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14 November 2019

Proposed Loan Capacity Building to Foster Competition Project (Philippines)

1. The Report and Recommendation of the President (RRP: PHI 52078-001) on the proposed loan to the Philippines for the Capacity Building to Foster Competition Project is circulated herewith.
2. This Report and Recommendation should be read with (i) *Country Partnership Strategy: Philippines, 2018–2023—High and Inclusive Growth*, which was circulated to the Board on 27 August 2018 (DOC.Sec.M9-18); and (ii) *Country Operations Business Plan: Philippines, 2019–2021*, which was circulated to the Board on 9 October 2018 (DOC.IN.388-18).
3. In the absence of any request for discussion and in the absence of a sufficient number of abstentions or oppositions (which should be communicated to The Secretary by the close of business on 5 December 2019), the recommendation in paragraph 34 of the paper will be deemed to have been approved, to be so recorded in the minutes of a subsequent Board meeting. Any notified abstentions or oppositions will also be recorded in the minutes.

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Report and Recommendation of the President to the Board of Directors

Project Number: 52078-001
November 2019

Proposed Loan Republic of the Philippines: Capacity Building to Foster Competition Project

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Asian Development Bank

CURRENCY EQUIVALENTS

(as of 7 October 2019)

Currency unit	–	peso/s (₱)
₱1.00	=	\$0.01934
\$1.00	=	₱51.69

ABBREVIATIONS

ADB	–	Asian Development Bank
ASEAN	–	Association of Southeast Asian Nations
NEDA	–	National Economic and Development Authority
PAM	–	project administration manual
PCA	–	Philippine Competition Act
PCC	–	Philippine Competition Commission
PDP	–	Philippine Development Plan
PMU	–	project management unit
UP	–	University of the Philippines

NOTE

In this report, “\$” refers to United States dollars.

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PROJECT AT A GLANCE

1. Basic Data		Project Number: 52078-001	
Project Name	Capacity Building to Foster Competition Project	Department/Division	SERD/SEPF
Country	Philippines	Executing Agency	Philippine Competition Commission
Borrower	Republic of the Philippines		
Country Economic Indicators	https://www.adb.org/Documents/LinkedDocs/?id=52078-001-CEI		
Portfolio at a Glance	https://www.adb.org/Documents/LinkedDocs/?id=52078-001-PortAtaGlance		
2. Sector		Subsector(s)	
Public sector management	Economic affairs management	ADB Financing (\$ million)	
	Law and judiciary	7.30	
	Public administration	7.00	
		9.00	
		Total	23.30
3. Operational Priorities		Climate Change Information	
Accelerating progress in gender equality		Climate Change impact on the Project	Low
Strengthening governance and institutional capacity			
Sustainable Development Goals		Gender Equity and Mainstreaming	
SDG 5.5		Some gender elements (SGE)	
SDG 8.3			
SDG 16.6, 16.b			
		Poverty Targeting	
4. Risk Categorization:		Low	
5. Safeguard Categorization		Environment: C Involuntary Resettlement: C Indigenous Peoples: C	
6. Financing			
Modality and Sources		Amount (\$ million)	
ADB		23.30	
Sovereign Project (Regular Loan): Ordinary capital resources		23.30	
Cofinancing		0.00	
None		0.00	
Counterpart		6.00	
Government		6.00	
Total		29.30	
Currency of ADB Financing: US Dollar			

I. THE PROPOSAL

1. I submit for your approval the following report and recommendation on a proposed loan to the Republic of the Philippines for the Capacity Building to Foster Competition Project.

2. The project will help the Government of the Philippines implement the Philippine Competition Act (PCA),¹ and will foster the government's capacity to enforce the competition law to promote free and fair competition in economic activities. The project will: (i) strengthen the institutional capacity of the Philippine Competition Commission (PCC) to foster competition, (ii) establish a cross-government staff development program for competition policy; and (iii) ensure the sustainability of the reforms by establishing an academic center of excellence in competition law and policy.

II. THE PROJECT

A. Rationale

3. **Development challenges.** The Philippines has been an economic leader among the Association of Southeast Asian Nations (ASEAN) member countries since the global financial crisis in 2008. Economic growth averaged 6.3% per year during 2010–2018. To maintain this momentum, the Philippine Development Plan (PDP), 2017–2022 continues the government's strong emphasis on inclusive growth. Under the PDP, the government has set a strategic target to reach upper middle-income status by 2022. To meet this goal, effective market competition is essential as it fosters an efficient allocation of scarce resources and encourages the adoption of modern technology. An uncompetitive market is prone to collusion and abuse of market dominance. The result is often substandard service delivery with exorbitant prices, which adversely affects consumer welfare. Moreover, research indicates that the adoption of appropriately structured and timed competition policy can help an economy avoid the middle-income trap.² In recognition of this challenge, the PDP highlights enhancing market competition as a crosscutting strategy.³ Accordingly, the government has committed to creating an environment that penalizes anticompetitive practices, facilitates the entry of new players, and supports regulatory reforms.

