency in the present time as seen in SEVERO CANETE MADRONA JR, THE PERIOD OF IMMOBILISME: PHILIPPINE FOREIGN RELATIONS DURING THE ADMINISTRATIONS OF CARLOS P. GARCIA AND DIOSDADO MACAPAGAL 1957-1965 (2021).

present). These are interspersed by significant events at the international level that also influenced domestic developments, including the end of World War II, the need for reconstruction in affected countries and the establishment of the United Nations (1945); convening of the Afro-Asian conference in Bandung and the birth of the Non-Aligned Movement (1955); construction of the Berlin Wall and the heightening of the Cold War (1961); the collapse of the Soviet Union and the end of the Cold War (1991); and the 9-11 attacks in New York and the Pentagon (2001), among others.

The following discussions highlight the key foreign policy thrusts of the various Philippine presidential administrations from 1946 and onwards, with the end in view of discerning trends and continuities in policies, or lack of them, and finding common threads.

President Manuel Roxas assumed office on 28 May 1946 at a time when the country was recovering from the trauma of World War II and experiencing the Cold War between the so-called democracies and the Communist bloc, Roxas strongly allied the country with the U.S. “Our safest course ... is in the glistening wake of America whose advance with mighty prow breaks for smaller craft the waves of fear,” Roxas said.³⁵

Among the primary tasks of the post-war presidential administrations were securing funds for the reconstruction of the country and its economy in order to recover from the devastating damage and loss during the war. Roxas turned to the United States for assistance. The U.S. Congress made available in April 1946 a USD 620 million aid package and free-trade relations for the next eight years, albeit with a price – the amendment of the 1935 Constitution to allow parity rights for U.S. citizens in the exploitation of natural resources and operation of public utilities. With the intensification of the Cold War characterized by intense ideological rivalry and proxy wars, Roxas signed in 1947 the PH-US Military Bases Agreement (now defunct) in order to provide greater security for the country.

Roxas’ “Four Pillars of Philippine foreign policy” were the following:

a. Commitment to the United Nations

³⁵ BENJAMIN B. DOMINGO, *THE RE-MAKING OF FILIPINO FOREIGN POLICY* 27 (1993).

- b. Continued ties with the U.S.
- c. Maintenance of friendly relations with neighbors
- d. Devotion to world peace³⁶

When Elpidio Quirino succeeded Roxas upon the latter's passing in 1948, he was the Vice President and also in-charge of the foreign affairs portfolio. He had earlier organized the DFA and the foreign service, thus he is considered as the Father of the Philippine Foreign Service.³⁷

Quirino adopted a three-pronged foreign policy:

First, the Philippines is committed to the fullest possible cooperation with the U.S. on all matters that are essential to their mutual security.

Second, the Philippines is committed to the fullest support to the peoples of Asia and elsewhere in their struggle for freedom and independence.

Third, the Philippines is committed to the fullest possible cooperation with the United Nations in its efforts to promote the economic, social and cultural progress of mankind and to maintain international peace and security.³⁸

The country's war-damaged economy began to recover in the 1950s during the presidency of Quirino. The country's economy grew by a phenomenal 9.43% on average during his six-year term. The Philippines was actively engaged with the then newly organized United Nations. The country was one of the 50 original signatories of the U.N. Charter – one of only three from the Asia-Pacific region – and was a strong advocate of early independence for former colonial territories, which was the second of its three-pronged foreign policy thrusts. His top U.N. diplomat, Carlos P. Romulo, achieved international prominence in 1952 by becoming the first Asian elected as President of the U.N. General Assembly. The year earlier,

³⁶ *Id.* at 28.

³⁷ MALAYA & MALAYA, *supra* note 24 at 156.

³⁸ DOMINGO, *supra* note 35 at 29.

Romulo, as Quirino's Secretary of Foreign Affairs, signed the PH-US Mutual Defense Treaty, which was in line with the first of the administration's foreign policy thrusts.

Ramon Magsaysay took office after Quirino, further deepening the partnership with the U.S. as Philippine authorities battled the Hukbalahap insurgency. He hosted the Manila Conference in September 1954 which established the Southeast Asia Treaty Organization (SEATO), the now defunct collective security alliance composed of Thailand, Pakistan, Australia, New Zealand, U.S., France, United Kingdom and the Philippines.

The succeeding administration of Carlos P. Garcia adopted a "Filipino First" approach, with its emphasis on import-substitution industrial policy and a preferential treatment for Filipino businesses in the allocation of scarce dollars for use in buying imports. In 1957, Garcia issued six foreign policy guidelines for the administration, as follows:

- a. Preservation and enhancement of Philippine-American relations
- b. Forging with other free nations of the world concerted measures of vigilance and defense against communism
- c. Development of closer ties with our Asian neighbors
- d. Increasing faith in and strengthening of the United Nations
- e. Recourse to bilateral and multilateral defense arrangement for external security
- f. Support for the legitimate aspirations for self-determination of dependent peoples.³⁹

The four-fold foreign policy objectives of the Diosdado Macapagal administration were articulated by his Vice President and Secretary of Foreign Affairs, Emmanuel Pelaez, as follows:

We can plot the future by measuring our course against the four great objectives which, in my view, we should strive to achieve in our foreign policy.

The first of these objectives is to ensure our security.

³⁹ *Id.* at 30.

Second, to help promote our internal economic development and progress with special regard to the well-being of the masses of our people.

Third is to strengthen our relations with our friends, especially our neighbors in this part of the world.

And fourth, to contribute, no matter how modestly, to the preservation of peace all over the world.⁴⁰

Macapagal earlier worked with the Department of Foreign Affairs as chief of its legal division and was later assigned as second secretary at the Philippine Embassy in Washington, D.C.. After his election as Congressman, he authored the Philippine Foreign Service Act (Republic Act. No. 708).⁴¹

Towards the tail-end of his term, Macapagal issued 10 guidelines on the conduct of foreign policy to the DFA, as follows:

- a. Vigilant protection of Philippine independence, sovereignty, security and national dignity
- b. Opposition to international communism and to communist aggression, subversion, and infiltration in the Philippines
- c. Maintenance of defense alliance and continuation of mutually beneficial endeavors with the United States, as well as other allies in the free world
- d. Strong support for the United Nations and its agencies
- e. Stabilization and expansion of relations with Japan, which is a powerful ally in this part of the free world
- f. Maintenance of friendly relations with the free Republic of China, which is a steadfast ally against international communism
- g. Continual enhancement of relations with Spain
- h. Active relationship and collaborative effort with the nations of the Afro-Asian community with whom we share common post-colonial problems

⁴⁰ *Id.*, at 32.

⁴¹ Approved on June 5, 1952. Rep. Act No. 708 was repealed in 1991 by Rep. Act No. 7157.

- i. Widening of relations and cooperative effort with the nations of Latin America with whom we share common cultural heritage
- j. Expansion of Philippine trade not only with the United States but also with other countries in Europe and elsewhere; and encouragement of foreign capital and investments in the Philippines to stimulate our economic development through joint ventures with Filipinos.⁴²

Ferdinand E. Marcos served the longest among the presidents since 1946 and was keen on foreign affairs matters. He issued a number of foreign policy guidelines during his extended stay.

The initiative to create a regional organization in Southeast Asia was realized in August 1967 with the signing of the Bangkok Declaration which established the Association of Southeast Asian Nations (ASEAN). Narciso Ramos, Marcos's Secretary of Foreign Affairs, signed for the Philippines.

Marcos unveiled the "7 Postulates of Philippine Foreign Policy" during an address before the Manila Overseas Press Club on 24 February 1968, as follows:

- a. Protection of Philippine independence, territorial integrity and national dignity
- b. Strengthening linkage with Asia
- c. Resistance to communist aggression, infiltration, and subversion
- d. Reverence for the rule of law
- e. Unswerving support of the United Nations as well as the maintenance of defensive alliances and mutually beneficial relations with the United States and our allies
- f. Increased regional cooperation and collaboration in mutually beneficial endeavors
- g. Accelerated programs of economic development⁴³

⁴² DIOSDADO MACAPAGAL, *A STONE FOR THE EDIFICE: MEMOIRS OF A PRESIDENT* 352-353 (1968). The 10 guidelines were issued on Jan. 12, 1965, with Mauro Mendez serving as Secretary of Foreign Affairs.

⁴³ DOMINGO, *supra* note 35 at 33.

In his 1970 State of the Nation Address, Marcos articulated the “burdens of the new foreign policy” in the following manner:

- a. An overall examination of existing agreements with the United States;
- b. Strengthening of regional cooperation along economic and social lines;
- c. A continuing search for procedures for easing political tension in the form of an Asian Forum with an all-Asian membership; and
- d. Relaxation of relations with socialist countries leading to commercial and cultural exchanges.

Marcos pursued a policy of pragmatism vis-à-vis the then communist/socialist countries, and in pursuit of the “fourth burden” (“d” above), normalized diplomatic relations with the People’s Republic of China in 1975 and the USSR (now the Russian Federation) the following year.

In 1978, during the Martial Law period, Marcos enunciated the composite Foreign Policy Guidelines, which started with the “six canons of foreign policy,” with focus on the country’s engagements with the ASEAN, the socialist states, the Third World, Japan, Arab states and the U.S., and later supplemented with the inclusion of the U.N. and Europe, as follows:

- a. To strengthen the U.N. through a review of its Charter and the adoption of other measures to increase its efficiency and effectiveness
- b. To intensify efforts to make the ASEAN a strong and viable regional organization and to expand bilateral relations with the members of the ASEAN
- c. To seek closer identification with the Third World – all the developing countries of Asia, Africa and Latin America – particularly in the uplift of the poor and the establishment of a new international economic order.
- d. To establish diplomatic relations and pursue more vigorously economic and trade relations with the Socialist bloc
- e. To clarify and update the guidelines under which beneficial relations with Japan will continue
- f. To reorient trade as well as security relations with the United States

- g. To seek a firmer basis for vigorous trade and cultural relations with Europe
- h. To support the Arab countries in their struggle for a just and enduring peace in the Middle East in accordance with the relevant resolutions of the United Nations
- i. To continue the search for procedures to ease political tensions in Southeast Asia, such as the creation of an Asia Forum.⁴⁴

C. “Development Diplomacy” and its variations

The EDSA People Power revolution led to the restoration of democracy in February 1986. The transfer of governmental power to Corazon C. Aquino gave inspiration to other democratic movements against totalitarian regimes. The C. Aquino Administration organized and hosted in 1988 the Conference of Newly-Restored Democracies,⁴⁵ which was attended by representatives from 12 other countries, including the Portuguese President Mario Soares.