4. However, the Philippine competition environment remains weak and is a major factor constraining economic growth and inclusiveness. The World Economic Forum Global Competitiveness Report, 2017–2018 ranking shows the Philippines as the 4th largest market in Southeast Asia, but the country needs to improve business dynamism and product market efficiency (Table 1). According to product market regulation indicators, Philippine markets display higher levels of restrictiveness than comparator countries⁴ in three main areas: (i) barriers to trade and investment; (ii) barriers to entrepreneurship; and (iii) state involvement in business operations.⁵ Notably, the Philippines has important sectors, with high market concentration that

¹ Republic Act 10667 was signed into law on 21 July 2015.

² European Bank for Reconstruction and Development. 2016. *Competition Authorities in South Eastern Europe: Building Institutions in Emerging Markets*. London.

³ Government of the Philippines, National Economic and Development Authority. 2017. *Philippine Development Plan, 2017–2022*. Manila (Chapter 16).

⁴ Product market regulation indicators are based on a qualitative analysis of the regulatory framework, collected through a questionnaire that assesses regulations both economy-wide and in key sectors of the economy. Separate sectoral indicators are built for network industries.

⁵ World Bank. 2018. *Fostering Competition in the Philippines: the challenge of restrictive regulations*. Manila.

are dominated by monopoly, duopoly, or oligopoly structures, with incumbent players enjoying high profit margins of more than 40%. In addition, the price-cost margin is high in many goods and services markets, including beverages, agricultural products, disease and pest control services, and many types of transport services.⁶ This leads to higher prices and lower welfare of the population.

Table 1: Global Competitiveness Index Rankings of Nine ASEAN Member States*

Business Dynamism		Product Market Efficiency		Market Size	
Singapore	12	Singapore	1	Indonesia	10
Malaysia	21	Malaysia	12	Thailand	18
Brunei Darussalam	56	Thailand	37	Malaysia	24
Viet Nam	76	Indonesia	58	Philippines	31
Philippines	86	Brunei Darussalam	68	Viet Nam	32
Thailand	93	Lao PDR	72	Singapore	37
Indonesia	98	Cambodia	76	Cambodia	86
Lao PDR	129	Viet Nam	81	Lao PDR	108
Cambodia	131	Philippines	99	Brunei Darussalam	116

Lao PDR = Lao People's Democratic Republic.

* The ranking is out of a total of 137 countries.

Source: World Economic Forum. 2017. *The Global Competitiveness Report, 2017–2018*. Geneva.

5. Historically, the Philippines lacked a unified competition law and instead relied on dispersed outdated regulations to deal with competition-related issues.⁷ To address this gap, the government enacted a comprehensive competition law, the PCA, in July 2015. The law aims to: (i) protect consumers by giving them access to a wider choice of goods and services at lower prices; and (ii) promote competitive business and encourage market players to be more efficient and innovative.

6. The PCA formally created the PCC, an independent quasi-judicial body that promotes competition across all economic sectors. The organizational structure of the PCC consists of six core offices: (i) administrative and legal; (ii) financial, planning, and management; (iii) competition enforcement; (iv) mergers and acquisitions; (v) economics; and (vi) communications and knowledge management. Staff grew from the initial 10 staff in 2016 to 167 staff in 2019. The PCC's mandate includes primary jurisdiction over enforcing and implementing the PCA and its implementing rules and regulations. This includes: (i) conducting investigations and deciding cases involving any violation under the PCA; (ii) reviewing proposed mergers and acquisitions to prohibit transactions with an anti-competitive effect, (iii) applying remedies such as injunctions, divestiture, and disgorgement of excess profits; (iv) conducting administrative proceedings including the issuance of sanctions, fines or penalties; and (v) issuing subpoenas to require the production of documents, books and records. To meet this mandate, the PCC executes memoranda of agreement to ensure the support of sector regulators and government agencies on competition enforcement.⁸

⁶ The price-cost margin for a product/service is the difference between the price and the marginal cost of the product/service expressed as a percentage of the price. This measures the distance between the price and the competitive price.

⁷ The 1987 Philippine Constitution and various legislation (e.g., Corporation Code, Price Act, and Electric Power Industry Reform Act) governed the prohibition and regulation of monopolies, combinations in restraint of trade, and other unfair competitive practices.

⁸ The parties to the agreements are required to provide each other with investigation and enforcement support, and access to information and documents.

7. These reforms are also consistent with the ASEAN Economic Community Blueprint 2025, which includes a consistent regulatory and policy environment for competition as a key priority. Countries adopting the ASEAN Competition Action Plan, 2016–2025, including the Philippines, pursue five strategic goals: (i) enacting national competition legislation; (ii) strengthening the capacity of competition authorities; (iii) establishing regional cooperation arrangements; (iv) fostering competition awareness; and (v) harmonizing competition policy and law.

8. **Binding constraints.** The PCC faces three primary constraints in enforcing the competition law. First, it is newly formed and has not established its capacity and credibility as a competition authority. The PCC must install institutional functions and build technical skills to enforce the competition law and use its powers to investigate, stop, and prevent anticompetitive practices. Effective enforcement also requires intensive advocacy programs to build consensus, awareness, and an understanding of prohibitions under the PCA and the role of the PCC.

9. Second, the promotion of pro-competitive policies requires close coordination with, and the support of, other agencies with competition-related mandates. However, the enforcement of competition law is also new to these agencies. For example, the National Economic and Development Authority (NEDA) is responsible for high-level national policies on competition. The Department of Justice (DOJ) is responsible for litigating on behalf of government agencies. Upon referral from the PCC, the DOJ will conduct investigations and prosecute any ensuing criminal cases. For litigation or court proceedings involving competition cases, the Office of the Solicitor General (OSG) represents the PCC as statutory counsel. Further, these agencies do not have ready opportunities to continuously learn new trends, best theories, state-of-the-art practices, and the latest research on competition law and policy. Therefore, comprehensive support outside of the PCC will be necessary to strengthen the technical capacity of all agencies mandated to enforce the PCA and promote market competition.

10. Finally, efforts to develop system-wide capacity must include a ready supply of domestically sourced expert practitioners, research papers, civil discourse, and awareness campaigns. Typically, the academic community plays a crucial role in completing the ecosystem needed to maintain pro-competition policies. However, academia currently lacks programs, courses, and seminars on competition law and economics. This prevents the creation of a sustained and reliable source of knowledge and highly qualified specialists who can maintain and improve the competition regime over time.

11. **Government strategy.** The PDP calls for enhancing market competition by fostering an environment that penalizes anticompetitive practices, facilitates market entry, and supports regulatory reforms to stimulate investments and innovation. The government recognizes the importance of strengthening institutional and individual capacities to create a knowledge base for effective implementation of the PCA. The PCC has developed a strategic and operational business plan that incorporates an institutional capacity development assistance framework.⁹ Additionally, the PCC completed a capacity and training needs assessment for the judiciary and lawyers in government agencies with competition-related mandates.¹⁰

⁹ The Institutional Capacity Development Assistance Framework, 2017–2019 was developed with support from the Australian competition authority as a diagnostic assessment of capacity gaps and support needed.

¹⁰ The training needs assessment was conducted as part of the “Sharing UK competition policy and best practice to support the formulation of the Philippines’ first National Competition Policy by strengthening regulatory skills to enable increased growth and reduced barriers to investment” project.

12. **Strategic alignment.** The project supports the operational priorities of Strategy 2030 of the Asian Development Bank (ADB), as shown in Table 2.¹¹ It is also aligned with ADB's country partnership strategy for the Philippines, 2018–2023 on capacity development.¹²

Table 2: Alignment with Strategy 2030

Strategy 2030 Priorities	Capacity Building to Foster Competition Project
Addressing remaining poverty and reducing inequalities	<ul style="list-style-type: none"> Promoting effective competition in trade, industry, and other commercial economic activities will improve the business environment and market efficiency, leading to lower prices and improved service delivery quality, and ultimately to higher consumer welfare especially for those in the lower-income groups.
Strengthening governance and institutional capacity	<ul style="list-style-type: none"> The center of excellence on competition will improve education and training opportunities for current and prospective government officials and stakeholders, leading to a steady stream of competition law and policy experts. Government employees in agencies with competition-related mandates will be provided with lifelong learning opportunities on competition policy to create a critical mass of reform-minded government officials that can improve the competition environment over time.

Source: Asian Development Bank

13. **Development coordination.** The United States Agency for International Development supported the legal drafting and approval process of the PCA. The Organisation for Economic Co-operation and Development and other bilateral development agencies such as Australia, Germany, Japan, the Republic of Korea, and the United Kingdom have contributed to the establishment of a competition policy framework in the Philippines. Initiatives include the research and development of knowledge products, policy advisory and advocacy, and training for various levels of government officials on competition policy. As a newly established institution, the PCC has actively sought assistance from various donors. The PCC established a dedicated unit to monitor the progress of development partner assistance, ensure the optimal use of resources, and minimize the risk of duplication. ADB has assisted the PCC with this task by taking on the coordinating role as lead development partner. Further, the PCC regularly organizes the Partnerships for Competition Development Forum, which serves as the coordination platform.