Aquino’s Secretary of Foreign Affairs, Raul S. Manglapus, highlighted “development diplomacy,” which was “harnessing and managing all available resources of the nation, internal and external, public and private, official and non-official, in the active pursuit and availment of opportunities abroad in the vital areas of trade, investment, finance, technology and aid.” The country became a founding member of the Asia-Pacific Economic Conference (APEC) at its meeting in Canberra, Australia in November 1989.

Fidel V. Ramos, C. Aquino’s Secretary of National Defense, won the election in May 1992 and succeeded the latter. His Secretary of Foreign Affairs, Domingo Siazon, enumerated the four core priorities of the administration’s foreign policy, as follows:

First, the enhancement of national security,
Second, the promotion of economic diplomacy,

⁴⁴ *Id.*, at 38-39.

⁴⁵ FOREIGN SERVICE INSTITUTE, MANILA DECLARATION OF DEMOCRACY: SPEECHES AND DOCUMENTS ON THE FIRST INTERNATIONAL CONFERENCE OF NEWLY RESTORED DEMOCRACIES (1973-1988), 3-6 JUNE 1988, MANILA, PHILIPPINES (1988).

Third, the protection of overseas Filipino workers and Filipino nationals abroad, and

Fourth, the projection of a good image of the country abroad.⁴⁶

The Ramos administration pursued a policy of enhancing national security through a combination of domestic and international initiatives, including playing an active role in the establishment of the ASEAN Regional Forum to promote dialogue and cooperation on security issues among countries in the region. Ramos recognized the importance of regional economic integration and worked to promote the ASEAN Free Trade Area. During his term, the country also joined the World Trade Organization (WTO) in 1995, and hosted 18 heads of states/governments at the APEC Summit in Subic in 1996. Since then, the Philippines has pursued various economic cooperation agreements with other countries, including the ASEAN Free Trade Area, the Japan-Philippines Economic Partnership Agreement, and the Philippines-European Free Trade Association Free Trade Agreement.

While the Administration was focused on political and economic reforms, Flor Contemplacion, a Filipino domestic worker in Singapore, was executed in 1995, highlighting the need for the protection of overseas Filipino workers in distress and the provision of legal assistance and representation. There was an ensuing reorientation in the mandate and work of the Department of Labor and Employment and the DFA. A focal office for migrant workers' concern was established at the DFA, through the Office of the Undersecretary for Migrant Workers Affairs.

As may be noted, the current Three Pillars of Philippine Foreign Policy derives its origins from Ramos' four core priorities,⁴⁷ but with the last thrust – projection of a good image of the country – deleted, with good reason. Nonetheless, the fourth core has remained a crucial aspect of Philippine foreign policy work, even if not explicitly stated.

⁴⁶ J. Eduardo Malaya, *Origins of DFA's Three Pillars of Foreign Policy*, PHIL. DAILY INQUIRER (June 23, 2023), <https://opinion.inquirer.net/164250/origins-of-dfas-three-pillars-of-foreign-policy>. See also Domingo Siazon, Jr., *Foreign Affairs*, in JOSE V. ABUEVA ET AL. (ED.), *THE RAMOS PRESIDENCY AND ADMINISTRATION: RECORD AND LEGACY (1992-1998)* 211-212 (1998).

⁴⁷ Aileen S.P. Baviera, *The Influence of Domestic Politics on Philippine Foreign Policy: The Case of Philippines-China Relations since 2004*, (S. Rajaratnam Sch. Int'l. Stud., Working Paper No. 241, 2012), <https://www.files.ethz.ch/isn/146442/WP241.pdf>.

Gloria Macapagal-Arroyo took over as President in February 2001, and in August 2004, enunciated a foreign policy based on the nine realities in the regional and global environment, as follows:

- a. The United States, China and Japan have a determining influence in the security situation and economic evolution of East Asia;
- b. Philippine foreign policy decisions have to be made in the context of the ASEAN;
- c. The international Islamic community becomes more and more important to the Philippines;
- d. Europe will continue to play a significant role in promoting prosperity and stability;
- e. The coming years will see the redefinition of the role of multilateral and inter-regional organizations like the WTO in promoting common interests;
- f. The defense of the nation's sovereignty and the protection of its environment and natural resources can be carried out to the extent that it gets others to respect its rights over maritime territory;
- g. The country's economic growth will continue to require a lot of direct foreign investment;
- h. The country can benefit most quickly from international tourism; and,
- i. Overseas Filipinos will continue to play a critical role in the country's economic and social stability.⁴⁸

President Benigno Simeon Aquino III largely continued the well-established foreign policies of his recent predecessors, prioritizing national security, economic diplomacy, and protection of the rights and welfare of Filipino nationals abroad. His administration pursued peace and development efforts in Muslim Mindanao, which paid off with the signing of peace agreements with the Moro Islamic Liberation Front. With the tensions

⁴⁸ Gloria Macapagal-Arroyo, Philippine President, Reiterating RP's Foreign Policy, Address on Philippine Foreign Policy (Aug. 6, 2004), <https://www.officialgazette.gov.ph/2004/08/06/speech-of-president-arroyo-on-the-philippine-foreign-policy/>. This was delivered at the Manila Overseas Press Club (MOPC), Makati City. The Realities were originally eight, and then updated to include the importance of Europe in promoting prosperity and stability.

in the West Philippine Sea remaining unabated, the administration brought China to arbitration, where an arbitral tribunal constituted under Annex VII of the U.N. Convention on the Law of the Sea invalidated the latter's 9-dash line claim to the South China Sea.

The succeeding Administration of President Rodrigo Duterte made significant changes in the country's engagements with certain major powers, emphasizing an "independent foreign policy" that sought to reduce reliance on any single nation and diversify partnerships to include non-traditional partners. It also conducted a vigorous campaign against illegal drugs. Faced with alleged human rights abuses in the conduct of said campaign, the administration withdrew the country as a state party to the Rome Statute of the International Criminal Court.

The three key principles of the Duterte foreign policy included a desire to reduce dependence on Washington while maintaining the historic alliance with the U.S; secondly, enhancing relations with China, particularly on economic cooperation, and exploring avenues to ease tensions in maritime disputes; and lastly, enhanced relations with non-traditional partners like Russia and India, and upholding the central role of ASEAN in regional affairs.⁴⁹

Ahead of numerous countries in Asia, Africa and the Middle East which arose from colonialism, the Philippines joined the international community in the mid-1940s faced with the challenges of post-World War II reconstruction and its initial engagements with other countries and the newly formed United Nations. These activities were made complicated by the Cold War rivalry which pitted blocs against each other, notably in the Vietnam War which raged for decades just across the South China Sea.

As the international community entered the globalized world of the 21st Century, with its unprecedented expansion of connectivity in international trade and the exchange of ideas, beliefs and culture, the earlier preoccupation with geopolitics gave way to cooperation, especially in the economic field. This helped enable the Philippines to strike a welcomed

⁴⁹ Mico A. Galang, *Understanding President Duterte's "Independent Foreign Policy"*, ASIA PACIFIC PATHWAYS TO PROGRESS FOUNDATION, INC. (n.d.), <https://appfi.ph/about-us/newsletter/2017-issue-1/40-publications/commentaries/1379-understanding-president-duterte-s-independent-foreign-policy>.

balance between the pursuit of national security interests and economic ones, starting with Corazon Aquino's "development diplomacy" and Ramos' "three core priorities/pillars" of foreign policy.

The "Nine Realities of Philippine Foreign Policy" of the Macapagal-Arroyo administration supplemented and amplified the "Three Pillars." The former complemented the latter as these identified the country's requirements and interests, analyzed the external environment and related the two in a manner that made apparent the specific policies that should be pursued. Enunciated in 2004, the Nine Realities largely reflect the conditions of the country at the present time and thus remain relevant and applicable. The Three Pillars and the Nine Realities are valuable guides in the conduct of contemporary Philippine foreign policy.

D. Correlating Treaty Activities vis-à-vis the "Nine Realities of Philippine Foreign Policy"

The "Nine Realities of Philippine Foreign Policy" is thus far the most comprehensive yet succinct distillation of the country's foreign policy approach in contemporary times. It identifies the country's requirements and interests, analyzes the external environment and relates the two in a manner that makes apparent the policy thrusts that should be pursued. Though enunciated in 2004, these have largely reflected the realities of the country in the succeeding administrations and have remained relevant and applicable to the present time.

The issue is whether actual treaty actions from 1986 onwards indicate an alignment with or divergence from the foreign policy approaches as identified in the Nine Realities of Philippine foreign policy, and the reason for it.

1. *The U.S., China and Japan as having a determining influence in the security situation and economic evolution of East Asia*

It is undeniable that the U.S, China and Japan have a determining influence in the security situation and economic evolution of East Asia, and Philippine engagements with them have been more extensive than with others. The U.S. and Japan are key traditional partners of the Philippines,

particularly in the politico-security and economic fields respectively, while China is the ascendant political, military and economic power in the Asia-Pacific region.

The data in Table 10 below affirms such proposition in the field of agreement making with respect to China with 46 agreements signed post-1986, but such is not readily apparent vis-à-vis the U.S. and Japan. The high number of agreements with China (and also Russia) can be attributed to the resumption of normal relations with them in light of the end of the Cold War and the concerted pursuit of enhanced engagements, particularly in the economic and socio-cultural fields. On the other hand, the relatively low number of agreements with the U.S. (19) and Japan (12) can be explained by the fact that relations with the U.S. and Japan have largely matured, and the key agreements with them had been signed and have remained in effect.

Nonetheless, overall trade flows, an equally important metric, confirm the top positions of U.S., China and Japan – or more appropriately China, Japan and U.S., in that order – as the key economic partners of the Philippines. The three countries have consistently been the Philippines’ top trading partners. From FY 2017 to 2020, total trade with the three countries amounted to some USD 351 billion, comprising 40.9% share of the country’s overall trade during that period (see Table 9).⁵⁰

Table 9. The Philippines’ Top Trading Partners, 2017-2020⁵¹

Country	Value (US\$) Trade Volume	Rank
China	119,204,921,516	1
Japan	80,910,257,210	2
U.S.	71,403,220,477	3
South Korea	46,373,707,374	4
Singapore	38,906,989,495	5

A comparison of the frequency of agreements with the U.S., China and Japan by the various presidential administrations provides insights on which administrations prioritized what partner countries. From 1986 to 2020, the

⁵⁰ DEPARTMENT OF TRADE AND INDUSTRY, *Philippine Merchandise Exports to the World* (n.d.), <http://www.tradelinephilippines.dti.gov.ph:8080/total-trade>.

⁵¹ PHILIPPINE STATISTICS AUTHORITY (last visited Sept. 7, 2022).

Philippines entered into a total of 77 agreements on various subject matters with the U.S., China and Japan (see Table 10).

The number of agreements signed with the U.S. ranged between two to four during the 1986-2020 period, while those with Japan were largely flat during the early part of the period but rose during the Arroyo, B. Aquino and Duterte administrations.⁵² On the other hand, PH-China agreements rose dramatically during the Arroyo administration with 18 agreements, went down to five during the B. Aquino administration, and up again during the Duterte presidency, to 14 agreements.

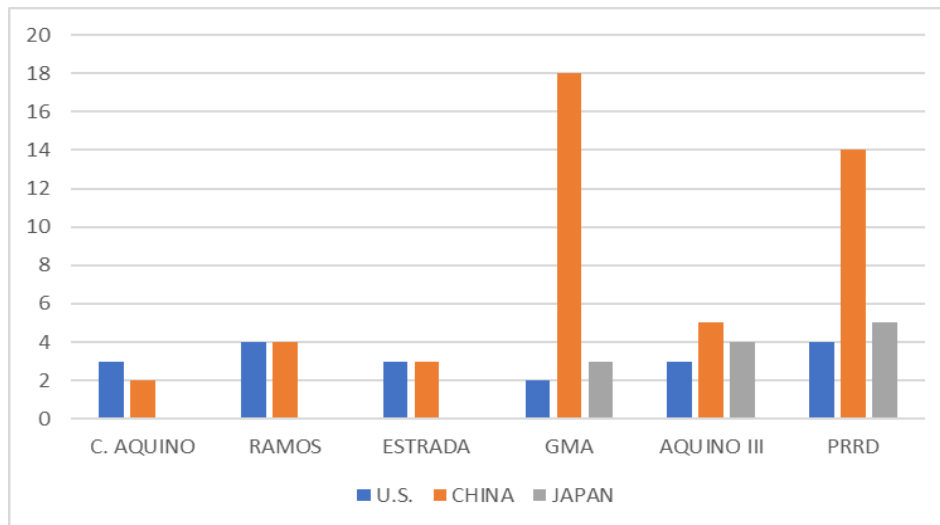
Most of the agreements with China were economic in nature (16), while those with the U.S. were on security and defense (8). The country had five agreements each on economic and security and defense with Japan.

Table 10. Agreement Frequency by bilateral partners U.S., China and Japan and presidential administrations, 1986-2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
US	3	4	3	2	3	4	19
CHINA	2	4	3	18	5	14	46
JAPAN	0	0	0	3	4	5	12
TOTAL	5	8	6	23	12	23	77

Figure 4. Agreement Frequency by bilateral partners U.S., China and Japan and presidential administrations 1986-2020

⁵² Japan also extends significant Official Development Assistance to the Philippines, which are mostly covered by project agreements. Project agreements are not considered as “treaties” or international agreements as such is defined in the Vienna Convention on the Law of Treaties, and therefore not reflected in the treaty data set.



2. *Foreign policy decisions as made increasingly in the context of the ASEAN*

The ASEAN, the regional organization whose missions are to accelerate economic growth, social progress, regional peace and cultural development in Southeast Asia, is a cornerstone of the Philippines' foreign and trade policies. It is the country's primary forum in the promotion of regional peace, security and prosperity. As stated by Secretary of Foreign Affairs Domingo Siazon, "ASEAN policies are Philippine policies."⁵³

The treaty data set affirms that the Philippines, a founding member of the ASEAN, has increasingly made its foreign policy decisions in the context of ASEAN, particularly in the areas of economic integration and regional security.

A survey of the ASEAN agreements indicates a steady rise in its numbers, initially covering economic and socio-cultural cooperation, which was its original focus, in the early decades of its operations, and then branching out into the political, security and other fields. A total of 80 ASEAN agreements were signed during the period 1967 to early 2022, comprising 58 economic

⁵³ Domingo L. Siazon, *Contemporary Philippine Foreign Policy: Challenges and Opportunities*, Address Before the Philippine Ambassadors Association (Dec. 21, 1995), in *PREPARING FOR THE 21ST CENTURY: CHALLENGES FOR THE PHILIPPINE FOREIGN POLICY (SPEECHES OF SECRETARY DOMINGO L. SIAZON (1 MAY 1995-30 APRIL 1996))*, 1996.

agreements, 14 politico-security agreements, and 8 socio-cultural.⁵⁴ Among the notable ASEAN agreements are the Convention on Counter-Terrorism, the Convention Against Trafficking in Persons, Especially Women and Children, the Framework Agreement on Enhancing Economic Cooperation, Treaty of Amity and Cooperation in Southeast Asia, and the Treaty on Mutual Legal Assistance. Sixty-one out of the 80 ASEAN agreements are currently in force for the Philippines.

The country has been an active participant in the ASEAN Economic Community, which has laid the groundwork for a single market and production base among ASEAN Member States. The Philippines has worked to enhance trade and investment ties with other ASEAN Member States, and sought to attract foreign investment into the country. In the field of regional security, the country has actively participated in the ASEAN-led forums, notably the ASEAN Regional Forum and the East Asia Summit, which are important platforms for dialogue and cooperation on regional security issues.

Under the theme “ASEAN Centrality,”⁵⁵ ASEAN has been the primary driving force in fostering regional collaboration, including efforts to address overlapping maritime claims in the South China Sea through the proposed adoption of a code of conduct. The ASEAN has exerted a profound influence in the country’s foreign policy, particularly as the latter engages major countries such as China, India, Japan, Russian Federation, United Kingdom, United States and the European Union.

In 2017, ASEAN marked its 50th anniversary with the Philippines as Chairman, taking the lead in organizing the commemorative activities. At the centerpiece of the Philippines’ chairmanship was the signing of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, which was aimed at providing better protection to migrant workers across the region, including some 200,000 Filipino workers.

⁵⁴ The figure covers the ASEAN “legal instruments” which are ASEAN legal instruments concluded among and between ASEAN Member States. See ASEAN Legal Instruments, <http://agreement.asean.org/home/index/16.html> (last visited May 15, 2022).

⁵⁵ See ELIZABETH P. BUENSUCESO, *ASEAN CENTRALITY: AN AUTOETHNOGRAPHIC ACCOUNT BY A PHILIPPINE DIPLOMAT* (2021).

3. *Europe playing significant role in promoting international prosperity and stability*

The Philippines has long-standing interactions with Europe, initially through Spain which was its colonizer for over three centuries. At the present time, Europe is an important trading partner and source of investments for the Philippines, with the Netherlands, United Kingdom and France leading the way.

Europe has historically been a key player in world affairs, and the establishment of the European Economic Community (later European Union) in 1958 and the Single Market has made it more so, in view of the closer coordination of its Member States' economic, security and foreign policies.

A total of 246 agreements with European countries were signed by the Philippines during the period 1986 to 2020 (see Table 11), 70 of which were economic in nature, 64 diplomacy and administrative, 47 trade and finance, and 39 socio-cultural (see Table 12).

The Philippines and the European Union also signed in 2012 a Partnership Cooperation Agreement. This agreement serves as a framework for cooperation and dialogue in areas such as political dialogue, trade and investment, science and technology, and cultural cooperation. This agreement underscores the importance of the PH-EU partnership in promoting mutual prosperity and stability.⁵⁶ Philippine exports have been granted entry through the EU's Generalized Scheme of Preference Plus (GSP+) since 2014.⁵⁷ This has provided favorable market access for agricultural and other products, contributing significantly to the country's economic growth.

On a bilateral basis, European countries with the most number of agreements with the Philippines post-1986 are Russia with 33, Spain (27), Italy (14), United Kingdom (14) and France (13) (see Table 11). The high

⁵⁶ European Union External Action, *Partnership and Cooperation Agreement between the EU and the Philippines Enter Into Force* (Feb. 28, 2018), https://www.eeas.europa.eu/node/40495_en.

⁵⁷ Florisa C. Almodiel-Luteijn & Antonio G.M. La Viña, *The Philippines: Positive EU Ties Despite Divisive Rhetoric*, in *THE SOUTHERN MIRROR: REFLECTIONS ON EUROPE FROM THE GLOBAL SOUTH* 51 (2022).

number of agreements with Russia is attributable to the resumption of normal relations with it after the Cold War and the concerted pursuit of enhanced engagements with it during the Duterte Administration. As noted earlier, relations with Spain have been long-standing in view of the Philippines' colonial past.

Of the post-1986 administrations, the Arroyo, Duterte and Ramos presidencies were fairly active in terms of the number of agreements entered into with European countries, with 72, 52 and 49, respectively.

In addition, ASEAN, of which the Philippines is a founding member, has had dialogue relations with the EU for over forty years, and the ASEAN-EU Strategic Partnership was signed in 2020. In September 2021, the EU promulgated its "Strategy for cooperation in the Indo-Pacific" on enhanced engagement with the region, including ASEAN, which aims at helping maintain a free and open Indo-Pacific for all while building strong and lasting partnerships. The EU affirmed in said policy paper its strong support for ASEAN centrality⁵⁸ and the ASEAN community building and regional integration efforts.

Overall, the treaty data set affirms the Philippines' and Europe's strong partnership over the years, with cooperation agreements in various field. This partnership has been beneficial for both sides and has helped to promote international prosperity and stability.