B. Project Description

14. The project is aligned with the following impact: market competition enhanced, as envisaged in the PDP. The project will have the following outcome: competition environment improved.¹³

15. **Output 1: Institutional capacity of the Philippine Competition Commission strengthened.** This output will increase the PCC's capacity in core functions such as enforcement, economics investigation, and advocacy. First, assistance will be provided to build an operational foundation, including: (i) an operations manual for enforcement, and mergers and acquisitions; (ii) policies to facilitate the prioritization of case-work; (iii) a document/evidence management system; (iv) communication strategies and outreach programs;¹⁴ and (v) signing

¹¹ ADB. 2018. *Strategy 2030: Achieving a Prosperous, Inclusive, Resilient, and Sustainable Asia and the Pacific*. Manila

¹² ADB. 2018. *Country Partnership Strategy: Philippines, 2018–2023—High and Inclusive Growth*. Manila.

¹³ The design and monitoring framework is in Appendix 1. Indicators draw on the results matrix from the PDP.

¹⁴ Capacity gaps were identified by the PCC's Institutional Capacity Development Assistance Framework (footnote 9).

memoranda of agreement with sector regulators to coordinate on rules and regulations, and to share information. Second, international experts will provide on-the-job training and advisory services in the following areas: (i) investigation; (ii) economic analysis in support of the detection and investigation of anticompetitive behavior; (iii) market studies in priority sectors where substantial impact on consumer welfare and market efficiency is expected; and (iv) communications and media campaigns. This combination of institution building with on-the-job training will accelerate the development of the PCC and quickly increase its relevance and effectiveness.

16. Output 2: Government staff development program for competition developed. This output will provide key staff of other relevant government agencies with competition-related mandates (primarily NEDA, DOJ and OSG), as well as staff of the PCC, with opportunities to enhance their skills and knowledge. First, to reinforce the on-the-job training provided under output 1, staff of the PCC will undertake secondments to gain a structured insight into the workings of well-established competition authorities. Second, staff of the PCC and other relevant agencies will be able to pursue nondegree programs, short-term courses (domestic and international), and distance learning courses in key areas of competition law to learn current international best practices. Third, the program will include scholarships for degree programs (i.e., master's and Doctor of Philosophy) with the aim of providing educational opportunities to build the technical skills of competition practitioners and develop a critical mass of skilled and reform-minded staff. Participation in the program will be limited primarily to the PCC, NEDA, DOJ and OSG to prevent dilution and to more effectively utilize the limited resources.¹⁵ Domestic academic programs will also be offered to provide a balance in exposure and minimize the disruption of long staff absences. The program will also utilize a reentry capstone project to minimize staff retention risk.

17. Output 3: An academic center of excellence in competition law and policy established. The academic community is an important channel for building up and maintaining a specialized competition knowledge base. Such expertise helps build a constituency of experts who can support the system of competition law and make it work more effectively at all levels.¹⁶ This output will support the establishment of a center of excellence at the University of the Philippines (UP) to nurture local expertise in competition law, policy, and economics. The center will conduct outreach activities to promote better understanding of competition policy and build up knowledge through research and publications. The center will provide incentives (including fellowships and research grants) to perform world-class research and attract talented researchers, experts, and students. The center will enter into collaborative arrangements with other centers of excellence and universities as well as with the PCC.¹⁷ Specifically, the center will: (i) provide full degree programs for competition law and economics at the graduate and/or undergraduate level; (ii) award research grants for graduate students and junior faculty; (iii) organize seminars, talks, and forums on competition law and policy in tertiary institutions; (iv) develop teaching materials, textbooks, case studies, and discussion papers; (v) develop distance learning short and long duration courses; (vi) organize seminar series and small conferences for academic and policy research community to share research findings; and (vii) publish discussion papers and policy briefs.

¹⁵ Beneficiaries will include staff from the NEDA, the DOJ, and the OSG.

¹⁶ ASEAN. 2017. *Self-Assessment Toolkit on Competition Enforcement and Advocacy*. Jakarta.