Table 11. Bilateral Agreements with European countries, 1986 to 2020

Country	No. of Agreements
Russia	33
Spain	27
Italy	14
United Kingdom	14

Table 11 continued

France	13
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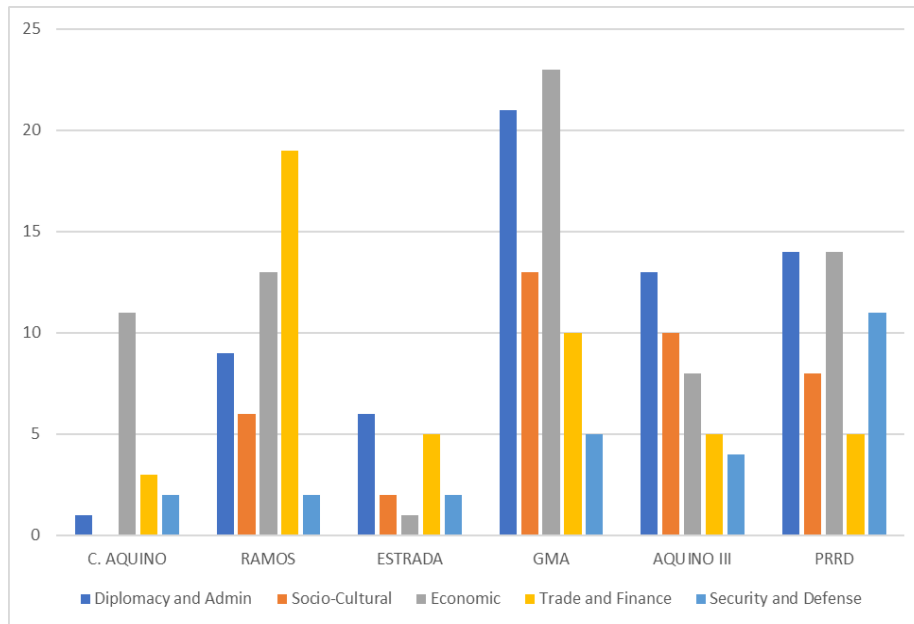
⁵⁸ EUROPEAN COMMISSION, *Joint Communication to the European Parliament and the Council: The EU Strategy for Cooperation in the Indo-Pacific* (2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021 JC0024>.

Belgium, Czech Republic, Switzerland	12
Netherlands	10
Hungary, Norway, Romania	9
Poland	7
Greece, Portugal	6
Croatia, Denmark	5
Austria, Cyprus, Slovakia	4
Finland, Sweden, Ukraine	3
Belarus, Estonia, Germany, Ireland, Lithuania, Luxembourg, Slovenia	2
Albania, Bosnia and Herzegovina, Bulgaria, Holy See, Iceland, Malta, Monaco, Montenegro	1
TOTAL	246

Table 12. Bilateral Agreements with European countries by subject matter and presidential administration, 1986-2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Economic	11	13	1	23	8	14	70
Diplomacy and Admin	1	9	6	21	13	14	64
Trade and Finance	3	19	5	10	5	5	47
Socio- Cultural	0	6	2	13	10	8	39
Security and Defense	2	2	2	5	4	11	26
TOTAL	17	49	16	72	40	52	246

Figure 5. Bilateral Agreements with European countries by subject matter and presidential administration, 1986-2020



4. *The international Islamic community⁵⁹ as increasingly important to the Philippines*

In the 1970s, Filipino workers started to be deployed to Saudi Arabia and other countries in the Middle East at a boom in construction and infrastructure development there.

Successive administrations sought to ensure the rights and welfare of overseas Filipino workers by assigning labor and welfare attachés to Philippine embassies and consulates general in the region and signing labor cooperation agreements with countries where Filipinos work.

The Philippines has a significant Muslim population, particularly in Mindanao. Engagement with the international Islamic community is therefore all the more important.

⁵⁹ The international Islamic community includes Muslim countries outside the Middle East, notably Indonesia, Malaysia, Pakistan, Bangladesh, Iran and others. Only countries in the Middle East are covered for present purposes.

Successive administrations had sought to forge peace agreements with secessionist movements in Muslim Mindanao, and for this purpose, the former reached out for support to countries in the Middle East and the Organization for the Islamic Conference (OIC). A Peace Agreement was signed with the Moro National Liberation Front in 1996 in Manila and the Moro Islamic Liberation Front in 2014 in Kuala Lumpur, Malaysia. The Bangsamoro Autonomous Region of Muslim Mindanao was later established in 2019.

The importance of engagements with the Middle East and the international Islamic community find reflection in 129 agreements signed with them (see Table 13), with high numbers reached during the post-1986 administrations, with the exception of the first Aquino and Estrada administrations. Of the 129 agreements signed, 12 dealt with labor cooperation matters,⁶⁰ ensuring protection for Filipino workers.

The DFA⁶¹ identified three *O*s that characterized the country's interests with its engagements with the Middle East – oil, OIC and OFWs. The Middle East is a crucial source of oil for the Philippines, and as such, maintaining good relations with the region is essential to ensuring stable supply of this vital resource for the country's economic development. Secondly, the OIC members in the Middle East were crucial for the Philippines' efforts to maintain peace and foster development in Muslim Mindanao. Finally, the Middle East is home to a significant number of Filipino migrant workers, or OFWs, who contribute greatly to the country's economy through their remittances. Ensuring their safety and well-being is an important aspect of the country's relationship with the Middle East.

Table 13. Bilateral Agreements with Middle East Countries, 1986-2020

Country	No. of Agreements
Iran	19

⁶⁰ Labor cooperation agreements were concluded with Kuwait (1998), Libya (2006), United Arab Emirates (2007), Qatar (2008), Jordan (2011), Kuwait (2012), Lebanon (2012), Saudi Arabia (2015), United Arab Emirates (2018), Israel (2 agreements, 2019) and Jordan (2018). See MALAYA AND DAMPIL-MANDIGMA, *supra* note 21 at 331.

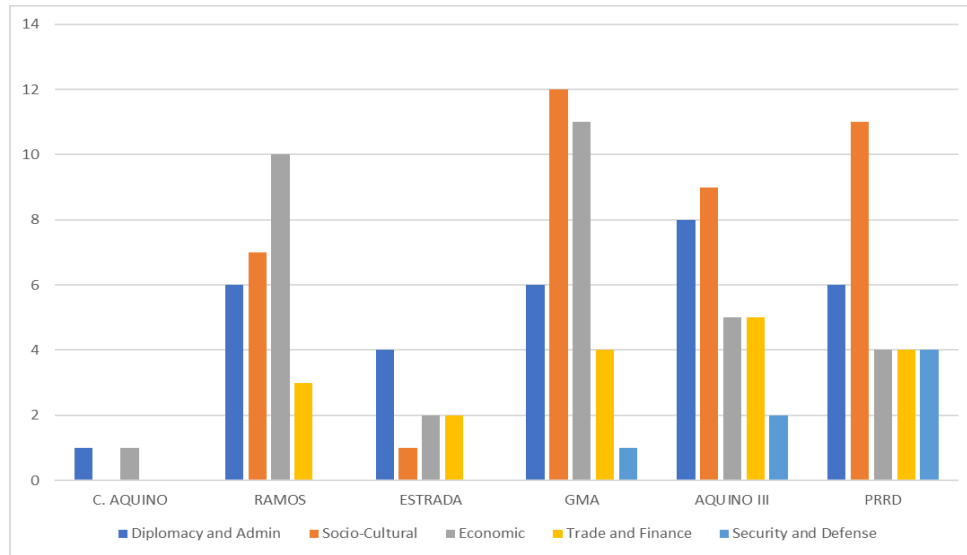
⁶¹ Norberto Basilio, *The Philippines and the Middle East*, in WORLD TRENDS AND NEW DIRECTIONS FOR PHILIPPINE FOREIGN POLICY 2004-2010 (2003).

Qatar	18
Turkey	15
Israel	14
Bahrain, Kuwait	12
Saudi Arabia	10
United Arab Emirates	7
Jordan, Syria	6
Oman	5
Libya	3
Lebanon	2
Total	129

Table 14. Bilateral Agreements with Middle East Countries by subject matter and presidential administration, 1986-2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Socio-Cultural	0	7	1	12	9	11	40
Economic	1	10	2	11	5	4	33
Diplomacy and Admin	1	6	4	6	8	6	31
Trade and Finance	0	3	2	4	5	4	18
Security and Defense	0	0	0	1	2	4	7
TOTAL	2	26	9	34	29	29	129

Figure 6. Bilateral Agreements with Middle East Countries by subject matter and presidential administration, 1986-2020



5. *Redefinition of the role of WTO and other multilateral and inter-regional organizations in promoting common interests*

The Philippines is a state party to some 375 conventions entered into under the auspices of the UN and other international organizations from 1946 to 2020, of which 192 were concluded after 1986. This paper will examine the more significant ones, namely the Charter of the UN signed in 1946, the 1994 WTO Agreement and the 1994 United Nations Framework Convention on Climate Change (“UNFCCC”), specifically what have been their roles and in what manner these roles are being redefined.

World Trade Organization. The Philippines joined the General Agreement on Tariffs and Trade (“GATT”), the predecessor of the WTO, in 1973 as a provisional member and formally acceded to it in 1980. It participated actively in the “Uruguay Round” negotiations (the 8th Round of GATT Talks), until the Final Act of the GATT Agreement and the Marrakesh Agreement Establishing the WTO⁶² were signed in 1994. The Philippine Senate ratified the Final Act in 1994 and became a “founding member” of WTO effective 1 January 1995.

⁶² Adopted Apr. 15, 1994, entered into force Jan. 1, 1995, 1867 UNTS 154.

President Ramos advocated for the ratification of the WTO Agreement, underscoring that it was crucial to the country's economic development, as it would slash tariffs by an average of 24% over 10 years for developing nations and 36% over a six-year period for developed countries, thus boosting world trade. The use of unilateral sanctions was to be renounced and replaced by the referral of trade disputes before an independent dispute settlement system.⁶³

It was believed that the free development of market forces and a corresponding cutting back of regulation, both in the domestic and international sphere, would spur economic recovery, growth and general welfare.⁶⁴ It was envisioned to usher a more level field where countries can more fairly compete. This was the vision or intended role for the WTO. During the ratification process, the WTO was the subject of robust debate. Critics claimed that the WTO was an "imperialist tool aimed at keeping the Philippines under former colonial powers" and lead to the collapse of the agricultural sector.⁶⁵

After the establishment of the WTO, the succeeding rounds of negotiation have stalled. Developing countries pressed for opening by developed countries of their markets for agricultural products, while developed countries wanted to bring new issues such as investment protection and e-commerce to the negotiating table. "The WTO Treaty regime has not developed very well. The situation seemed promising at the outset, but the WTO did not develop as envisaged by its founders."⁶⁶

In view of the impasse at the WTO, some countries sought progress by negotiating large-scale regional trade agreements elsewhere, such as the

⁶³ The Philippines has utilized the WTO's dispute settlement mechanism, having been a complainant in five cases, respondent in six, and a third party in 18 cases. These include cases against Brazil (regarding measures affecting desiccated coconut), Australia (regarding certain measures affecting the importation of fresh fruit and vegetables), and Thailand (customs and fiscal measures on Philippine cigarettes). The Philippines has been a respondent in two cases regarding taxes on distilled spirits, which were filed by the US and the EU.