¹⁷ Collaborative arrangements may include holding master's classes or mentoring of faculty and graduates

C. Value Added by ADB

18. ADB laid the foundations for establishing a competition policy framework in the Philippines through an investment climate technical assistance,¹⁸ followed by a policy-based loan on increasing competitiveness.¹⁹ ADB has supported the work program of the PCC since its establishment in 2016, including the development of investigative techniques and quantitative analysis.²⁰ The proposed project will add value by approaching capacity development in a holistic manner that strengthens outcomes and increases sustainability. The project will develop the PCC's institutional foundations while supporting live interventions, which would mutually reinforce each other. Furthermore, the project will strengthen the capacity of partner government agencies. This will create synergies by building teamwork and shared knowledge, creating a virtuous cycle that further builds institutional capacity. Finally, an academic center of excellence on competition law and policy in the Philippines will be launched to meet the increased demand for competition policy practitioners, research, and advocacy.

19. Lessons learned from previous capacity-building programs were reflected in the project design, including that: (i) newly acquired skills should be fully aligned to the agency's corporate goals; (ii) support should not spread across a large number of agencies, as otherwise organizational impact is difficult to achieve; and (iii) advanced competition enforcement requires very focused training.²¹

D. Summary Cost Estimates and Financing Plan

20. The project is estimated to cost \$29.3 million (Table 3). Detailed cost estimates by expenditure category and by financier are included in the project administration manual (PAM).²²

Table 3: Summary Cost Estimates (\$ million)

Item	Amount ^a
A. Base Cost ^b	
1. Institutional capacity of the Philippine Competition Commission strengthened	7.20
2. Government staff development program for competition developed	12.98
3. An academic center of excellence in competition law and policy established	6.33
Subtotal (A)	26.51
B. Contingencies ^c	1.09
C. Financial Charges During Implementation ^d	1.70
Total (A+B+C)	29.30

^a The government will finance all applicable taxes and duties estimated at \$2.3 million through cash payments.

^b In mid-2019 prices as of July 2019.

^c Price contingencies computed at 4.35% of base cost for consultancy, equipment, field research and development, training, surveys, and studies.

^d This includes interest and commitment charges. The government will cover the interest and commitment charges estimated at \$1.7 million. Interest for the ordinary capital resources loan has been computed at the 5-year United States dollar fixed swap rate plus an effective contractual spread of 0.50% and maturity premium of 0.10%.

¹⁸ ADB. 2011. *Technical Assistance to the Republic of the Philippines for Strengthening Institutions for an Improved Investment Climate*. Manila.

¹⁹ ADB. 2012 and 2014. *Report and Recommendation of the President to the Board of Directors Proposed Programmatic Approach and Policy-Based Loan for Subprogram 1, and a Policy-Based Loan for Subprogram 2 to the Republic of the Philippines for the Increasing Competitiveness for Inclusive Growth Program*. Manila.

²⁰ ADB. 2016. *Technical Assistance for Support to the Association of Southeast Asian Nations Economic Community*. Manila.

²¹ ASEAN. 2012. *Guidelines on Developing Core Competencies in Competition Policy and Law for ASEAN*. Jakarta.

²² Project Administration Manual (accessible from the list of linked documents in Appendix 2).

Commitment charges for the ordinary capital resources loan are 0.15% per year to be charged on the undisbursed loan amount.

Source: Asian Development Bank estimates.

21. The government has requested a regular loan of \$23.3 million from ADB's ordinary capital resources to help finance the project. The loan will have a 28-year term, including a grace period of 9 years; an annual interest rate determined in accordance with ADB's London interbank offered rate (LIBOR)-based lending facility; a commitment charge of 0.15% per year; and such other terms and conditions set forth in the draft loan agreement. Based on the straight-line method, the average maturity is 18.75 years, and the maturity premium payable to ADB is 0.10% per year.

22. The summary financing plan is in Table 4. ADB will finance the expenditures in relation to project implementation support consultants and capacity development. The government will finance the staff cost, travel, office operations, and applicable taxes and duties, equivalent to \$4.3 million, and financing charges estimated at \$1.7 million, which will be covered through annual budget allocation.

Table 4: Summary Financing Plan

Source	Amount (\$ million)	Share of Total (%)
Asian Development Bank (ADB)		
Ordinary capital resources (regular loan)	23.3	79.52
Government	6.0	20.48
Total	29.3	100.00

Source: ADB estimates.

E. Implementation Arrangements

23. The project implementation period is from January 2020 to December 2025. The executing agency for the project is the PCC, which will oversee overall project implementation and management activities. The PCC, through the project management unit (PMU), will be responsible for implementing outputs 1 and 2, whereas UP will be the implementing agency for output 3.

24. A project steering committee will be established and chaired by the PCC, with the NEDA as vice chair. Other members of the steering committee will include the Department of Finance, the Department of Trade and Industry, and the UP. The project steering committee will meet regularly (at least twice a year) to: (i) review project implementation progress; (ii) guide and support project implementation; and (iii) coordinate between agencies involved in project implementation. The PMU will be established within, and overseen by, the PCC and will be responsible for the day-to-day coordination and oversight of the project. The PMU will comprise the following personnel: a project manager, scholarship management specialist, monitoring and evaluation specialist, procurement specialist, financial management specialist, administration assistant, and secretary. Tasks of the PMU will include managing procurement activities, carrying out the competitive selection process for candidates proposed for scholarships, scholar placement, scholarship program management, and project monitoring and evaluation. The implementation arrangements are summarized in Table 5 and described in detail in the PAM (footnote 22).

Table 5: Implementation Arrangements

Aspects	Arrangements		
Implementation period	January 2020–December 2025		
Estimated completion date	31 December 2025		
Estimated loan closing date	30 June 2026		
Management			
(i) Oversight body	The Project steering committee, chaired by the PCC. NEDA will act as the vice chair. Other members of the steering committee will include the Department of Finance, the Department of Trade and Industry, and the University of the Philippines.		
(ii) Executing agency	PCC		
(iii) Key implementing agencies	PCC and the University of the Philippines		
(iv) Implementation unit	The PMU will be established under the PCC, headed by a project director, and comprising a sufficient number of qualified staff.		
Procurement	National open competitive bidding	4 contracts	\$1,200,000
	Request for quotation	9 contracts	\$545,000
Consulting services	Individual consultant selection	175 person-months	\$3,223,500 \$2,535,500
	International National	615 person-months	
Advance contracting	The PCC, assisted by ADB, will initiate the selection of the project implementation support consultants.		
Disbursement	The loan proceeds will be disbursed following ADB's <i>Loan Disbursement Handbook</i> (2017, as amended from time to time) and detailed arrangements agreed between the government and ADB.		

ADB = Asian Development Bank, NEDA = National Economic and Development Authority, PCC = Philippine Competition Commission, PMU = project management unit.

Source: Asian Development Bank.

III. DUE DILIGENCE

A. Technical

25. The PCC has developed its institutional capacity development assistance framework (footnote 9). The PCC's legal and economic experts need to have the capacity to effectively and efficiently conduct investigations, review merger transactions, carry out economic analysis, institute administrative proceedings before the PCC, and pursue cases against illegal practices such as cartelistic behavior and abuse of dominant market positions. Diverse skills are needed, including detecting cartels, receiving and handling complaints, reviewing mergers, drafting charging documents, presenting evidence in a hearing, and conducting research studies relevant to promoting competitive markets. Two broad groups require capacity building: PCC's internal personnel, and staff of partner agencies in competition law enforcement and policy implementation. The objectives of the capacity building are to: (i) equip staff with the knowledge, skills, and ability to carry out their mandate effectively; (ii) enhance agencies' capacity to advance their positions on pro-competition policies in local and international contexts; (iii) build a strong, well-informed, and educated PCC staff to carry out the functions of the PCC; and (iv) establish a system of continued skills upgrading of PCC staff.

B. Economic and Financial Viability

26. The anticipated economic benefits of the project include: (i) an increase in gross domestic product because of more efficient allocation and use of resources and a resulting one-off rise in total factor productivity; and (ii) faster economic growth because of greater efficiency of the

economy, more innovation, and more rapid growth of total factor productivity. The investments are considered economically viable. The economic analysis resulted in an economic internal rate of return of 22.4% and a net present value of \$13 million. The additional revenue the project will generate for the government will be more than sufficient to cover all recurrent costs of the project after implementation, interest payments under the ADB loan, and repayment of the ADB loan. Hence, the project is financially sustainable.²³

C. Sustainability

27. The project will build the capacity of the participating agencies by strengthening their human resources in competition-related functional areas and enhancing their ability to initiate and manage reforms. Sustaining the high level of expertise developed in the PCC will require creating a broader educational environment that ensures an increased pool of technical expertise. To complete the ecosystem, the center of excellence to be established at the UP will deepen the bench of prospective PCC staff and its advisory network. The PCC will benefit from strategic partnerships with local and international academic institutions to cultivate research and instruction in competition law.

D. Governance

28. A financial management assessment has been carried out to review the capacity of the PCC regarding its financial management system and procedures. The financial management risk is *moderate* (pre-mitigation) mainly because of: (i) weaknesses in budget execution; (ii) limited staff in the finance, planning, and management office; (iii) lack of internal audit service; and (iv) lack of computerized budgeting and bookkeeping systems. The government and ADB have agreed to a number of measures to control these risks.²⁴ A PMU will be established to, among others, address financial management issues. The PMU will be staffed by qualified professionals, including a project manager, finance specialist, and performance monitoring specialist to ensure that the project is implemented in compliance with ADB's operational and procedural requirements. ADB's Anticorruption Policy (1998, as amended to date) was explained to and discussed with the government and the PCC. The specific policy requirements and supplementary measures are described in the PAM (footnote 22).