⁶⁴ NOLTE, *supra* note 2 at 124.

⁶⁵ Pepper Rodriguez, *Philippines Ratifies GATT*, UNITED PRESS INTERNATIONAL (Dec. 14, 1994), <https://www.upi.com/Archives/1994/12/14/Philippines-ratifies-GATT/6176787381200/>.

⁶⁶ NOLTE, *supra* note 2 at 129.

Comprehensive and Progressive Agreement on Trans-Pacific Partnership,⁶⁷ and the Regional Comprehensive Economic Partnership,⁶⁸ to which the Philippines belong.

Some observers have said that the mega-regional trade agreements undermine the WTO system, leading to a fragmentation of the global trading system into competing trade blocs.⁶⁹ This is the way the world trading system is being redefined.

Environment. There is perhaps no critical challenge which have been the sustained focus of both policy makers and concerned citizenry around the world than on the deteriorating state of the environment, particularly climate change. In 1994 countries signed the UNFCCC, a multilateral environmental agreement that aimed to stabilize global climate at a level that would prevent dangerous anthropogenic interference with the climate system, within a timeframe sufficient to allow ecosystems to adapt naturally to climate change. As of 2019, the agreement has 197 States Parties, comprising all UN Member States. The Philippines is a Party to the UNFCCC, having signed the instrument on 12 June 1992, and ratified the same on 2 August 1994.

The two main policy responses to climate change under the UNFCCC are mitigation and adaptation. Mitigation refers to human interventions that are meant to reduce the sources of, and enhance the sinks for, greenhouse gases. Adaptation, on the other hand, refers to adjustments in human and natural systems in response to the impacts of the changing climate.

The Philippines is identified as one of the most vulnerable countries to the adverse impacts of climate change due to its geography and topography. This is further exacerbated by the increasing rates of development and population growth.

The Philippines submitted two national communications to the UNFCCC; the first on 19 May 2000, and the second on 29 December 2014. In its more

⁶⁷ *Id.*, at 125.

⁶⁸ *Id.*

⁶⁹ NOLTE, *supra* note 2 at 138.

recent national communication,⁷⁰ the country identified the energy sector to be its greatest source of greenhouse gas emissions, with the sector accounting for 55% of total country-wide emissions. Agriculture is the second largest source of greenhouse gas emissions at 29%, followed by waste and industry at 9% and 7%, respectively. The Philippines contributes about 0.3% of global greenhouse gas emissions.⁷¹

An offshoot of the UNFCCC process, the Paris Agreement is a multilateral environmental agreement adopted in 2015 following a four-year negotiation process under the former Convention. This document was thereafter adopted by the 21st Conference of the Parties to the Convention in Paris, France, in 2015. The Paris Agreement seeks to further enhance the implementation of the objectives of the UNFCCC by establishing a process of ambition and implementation.

The Philippines signed the Paris Agreement on 22 April 2016, and ratified the same on 23 March 2017. In a show of good faith alongside other UNFCCC States-Parties, the Philippines submitted in April 2021 its Nationally Determined Contributions. In it, the country conveyed its intention to undertake a greenhouse gas emissions reduction and avoidance of 75% for the period 2020 to 2030.⁷² This reduction was meant to originate from the energy (including transport), waste, forestry, and industry sectors, and was conditioned on the availability of financing resources, technology development and transfer, and capacity building.

The Philippines is also a signatory to a number of other multilateral environmental agreements, notably the Kyoto Protocol (signed 1997, ratified 2003), the Montreal Protocol (signed 1987, ratified 1993) on climate change and ozone depletion, the Convention on Biological Diversity (signed 1992, ratified 1993), the Cartagena Protocol on Bio-Safety (signed 2000, ratified

⁷⁰ REPUBLIC OF THE PHILIPPINES, *Second National Communication to the United Nations Framework Convention on Climate Change: Philippines* (2014), <https://unfccc.int/documents/139241>.

⁷¹ Ben O. De Vera, *PH Adds Only 0.3% to Gas Emissions but Faces P506.1-B Losses Due to Climate Change*, INQUIRER.NET (Nov. 3, 2021), <https://newsinfo.inquirer.net/1509670/ph-adds-only-0-3-to-greenhouse-gas-emissions-but>.

⁷² REPUBLIC OF THE PHILIPPINES, *Nationally Determined Contribution Communicated to the UNFCCC on 15 April 2021*, <https://unfccc.int/sites/default/files/NDC/2022-06/Philippines%20-%20NDC.pdf>.

2006) and the International Tropical Timber Agreement (signed and ratified 1994).

In his remarks during the 76th Session of the UN General Assembly in September 2021, President Duterte appealed for an urgent climate action by all States, and reaffirmed the Philippines commitment to reducing greenhouse gas emissions by 75% in 2030.⁷³

United Nations. The Philippines has been an active participant in the shaping of international governance through the UN. It was one of the 50 original members of the organization. Carlos P. Romulo also became President of the UN General Assembly in 1949, the first Asian to occupy the position. The country was elected as a non-permanent Member of the UN Security Council four times – in 1957, 1963, 1980-1981 and 2004-2025.

The Philippines is one of the more active countries in Asia in terms of support to the UN, particularly in peacekeeping missions, having sent military and police officers and personnel to 10 troubled spots. Various UN specialized agencies and bodies have kept a close partnership with the Philippine government. The UN Country Team in the country comprises 17 agencies, funds and programmes, notably the Food and Agriculture Organization, International Labour Organization, International Maritime Organization, United Nations Children’s Fund, United Nations Entity for Gender Equality and Empowerment of Women, and United Nations Human Settlements Programme.

There have been calls through the years for urgent and comprehensive reforms of the UN system, particularly the Security Council. On 23 September 2022, a “Joint Statement on the Call to Action for Reform of the UN Security Council” was issued by 32 countries calling for a more inclusive, responsive and participatory international governance architecture. They cited the urgent “need [for] reformed and effective multilateralism to deliver solutions for the pressing and evolving challenges of our time, developmental

⁷³ PRESIDENTIAL COMMUNICATIONS OFFICE, *President Rodrigo Roa Duterte addresses the 76th Session of the United Nations General Assembly High-Level General Debate on 22 September 2021*, https://pco.gov.ph/photo_gallery/president-rodriigo-roa-duterte-addresses-the76th-session-of-the-united-nations-general-assembly-high-level-general-debate-on-22-september-2021/.

challenges, poverty, climate change, pandemics, global food security, international conflicts and crises, and international terrorism.”⁷⁴

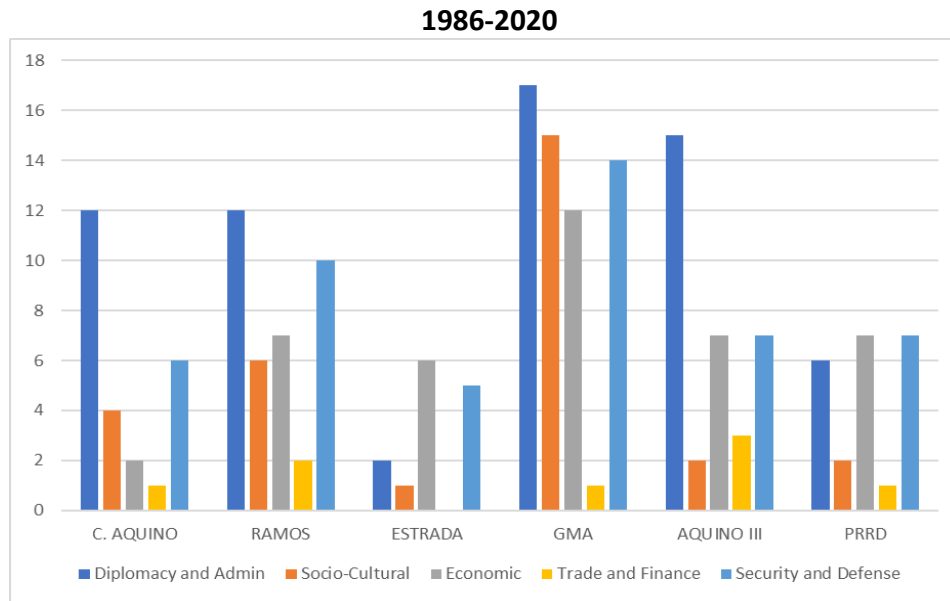
The Arroyo, Ramos and B. Aquino administrations had the most multilateral conventions signed, at 59, 37 and 34, respectively (see Table 15). There were fewer conventions entered during the Estrada and Duterte administrations, at 14 and 23 (partial figure), respectively. There was also a rare treaty withdrawal during the Duterte presidency, which was from the Rome Statute of the International Criminal Court, taking effect in March 2019.

Table 15. Multilateral Conventions by subject matter and presidential administration, 1986-2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Diplomacy and Admin	12	12	2	17	15	6	64
Security and Defense	6	10	5	14	7	7	49
Economic	2	7	6	12	7	7	41
Socio- Cultural	4	6	1	15	2	2	30
Trade and Finance	1	2	0	1	3	1	8
Total	25	37	14	59	34	23	192

Figure 7. Multilateral Conventions by subject matter and administration,

⁷⁴ Joint Statement - A Call to Action for Reform of the U.N. Security Council (2022), <https://www.mea.gov.in/outgoing-visit-detail.htm?35743/Joint+Statement++A+Call+to+Action+for+Reform+of+the+UN+Security+Council>.



6. *Defense of national sovereignty and protection of the environment and natural resources; ensuring rights over maritime territory*

The Constitution states that in the formulation and implementation of Philippine foreign policy, paramount consideration shall be given to national sovereignty and territorial integrity, among others.⁷⁵ The Constitution also obligates the State to “protect the nation’s marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone.”⁷⁶ Does treaty activities bear this out?

There has been increased attention to defense and security, with 105 agreements signed during the period 1986 to 2020 (see Table 16). With the heightened challenges in the West Philippine Sea/South China Sea and the broadening of the country’s security partners, defense cooperation agreements with other countries steadily rise, starting during the Ramos Administration at 8 and picking up once more during the Arroyo (11), B. Aquino (12) and Duterte (17) administrations.⁷⁷ Cooperation agreements on

⁷⁵ CONST. art. II, § 7.

⁷⁶ CONST. art. XII, § 2.

⁷⁷ J. EDUARDO MALAYA & MARIA ANTONINA MENDOZA-OBLENA, *FORGING PARTNERSHIPS: PHILIPPINE DEFENSE COOPERATION IN CONSTITUTIONAL AND INTERNATIONAL LAWS* (2016).

anti-terrorism and transnational crimes were also up during the last three presidential administrations.