E. Poverty, Social, and Gender

29. The objective of introducing competition into the market is to prevent control of the market by a select few companies, which can lead to collusion and price distortion against consumer welfare. The proposed project will promote free and fair competition to temper prices and increase service quality in non-competitive industries, leading to improved consumer welfare and better socio-economic opportunities especially for those in low-income groups.

30. The project is categorized as having *some gender elements*. The government will ensure that women participation in all trainings programs under the project will be at least proportional to the share of women employed at the relevant agencies. The government will further ensure that all monitoring and evaluation data will be disaggregated by sex.

²³ Economic and Financial Analysis (accessible from the list of linked documents from Appendix 2).

²⁴ Financial Management Assessment Report (accessible from the list of linked documents from Appendix 2).

F. Safeguards

31. In compliance with ADB's Safeguard Policy Statement (2009),²⁵ the project's safeguard categories are as follows: *Category C* for the environment, involuntary resettlement, and indigenous peoples.

G. Summary of Risk Assessment and Risk Management Plan

32. Significant risks and mitigating measures are summarized in Table 6 and described in detail in the risk assessment and risk management plan.²⁶

Table 6: Summary of Risks and Mitigating Measures

Risks	Mitigation Measures
Internal audit: The PCC does not have an internal audit system.	The PCC will create an internal audit system. This has been included in the proposed changes to the organizational structure and staffing pattern to be submitted to the DBM.
18% of the FPMO's positions are vacant.	The current staff is appropriately qualified and experienced. The FPMO expects the vacant positions to be filled during 2020.
Low retention of scholars after training	As a retention measure, a re-entry capstone project will be part of a trained scholar's commitment, together with his service obligations to the government, in accordance with existing civil service rules.
Insufficient number of staff participating in the training	Information sessions and roadshows will be conducted in each agency.

DBM = Department of Budget and Management, FPMO = Finance, Planning, and Management Office, PCC = Philippine Competition Commission.

Source: Asian Development Bank.

IV. ASSURANCES

33. The government and the PCC have assured ADB that implementation of the project shall conform to all applicable ADB policies, including those concerning anticorruption measures, safeguards, gender, procurement, consulting services, and disbursement as described in detail in the PAM and loan documents. The government and the PCC have agreed with ADB on certain covenants for the project, which are set forth in the draft loan agreement.

V. RECOMMENDATION

34. I am satisfied that the proposed loan would comply with the Articles of Agreement of the Asian Development Bank (ADB) and recommend that the Board approve the loan of \$23,300,000 to the Republic of the Philippines for the Capacity Building to Foster Competition Project, from ADB's ordinary capital resources, in regular terms, with interest to be determined in accordance with ADB's London interbank offered rate (LIBOR)-based lending facility; for a term of 28 years, including a grace period of 9 years; and such other terms and conditions as are substantially in accordance with those set forth in the draft loan agreement presented to the Board.

Takehiko Nakao
President

14 November 2019

²⁵ ADB. Safeguard Categories. <https://www.adb.org/site/safeguards/safeguard-categories>.

²⁶ Risk Assessment and Risk Management Plan (accessible from the list of linked documents in Appendix 2).

DESIGN AND MONITORING FRAMEWORK

Impact the Project is Aligned with Market competition enhanced (Philippine Development Plan, 2017–2022) ^a			
Results Chain	Performance Indicators with Targets and Baselines	Data Sources and Reporting Mechanisms	Risks
Outcome Competition environment improved	By 2026: a. Business dynamism improved to top 40% countries (2018 baseline: top 60%) b. Product market efficiency improved to top 50% countries (2018 baseline: top 70%)	a. Global Competitiveness Index (World Economic Forum) b. PCC's Annual Reports	Low retention of scholars after training
Outputs 1. Institutional capacity of the PCC strengthened 2. Government staff development program for competition developed 3. An academic center of excellence in competition law and policy established	By 2025: 1a. Competition practice monitored and analyzed in at least three market sectors (2018 baseline: 0) 1b. Adoption of operations manual for enforcement and merger and acquisitions office (2017 baseline: 0) 1c. At least two new competition cases opened each year from 2020–2025 (2018 baseline: six ongoing cases) 1d. Five memorandums of agreement with sector regulators or government agencies signed (2018 baseline: 10) 2a. Competition-related training program established (2018 baseline: NA) 2b. At least 40 doctor of philosophy and master's level fellows enrolled (at least 16 of which are women) (2018 baseline: 0) 2c. 200 short-term secondments and nondegree trainings undertaken (at least 30% of participants are women) (2018 baseline: 0) 3a. 10 knowledge products and research papers published (at least 1 gender-related) (2018 baseline: 0) 3b. At least five collaborative assignments with PCC, such as issuance of legal opinions and comments on PCC's	1a.–d. PCC data 2a.–b. Project monitoring reports 2c. Training certificates 3a. Publications 3b.–c. Project monitoring reports	Insufficient number of government staff participating in the trainings

Results Chain	Performance Indicators with Targets and Baselines	Data Sources and Reporting Mechanisms	Risks
	<p>implementing rules and guidelines (2018 baseline: 0)</p> <p>3c. At least one seminar or conference organized annually from 2020–2025 (2018 baseline: NA)</p> <p>3d. A program on competition law and policy developed (2018 baseline: 0)</p>	3d. Teaching materials	
Key Activities with Milestones <p>1. Institutional capacity of the PCC strengthened</p> <p>1.1 Establish a panel of prequalified consultants (Q1 2020).</p> <p>1.2 Conduct on-the-job training on investigation techniques with quotas for female participation (Q2–Q3 annually from 2020–2025).</p> <p>1.3 Develop operations manuals for various functions (Q1 2020–Q1 2021).</p> <p>1.4 Conduct on-the-job training on economic techniques for competition with gender quotas for female participation (Q1 annually from 2020–2025).</p> <p>1.5 Develop market studies (Q4 2023).</p> <p>1.6 Formulate a communications strategy (Q4 2020).</p> <p>1.7 Undertake outreach activities (Q3–Q4 annually from 2020–2025).</p> <p>2. Government staff development program for competition developed</p> <p>2.1 Establish scholarship eligibility, application, and selection procedures with gender-inclusive selection criteria (Q1 2020).</p> <p>2.2 Establish a grant and scholarship award committee, ensuring women representation (Q1 2020).</p> <p>2.3 Develop a secondment program with partner institutions (Q1 2020).</p> <p>2.4 Develop selection guidelines for attendance at international conferences, workshops, and seminars with gender-inclusive selection procedures (Q1 2020).</p> <p>2.5 Conduct selection process and award scholarships (Q1–Q2 2021, and Q1–Q2 2022, Q1–Q2 2023).</p> <p>2.6 Conduct selection process for secondments and short-term courses (Q3–Q4 2020, Q1–Q2 annually from 2021–2025).</p> <p>3. An academic center of excellence in competition law and policy established</p> <p>3.1 Develop work plan for the center of excellence (Q2 2020).</p> <p>3.2 Develop collaborative arrangements with universities (Q2 2020).</p> <p>3.3 Develop guidelines for research grants (Q2–Q3 2020).</p> <p>3.4 Establish research grants award committee (Q1 2020).</p> <p>3.5 Select recipients and award research grants (Q3–Q4 annually, from 2020–2024).</p> <p>3.6 Develop curricula on a competition program (Q3 2020–Q1 2022).</p> <p>3.7 Develop teaching materials for competition (Q1 2021–Q4 2022).</p> <p>3.8 Organize conferences and seminars on competition (Q3 annually, from 2020–2024).</p>			
Project Management Activities <p>Management of procurement activities</p> <p>Competitive selection of candidates</p> <p>Scholarship program management (matching scholars to institutions, payment of fees and stipends)</p> <p>Technical audit of scholarship program compliance</p> <p>Project monitoring and evaluation, including collection of sex-disaggregated data of all project activities</p>			
Inputs <p>Asian Development Bank: \$23.3 million (loan)</p> <p>Government of the Philippines: \$6 million</p>			

PCC = Philippine Competition Commission, Q = quarter.

^a Government of the Philippines, National Economic and Development Authority. 2017. *Philippine Development Plan, 2017–2022*. Manila (Chapter 16). <http://www.neda.gov.ph/2017/07/26/philippine-development-plan-2017-2022>.

Source: Asian Development Bank.

LIST OF LINKED DOCUMENTS

<http://www.adb.org/Documents/RRPs/?id=52078-001-3>

1. Loan Agreement
2. Sector Assessment (Summary): Public Sector Management
3. Project Administration Manual
4. Contribution to the ADB Results Framework
5. Economic and Financial Analysis
6. Country Economic Indicators
7. Summary Poverty Reduction and Social Strategy
8. Risk Assessment and Risk Management Plan

Supplementary Document

9. Financial Management Assessment Report