Table 16. Security and Defense Treaties, 1986 - 2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Defense Cooperation	1	8	2	11	12	17	51
Maritime Cooperation	0	1	2	3	0	1	7
Anti-Terrorism	0	0	0	5	1	4	10
Transnational Crime	0	0	0	4	3	3	10
Coast Guard Cooperation	2	0	0	0	0	3	5
Trafficking In Persons	0	0	0	0	1	1	2
Maritime Delimitation	0	0	0	0	0	1	1
Security	0	0	0	0	0	1	1
TOTAL	3	9	4	23	17	31	87

Of relevance to the ensuring rights over maritime territory and protecting the environment and natural resources are agreements in the following areas: maritime cooperation – 6, including with Vietnam (2002) and Taiwan (2007); coast guard cooperation – 5, including with China (2016) and Japan (2017); and maritime delimitation – 1 (with Indonesia).

Nine bilateral agreements on environmental protection were also signed since 1986, notably with Malaysia (1996) and China (2017).⁷⁸ The Philippines is also signatory to two ASEAN environmental conventions, namely the Agreement on Conservation of Nature and Natural Resources (signed 1985, ratified 1986) and the Agreement on Transboundary Haze Pollution (signed 2002). The more significant treaties on the environment are the UNFCCC and the Paris Agreement, which were discussed earlier.

⁷⁸ These nine agreements were signed during the following administrations – Ramos (3), Estrada (1), Arroyo (3), B. Aquino (1) and Duterte (1).

The Philippines filed an extended continental shelf claim over the Benham/Philippine Rise off the east coast of Luzon, which the Commission on the Limits of the Extended Continental Shelf recommended in 2012. The Philippines concluded an Exclusive Economic Zone (EEZ) delimitation agreement with Indonesia in 2014 on the basis of the equidistance principle. The two countries are currently in talks on continental shelf delimitation, and the Philippines is also engaged in EEZ delimitation talks with Palau. The country has yet – as of this writing – to enact laws defining the country’s maritime zones and designating archipelagic sea lanes in its archipelagic waters.

Piracy and armed robbery against ships have been a perennial concern in the region, and bilateral and sub-regional cooperation have been pursued to address them. To address the incidence of kidnapping for ransom and other transnational crimes at sea, the Indonesia-Malaysia-Philippines Cooperation in the Sulu Sea was established in 2017.

Serious challenges to the EEZ of the Philippines and other littoral states in the South China Sea have remained. These came to a boil in the stand-off in 2012 with the Chinese Coast Guard vessels and fishing militia at the Scarborough Shoal, which is within the Philippines’ EEZ. This prompted the administration of President Benigno Aquino to institute arbitral proceedings in 2013 against China under Annex VII of the United Nations Convention on the Law of the Sea. The resulting 2016 *South China Sea Arbitration* award found China’s “nine-dash line” claim to be invalid to the extent that it exceeds the geographic and substantive limits of Chinese maritime entitlements under the Convention. Tensions in the South China Sea continue as of this writing.

The unresolved maritime claims have contributed to the continuing serious environmental degradation in the South China Sea, notably the destruction of coral reefs, ocean acidification, overfishing, and plastic pollution, with long-term negative impact on marine life, notably species which are endangered.⁷⁹ It has also hampered efforts to urgently address the

⁷⁹ James Borton, *Potential Danger to Biodiversity and Economic Productivity in the East Sea, in ISLANDS AND ROCKS IN THE SOUTH CHINA SEA: POST HAGUE RULING* (2017).

management and conservation of living and non-living resources, a major concern of which is the incidence of illegal, unregulated and unreported fishing (IUU fishing), which if not managed may lead to a collapse of the fishery resources in the area.

The ASEAN Member States and China have been engaged in negotiations on a proposed code of conduct (COC) to manage the disputes for nearly three decades. The resolution of the issues has thus far eluded them, and the talks on the proposed code remain a work in progress.

7. Economic growth as requiring direct foreign investment

Economic development has been a priority for all presidential administrations, and this requires huge amounts of investments, both domestic and foreign. Foreign direct investments have been viewed as key drivers in any economy, including of the Philippines, as it creates opportunities for employment, transfer of technology, foreign exchange from exports, and sharing of knowledge and managerial know-how.

To attract foreign investments, it has been deemed necessary to provide protection to them. Most investment treaties have provisions on guarantee of “fair and equitable treatment,” a “most-favored nations” clause, no uncompensated expropriation, and the right of private investor to initiate proceedings against the host State.

The treaty data set affirms the campaign to attract and facilitate the entry of foreign investments as reflected in the number of bilateral investment treaties signed since 1987, although there has been a downward trend in recent years.

To attract foreign investments, the Corason Aquino administration launched the Development Diplomacy policy, which among others yielded five trade agreements, four avoidance of double taxation agreements and three agreements on investment promotion and protection (also known as bilateral investment treaty [“BIT”]). The campaign gained momentum during the Ramos administration with its economic diplomacy – or “diplomacy for economic ends,” as enunciated by his Secretary of Foreign Affairs, Roberto

Romulo⁸⁰ – resulting in 14 BITs and 10 agreements on avoidance of double taxation. These high numbers were rivalled only by the succeeding Arroyo administration's 11 BITs and 10 avoidance of double taxation agreements.

In sum, there were significant signing of BITs after 1986, yielding 14, 8 and 11 during the Ramos, Estrada and Arroyo administrations, respectively. However, there has been a noticeable drop in the signing of BITs during the B. Aquino and Duterte administrations, with none and four, respectively.

Table 17. Investment and Trade Treaties, 1986 – 2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Trade	5	11	3	9	2	6	36
Fiscal Matters/ Avoidance of Double Taxation	4	10	1	10	8	4	37
Investment Promotion and Protection	3	14	8	11	0	4	40
Custom Matters	2	0	1	3	2	0	8
Trade and Investment	0	0	0	1	1	0	2
TOTAL	14	35	13	34	13	14	123

The souring on the BITs has largely been due to their provision on investor-state arbitration, a standard feature that has been much criticized by developing countries for having been abused by some investors.⁸¹ In the Philippines' case, the German airport operator Fraport sued the Philippine Government on its concession agreement for the then newly constructed

⁸⁰ Roberto Romulo, Address Before the Makati Business Club (Jan. 18, 1993), in DOMINGO, FOREIGN AFFAIRS, 249-255.

⁸¹ ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, *Investor-State Dispute Settlement* (2012), https://www.oecd.org/daf/inv/investment-policy/ISDSconsultationcomments_web.pdf.

Terminal 3 of the Ninoy Aquino International Airport before the International Centre for Settlement of Investment Disputes (ICSID). An ICSID tribunal found that illegalities associated with Fraport's initial investment resulted in a lack of subject matter jurisdiction under the 1997 Germany-Philippines bilateral investment treaty. At the same time, the tribunal declined jurisdiction over counterclaims pertaining to Fraport's alleged corruption and fraud.⁸²

The downward trend in the signing of BITs has been observed in most other countries. Georg Nolte noted that “[w]hereas the number of treaties concluded has risen sharply during the 1990s, this trend has slowed down considerably after 2001. This is not because most States had by then concluded an investment treaty with those other States in which their nationals hold or could hold investments – far from it. Rather, it seems that the practice under the treaties and their context have given States second thoughts about investment treaties generally.”⁸³ States and other observers have voiced concerns that arbitral tribunals under investment treaties are rendering decisions which are unexpectedly friendly to investors and disregard legitimate policy choices of States.⁸⁴

Nonetheless, despite the slowdown in BITs, the entry of foreign investments into the Philippines (as well as other countries) has continued, as there are other equally important considerations for investing. Reform legislations have been enacted in recent years to make the investment climate of the Philippines more competitive and friendlier to foreign investors. These include amendments to the Foreign Investment Act,⁸⁵ which enables foreign investors to fully own domestic enterprises in the Philippines;

⁸² Matthew Levine, *German Investor's Claim Against the Philippines over Manila Airport Concession Fails for the Second Time at ICSID*, INT'L INST. SUSTAINABLE DEV. (May 21, 2015), <https://www.iisd.org/itn/en/2015/05/21/german-investors-claim-against-the-philippines-over-manila-airport-concession-fails-for-the-second-time-at-icsid/>.

⁸³ NOLTE, *supra* note 2 at 146.

⁸⁴ *Id.*, at 147-148, citing Susan D. Franck, *The Legitimacy Crisis in Investment Treaty Arbitration: Privatizing Public International Law through Inconsistent Decisions*, 73 FORDHAM L. R. 1521 (2005) and GUS VAN HARTEN, *INVESTMENT TREATY ARBITRATION AND PUBLIC LAW* 175-184 (2007).

⁸⁵ Rep. Act No. 11647, An Act Promoting Foreign Investments, Amending Thereby Republic Act No. 7042, Otherwise Known as the “Foreign Investment Act of 1991,” <https://www.officialgazette.gov.ph/2022/03/02/republic-act-no-11647/>.

the Philippine Public Service Act,⁸⁶ which allows full foreign ownership of certain public services enterprises, such as telecommunications, and the Retail Trade Liberalization Act,⁸⁷ which eased some requirements for foreign investors to engage in retail trade.

At the international level, there has also been an ongoing movement to reform BITs with a more diversity of procedures, larger policy space for host States, and an increased importance of multilateral treaties.⁸⁸

8. *Quick benefits from international tourism*

Tourism is considered as another key contributor to economic development. The benefits from international tourism are not only the revenues generated from foreign tourists but also the employment that tourism and related establishments generate. The tourism industry is labor-intensive, and tourist spots abound in the countryside, thus employment generation is spread out. The tourism industry, including hotel and hospitality, provides the largest number of employment in the country – 5.7 million in 2019, or 13.6% of the total population.⁸⁹

To this end, there have been concerted efforts to sign tourism cooperation agreements, yielding 35 such agreements. Among these were two tourism cooperation agreements with China, signed in 2000 and 2002, as sizable numbers of tour groups from China have visited the Philippines.

Table 18. Tourism Treaties, 1986 - 2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Tourism	1	7	5	11	5	6	35

⁸⁶ Rep. Act No. 11659, An Act Amending Commonwealth Act No. 146, Otherwise Known as the Public Service Act, <https://www.officialgazette.gov.ph/2022/03/21/republic-act-no-11659/>.

⁸⁷ Rep. Act No. 11595, An Act Amending Republic Act No. 8762, Otherwise Known as the “Retail Trade Liberalization Act of 2000,” <https://www.officialgazette.gov.ph/2021/12/10/republic-act-no-11595/>.

⁸⁸ NOLTE, *supra* note 2 at 159.

⁸⁹ Kristhel Anne M. Caynila, Katherine T. Luna & Sarah Amabelle A. Milla, *The Philippine Tourism Sector Amid the Pandemic: Developments and Prospects*, BANGKO SENTRAL NG PILIPINAS (May 2022), https://www.bsp.gov.ph/Media_And_Research/Publications/EN22-02.pdf.

The Ramos administration spearheaded significant developments in the tourism industry, notably the increased flights and routes, new airlines, constructions of the Ninoy Aquino International Airport's Terminals II and III, new Batangas port, and deregulation and privatization of transportation.⁹⁰

The Arroyo administration also established the roll-on roll-off program, connecting the islands which resulted in easier access to a number of island destinations at reduced travel cost. Improvements were made at the airports, including the Kalibo airport, the gateway to the renown Boracay island, and other land and water transportations.⁹¹

On the policy front, the B. Aquino administration signed Executive Order No. 29 in March 2011⁹² on the “pocket-open skies” policy, which eased restrictions on foreign airlines and allows them to land in selected international airports outside Metro Manila.⁹³ E.O. 29 gives secondary gateways the opportunity to be connected to international and local markets, bringing tourists and investors directly to destinations such as Clark, Laoag, Cebu, Davao and Puerto Princesa. In doing so, more foreign travelers on planes charging lower fares are able to visit the Philippines.

In 2016, the Philippines signed on to the ASEAN Open Sky Policy, paving the way for full third, fourth and fifth freedom rights for ASEAN carriers.⁹⁴ The Philippines was the last holdout to ratify Protocol 5 and 6 of the Multilateral Agreement on Air Services, opening Manila to all Southeast Asian carriers.

A more liberalized aviation rule dispenses with the need to negotiate bilateral Air Services Agreement each time, thus the downtrend in the signing of such agreement starting B. Aquino's (at 6) and Duterte's administrations (3).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Exec. Order No. 29 (2011), Authorizing the Civil Aeronautics Board and the Philippine Air Panels to Pursue More Aggressively the International Civil Aviation Policy.

⁹³ Jocelyn R. Uy, *DOT: Philippine airlines to survive 'pocket-open skies'*, PHIL. DAILY INQUIRER (Sept. 10, 2011), <https://newsinfo.inquirer.net/61119/dot-philippine-airlines-to-survive-%E2%80%98pocket-open-skies%E2%80%99>.

⁹⁴ Rosa Ocampo, *Philippines signs ASEAN open skies agreement*, TTG ASIA (Feb. 11, 2016), <https://www.ttgasia.com/2016/02/11/philippines-signs-asean-open-skies-agreement/>.

The COVID-19 pandemic heavily affected the country's tourism sector with the fall of international and domestic tourist arrivals at 80% in 2020 and some 90% in 2021, which led to the closure of a significant number of hotels, travel agencies and other travel-related entities. With the pandemic over and the tourism sector fully open again, foreign tourists have started returning.⁹⁵

9. *Overseas Filipinos playing critical role in economic and social stability*

A significant feature of Philippine contemporary society is the presence of millions of Filipinos residing overseas as contract workers and immigrants. Most of them went abroad in search of better livelihood opportunities, and send financial support to their families back home. Overseas Filipino workers ("OFWs") or more broadly, overseas Filipinos, significantly contribute to the continuing vitality of the Philippine economy by way of their foreign exchange remittances and the technical and managerial knowledge they bring home, thus the title "*mga bagong bayani*" (new heroes). In 2020, remittances of overseas Filipinos were estimated at PHP 134.77 billion.⁹⁶

Started as an experimental program in the early 1970s of deploying Filipino engineers and manpower to the oil fields and construction sites in the Middle East, the number of deployed workers ballooned through the years. Together with long-term immigrants in North America and elsewhere, overseas Filipinos now number over 10 million around the world. These huge numbers present unprecedented challenges to the Philippine Government, especially the Departments of Foreign Affairs and Labor, in servicing their requirements and ensuring them welfare and labor protection.⁹⁷

⁹⁵ Ellie Aben, *Philippine Tourism Tipped to Recover Faster than Global Average*, ARAB NEWS (Apr. 22, 2022), <https://www.arabnews.com/node/2068306/world>.

⁹⁶ PHILIPPINE STATISTICS AUTHORITY, *2020 Overseas Filipino Workers (Final Results)* (Mar. 7, 2022), <https://psa.gov.ph/content/2020-overseas-filipino-workers-final-results#:~:text=Total%20remittance%20sent%20in%202020,billion%20pesos%20reported%20in%202019.&text=On%20average%2C%20about%2086.81%20thousand,sent%20per%20OFW%20in%202019>.

⁹⁷ Undersecretary for Migrant Workers Affairs Jose S. Brillantes identified a number of pressing problems that should be addressed by the government and other mechanism that need to be undertaken to ensure protection of Filipino migrant workers, as follows: need for protective measures to keep the balance between concerns of market development and workers' welfare; job mismatch and reskilling; reintegration of returning workers;

To address these challenges, the Philippine Congress enacted Republic Act No. 8042, as amended by Republic Act No. 10022 – the Migrant Workers and Overseas Filipinos Act of 1995 to institute policies on overseas employment and establish a higher standard of protection for migrant workers and their families. The law also created the Assistance to Nationals Fund and the Legal Assistance Fund. In 2022, Congress established the Department of Migrant Workers, consolidating into that department the many agencies and offices dealing with migrant workers deployment and assistance.⁹⁸

Foreign Affairs Secretary Albert del Rosario noted in 2011, “the sheer magnitude of the Filipino diaspora prompted the Philippine Government to pursue and enhance bilateral agreements, regional arrangements and international standards affecting migrant workers.”⁹⁹

The question is whether treaty activities bear this out? The data indicate that presidential administrations starting with Ramos have prioritized the signing of bilateral labor agreements, particularly in countries where there are significant concentrations of Filipino workers. Twenty-seven (27) labor agreements have been signed thus far, notably with countries in the Middle East where most OFWs work, namely Kuwait (1997, 2012), Libya (2006), United Arab Emirates (2007, 2017), Qatar (2008), Jordan (2010, 2018), Lebanon (2012), Saudi Arabia (2013) and Israel (2 agreements, 2019). The

concentration of women migrants in vulnerable occupations; consequences on social structures and value systems; illegal recruitment; and trafficking in persons and human smuggling. See Philippine Migrants Rights Groups' Written Replies to the List of Issues Relating to the Consideration of the Initial Report of the Philippines (Mar. 2009), https://www2.ohchr.org/english/bodies/cmw/docs/ngos/pmg_philippines10.pdf.

⁹⁸ *Id.* Other legal frameworks on overseas employment include Exec. Order No. 325 creating the Presidential Anti-Illegal Recruitment Task Force (signed in July 2004), Rep. Act No. 9208 or the “Anti-Trafficking in Persons Act of 2003,” Presidential Decree No. 442 or the “Labor Code of the Philippines”, and Exec. Order No. 797 (enacted in 1982) which facilitated the streamlining of procedures, systems and operations with respect to overseas employment, created the Philippine Overseas Employment Administration, and then the Overseas Workers Welfare Administration.

⁹⁹ Albert del Rosario, Sec’y. of Foreign Aff., Address Before the Diplomatic Corps (Apr. 4, 2011), <https://www.officialgazette.gov.ph/2011/04/04/remarks-of-foreign-affairs-secretary-del-rosario-during-the-first-diplomatic-reception/>.

Arroyo, B. Aquino and Duterte administrations had the most number of labor agreements signed, at 11, 8 and 7, respectively (see Table 19).

Philippine foreign policy is also geared at putting the migrant workers agenda in regional and international fora inasmuch as the transmigration of people is a global reality, and is a part and parcel of the human rights agenda.¹⁰⁰ As earlier noted, the centerpiece of the Philippines' ASEAN chairmanship in 2017 was the signing of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, which aimed at providing protection to all migrants workers across the region, including some 200,000 Filipinos.

The Philippines is one of the first signatories to the UN Migrant Workers' Convention signed in 1993,¹⁰¹ and actively campaigned for the Global Compact on Safe, Orderly and Regular Migration, which was adopted in December 2018 by 152 States, including states in Europe, Americas, Africa, Asia and all Arab labor-receiving States.

Agreements related to the promotion of the welfare of overseas Filipinos were also entered into, notably on consular matters (4 agreements), transfer of sentenced persons (3) and trafficking in persons (2). Thirteen agreements on social security have been signed after 1985,¹⁰² specifically three during the Aquino and Ramos administrations, four during Arroyo's, two during B. Aquino's and four during Duterte's.

Table 19. Labor and related Agreements, 1946-2020

	C. AQUINO	RAMOS	ESTRADA	ARROYO	B. AQUINO	DUTERTE	TOTAL
Labor Cooperation	0	1	0	11	8	7	27

¹⁰⁰ SIAZON, *supra* note 53.

¹⁰¹ *Id.*

¹⁰² Social security agreements, also known as totalization agreements, are designed to coordinate the social security systems of two countries to ensure that individuals who have worked in both countries are not doubly taxed or ineligible for benefits due to differences in eligibility requirements. These agreements are important for individuals who work or have worked in both countries and help to facilitate cross-border trade and investment.

Consular Matters	0	2	0	1	1	0	4
Transfer of Sentenced Persons	0	0	0	3	0	0	3
Trafficking in Persons	0	0	0	0	1	1	2
TOTAL	0	3	0	15	10	8	36

CONCLUSIONS AND SUGGESTED WAYS FORWARD

On the basis of the foregoing discussions, the following observations can be drawn:

For the Philippines' first five decades, from 1946 to 1993, the average annual number of bilateral agreements entered into by the country was seven, a modest output. From 1994 onwards, however, starting with the Ramos presidency, there have been significant numbers of agreements signed, averaging between 20 to 40 annually. The latter period indicates robust diplomacy and active engagement with the international community. It coincided with the thawing of the Cold War and the onset of globalization which saw unprecedented growth in international trade and the exchange of ideas, beliefs, and culture.¹⁰³

Second, the agreements entered into in the early decades were mostly soft-type ones aimed at fostering friendship and goodwill, notably establishing diplomatic relations and enhancing cultural exchanges, which reflected the initial contacts with other countries. Thereafter, accords on education, labor and related cooperation, which are more substantive in nature, started to increase in numbers. At the same time, economic agreements figured prominently in both early and later periods, averaging a third of all agreements (30.90%) during the period 1946-1985 and more than a quarter (27.59%) for 1986-2020, reflecting the priority given to promoting and sustaining economic growth.

Third, as can be expected, the foreign policy outlook – whether outward- or inward-looking – of the president has significant influence on his administration’s foreign policy making. The proactive engagement with the international community of the Quirino and Macapagal administrations can be attributed to both presidents’ earlier stints in diplomacy. The same can be said of the administration of Ramos and Arroyo, who both studied in foreign universities. The reverse can be said of the low number of agreements signed during the Garcia presidency, whose administration prioritized domestic industrialization and rebuilding.

Fourth, Philippine external relations, as reflected in agreements signed, were initially geared towards engagements with the United States, and then with Europe, Southeast Asia, the rest of Asia, and other regions. Agreements with Southeast Asian neighbors started gaining prominence in the late sixties, ushered in by the establishment of the regional organization ASEAN in 1967, and this trend continues to this day. The least number of agreements were those with Africa and Oceania.

Fifth, at the country-specific level, the Philippines’ top bilateral partners during the period 1946-1985 were the U.S., Indonesia, Japan, Spain, and Germany, Israel and South Korea. There were remarkable changes in the top country partners in the 1986-2020 period, as follows: China, Russia, Spain, Thailand and South Korea. During the later period, the U.S. was relegated from first to eighth, while China and Russia took first and second place, while Thailand and South Korea replaced Indonesia and Japan.

On whether there have been alignment or discontinuities of treaty activities with foreign policy priorities, as enunciated in the Nine Realities of Foreign Policy, a positive correlation between the treaty activities and the identified foreign policy priorities has been observed, with the following information on each of them:

- The treaty data affirm that the United States, China and Japan have a determining influence in the security situation and economic evolution of East Asia, including the Philippines. The country’s engagements with these three countries have been more extensive than with others. The U.S. and Japan are its key traditional partners, particularly in the politico-security and economic fields respectively, while China is the ascendant political, military and economic power

- in the Asia-Pacific region. During the post-1985 period, most of the agreements with China are economic in nature (16), while those with the U.S. are on security and defense (8). The country has five agreements each on economic and security and defense with Japan.
- On Philippine foreign policy decisions being increasingly made in the context of the ASEAN, the data on agreements concluded under the auspices of the ASEAN show a steady rise in its numbers, initially covering economic and socio-cultural cooperation, which was its focus during the early decades of its existence, and then branching into the political, security and other fields. A total of 80 legal instruments concluded among and between ASEAN Member States from 1967 up to the present, comprising 58 economic agreements, 14 politico-security agreements, and 8 socio-cultural agreements. Sixty-one of the 80 ASEAN agreements are currently in force for the Philippines. The ASEAN is the country's primary forum in the promotion of regional peace, security and prosperity, and its ASEAN partners are among its closest collaborators on international issues.
 - The importance of the international Islamic community to the Philippines is reflected in the 129 bilateral agreements with countries in the Middle East, with high numbers reached in the post-1985 administrations. Eleven of the 129 agreements deal with labor protection and cooperation. Three "Os" characterized the country's interests vis-à-vis the Middle East – oil, the OIC and the OFWs. With the signing of peace agreements with the MNLF and then MNLFF, the significance of the OIC has ebbed, but the country's dependence on oil from the Middle East and the significant number of Filipino workers there will keep relations with that region foremost to the Philippines.
 - On Europe playing a significant role in promoting prosperity and stability, some 246 agreements with European countries were signed by the Philippines during the period 1986 to 2020. The Philippines and the European Union also have a Partnership Cooperation Agreement, and Philippine exports have been granted entry through the EU's Generalized Scheme of Preference Plus (GSP+). In addition, ASEAN has had dialogue relations with the EU for over forty years, and the ASEAN-EU Strategic Partnership was signed in 2020. Through its "Strategy for cooperation in the Indo-Pacific," the EU conveyed in 2021 its determination to enhance engagement with the region,

including ASEAN. Overall, the treaty data affirms the strong PH-EU partnership¹⁰⁴ through the years, with cooperation agreements in various fields.

- On the redefinition of the role of multilateral and inter-regional organizations in promoting common interests, the Philippines is state party to some 375 conventions entered into under the auspices of the UN and other international organizations from 1946 to 2020, of which 192 were concluded after 1986. In a globalized world which thrives on trade and investments, foremost among the international organization is the WTO. However, succeeding rounds of negotiation after its establishment in 1994 have stalled on issues such as investment protection, e-commerce and the entry of agricultural products. In view of this impasse at WTO, the trend is towards negotiating of large-scale regional trade agreements, such as the Comprehensive and Progressive Agreement on Trans-Pacific Partnership¹⁰⁵ and the Regional Comprehensive Economic Partnership, leading to fears of a fragmentation of the global trading system into competing trade blocs.

On the other hand, the challenge of climate change has led policy makers and concerned citizenries around the world to look to international institutions to take the lead in addressing it. Parties to the 1994 UNFCCC meet annually to coordinate policies and actions with the aim of stabilizing global climate at a level that would prevent dangerous anthropogenic interference with the climate system, within a timeframe sufficient to allow ecosystems to adapt naturally to climate change. The Philippines is identified as one of the most vulnerable countries to the adverse impacts of climate change due to its geography and topography. This is further exacerbated by the increasing rates of development and population growth. Climate change is an existential challenge like no other, and how it is addressed will have long term consequences on the livability of planet earth.

- On the defense of the nation's sovereignty, protection of its environment and natural resources and ensuring respect of its rights over its maritime territory, Philippine diplomacy has given priority

¹⁰⁴ Notwithstanding the aloof attitude of EU Members States and other Western countries towards the Duterte Administration, 52 agreements were signed during the period. See Table 12.

¹⁰⁵ NOLTE, *supra* note 2 at 125.

attention to defense and security matters, with 88 agreements signed in the period 1986 to 2020. With the heightened challenges in the West Philippine Sea/South China Sea and the broadening of the country's security partners, the number and quality of defense cooperation agreements have steadily risen, starting during the Ramos Administration with eight agreements and increasing further during the Arroyo (11), B. Aquino (12) and Duterte (17) administrations.¹⁰⁶ Cooperation agreements on anti-terrorism and transnational crimes were also up during the last three administrations.

- On economic growth requiring a lot of direct foreign investment, the treaty data set affirms that presidential administrations have conducted sustained campaigns to attract and facilitate the entry of foreign investments, as reflected in the number of bilateral investment treaties signed since 1987, although there has been a downward trend in recent years. There were significant number of signings of bilateral investment treaties (BITs) after 1986, yielding 14, 8 and 11 during the Ramos, Estrada and Arroyo administrations, respectively. However, there were noticeable drops in the signing of BITs during the B. Aquino and Duterte administrations, at none and four, respectively. As discussed earlier, the souring on the BITs has largely been due to the provision on investor-state arbitration. This downward trend in the signing of BITs has been observed in most other countries.
- On the country benefitting most quickly from international tourism, the various administrations, through the tourism department, have conducted concerted efforts to conclude tourism cooperation agreements, yielding 35 such agreements, in a bid to facilitate the entry of foreign tourists to the country. Among these were two tourism cooperation agreements with China, signed in 2000 and 2002, which organizes tour groups to other countries. Most countries though leave tourism matters to their private sector and the traveling to decide upon, and for the latter, it is not so much the presence of tourism cooperation agreements which are crucial, but the attractiveness of the place to visit and its accessibility (availability of flights, travel time required, ready infrastructure, safety and

¹⁰⁶ MALAYA & MENDOZA-OBLENA, *supra* note 77.

security, among others). Measures to address the latter are what would make the country tourist-friendly in the long-term.

- On overseas Filipinos playing a critical role in the country's economic and social stability, presidential administrations from Ramos onwards have prioritized the signing of bilateral labor agreements with countries where there are significant concentrations of Filipino workers. Twenty-seven (27) such agreements have been signed thus far, notably ten with countries in the Middle East where most OFWs work. On the policy level, the Philippines has also placed the migrant workers agenda in regional and international fora in the realization that the transmigration of people is a global reality, and should be part and parcel of the human rights agenda.

At a time of scarce resources, notably the valuable time and attention of relevant foreign policy actors, the challenge is how to ensure that foreign policy activities, especially treaty making actions, are pursuant to identified foreign policy priorities. Having foreign policy plans and roadmaps, notably the medium-term DFA Strategic Plan and the National Security Plan, are helpful starting points. These though need to be referred to, fleshed out in implementing details and reviewed and updated as needed.

In addition, constant dialogue and engagement need to be undertaken with Congress, particularly the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, in order to solicit the latter's views and guidance. Furthermore, regular dialogue should also be undertaken with the academe, law practitioners, business community, and the general public in order for the formulation and implementation of foreign policy to be inclusive, transparent and representative of the views of key sectors of society. A best practice in public consultation was conducted on 4 December 2017 during the Colloquium on International Law Issues which was convened by the Department of Foreign Affairs' Office of Treaties and Legal Affairs, in partnership with the U.P. Law Center's Institute for International Legal Studies ("UP-IILS"). The Colloquium solicited inputs from law practitioners in the private and public sectors, including law firms and the academe, on a proposed priority agenda for the Philippines in international law; and brought together Filipino international law experts and practitioners as a starting point for a domestic international law interest group that the Department can engage with on various international law issues, especially

on the two major themes of international legal and judicial cooperation; and trade and investment facilitation. A number of recommended ratifications and accessions to treaties were raised, of which at least five were carried out and implemented in succeeding years.¹⁰⁷

¹⁰⁷ See proceedings of the 2017 Colloquium on International Law Issues in the 2017 Philippine Yearbook of International Law, pp. 143-229. On legal and judicial cooperation, presentors recommended accessions to the Apostille Convention, the Service Convention, and the Child Support Convention, all within the auspices of the Hague Conference on Private International Law, which have since then been carried out. In the field of trade and investment facilitation, the following were recommended: ratification of the UN Convention on the Use of Electronic Communications in International Contracts (ECC), (b) signing of the Framework Agreement on the Facilitation of Cross-Border Paperless Trade in Asia and the Pacific (FA), and ratification of the UN Convention on Contracts for the International Sale of Goods (CISG). The first and second recommendations have been carried out, but the third one – arguably the most important to competitiveness and efficiency of businesses – remains a work in progress.

