



## **The Philippine Fight against Agricultural Smuggling: Review of Government Policies and Initiatives**

Tessa Lyrene DC. Lantican and Princess Alma B. Ani<sup>1</sup>

1 Socio-Economics Research Division (SERD), Philippine Council for Agriculture, Aquatic and Natural Resources Research and Development (PCAARRD), Department of Science and Technology (DOST), Los Baños, Laguna, Philippines  
e-mail: tlyrene@gmail.com; princessanidala@gmail.com

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### **ABSTRACT**

*Smuggling is the illegal movement of goods across an international border in violation to custom laws and regulations. This activity exists in countries all over the world and incurs multiple ill effects to the country's economy. Some of the economic impacts of smuggling include reduction in government revenues from uncollected taxes and customs duties, distortion in prices of locally-produced commodities resulting to losses of potential farm income, slowdown in farm output production, increase in income inequality, and risk of entry of pests and diseases endangering consumer's health safety. In 2013 to 2014, the Philippine government incurred a total of US\$1.26 million in foregone revenues due to the pervasive smuggling of agricultural products. Local farmers have suffered massively due to extensive smuggling of commodities such as rice, sugar, garlic, ginger, carrots, pork, beef, and chicken. In May 2016, Republic Act 10845 or the Anti-Agricultural Smuggling Act was signed into law declaring large-scale agricultural smuggling as economic sabotage. It aims to boost the productivity of the agricultural sector and protect Filipino farmers and agricultural enterprises from illegal traders and importers. Republic Act 10863 known as Customs Modernization and Tariff Act (CMTA) was also signed into law in the same year. CMTA amended the Tariff and Customs Code of the Philippines (TCCP) to modernize customs rules and procedures for faster trade, improve customs service delivery and supply chain, and reduce opportunities for corruption. These steps were taken by the Philippine government to mitigate smuggling in the Philippines.*

### **INTRODUCTION**

In 2016, agriculture in the Philippines employed about 26% of the Filipino workforce or about 11 million people, yet only accounted for about 7.3% of the country's gross domestic product (GDP) (FAO, 2018). Agricultural producers in the country remain poor because of the underperformance of the agricultural sector. One major constraint identified is the practice of smuggling. The Customs Modernization and Tariff Act (CMTA) defines smuggling as the fraudulent act of importing any goods into the Philippines, or the act of assisting in receiving, concealing, buying, selling, disposing of or transporting such goods, with full knowledge that the same has been fraudulently imported, or the fraudulent exportation of goods. Goods referred to under this definition shall be known as smuggled goods which hinders the agricultural sector's growth and correspondingly, the country's overall economic growth. Smuggled goods provide for cheaper imported goods which is a major disincentive for agriculture resulting to huge revenue losses of the government. Major staples such as pork and chicken have import duties of 30-40% (Diokno, 2016). The revenue loss deprives the government of resources that will finance public services such as public infrastructure, education, health and other essential public goods.

According to Philippine Institute for Development Studies, the persistent sluggishness of Philippine agriculture will further widen the gap between rural and urban incomes, and aggravate urban problems when rural people relocate

to the cities to seek opportunities they cannot find in the countryside. Although the economy is moving away from agriculture to services and manufacturing, the sector is crucial to attain the government's target of becoming food self-sufficient (New Agriculturist, 2012). Thus, additional effort must be exerted to mitigate agricultural smuggling as it is considered one major issue in the development of Philippine agriculture.

This paper provides discussion on the status of agricultural smuggling in the Philippines and the pertinent policies enacted to prevent the adverse effects of such unlawful activity. The first part provides an overview of the agricultural trading system in the country and the role of the Bureau of Customs as the lead agency mandated to monitor illegal trade and customs fraud such as smuggling. The second part discusses the anti-smuggling policies created as well as the various task force and committees established to combat agricultural smuggling. The last section focuses on initial impacts of the anti-smuggling initiatives and some policy recommendations.

## **AGRICULTURAL TRADING SYSTEM IN THE PHILIPPINES**

### **World Trade Organization (WTO) – Agreement on Agriculture (AOA)**

Philippines has been a member of the World Trade Organization (WTO) since 1995. The country has open its trade to the world through the efforts of the International Monetary Fund (IMF) and the World Bank for almost five decades (Business Mirror, 2019). According to Ibon Foundation Executive Director Africa, the share of trade in the country's gross domestic product (GDP) grew by 42% (from 88% in 1994 to 130% in 2017). However, openness to global trade did not result to expansion and innovation of domestic firms, instead, it only increased the country's imports rather than exports. In addition, domestic firms found it difficult to compete with cheap imports as observed with the country's widening trade deficit of as much as US\$43.53 billion at the end of 2018 (PSA, 2018).

The WTO Report indicated a long-term framework for the Agreement on Agriculture (AOA) which discussed agricultural trade and domestic policies to achieve rational competition and promote less distorted sector. The agreement covers:

- Market access - the use of trade restrictions, such as tariffs on imports;
- Domestic support - the use of subsidies and other support programmes that directly stimulate production and distort trade; and
- Export subsidies - the use of export subsidies and other government support programmes that subsidize exports.

Under the Agreement, WTO members agree to “schedules” or lists of commitments that set limits on tariffs they can apply to individual products and on levels of domestic support and export subsidies (Table 1).

Table 1. World Trade Organization-Agreement on Agriculture (WTO – AOA) provisions

Provisions	Specific Rules and Commitments	
	Developed Countries	Developing Countries
<b>1. Market Access</b>		
1.1. Tariffication of all non-tariff barriers. Base reference period is 1986-1988.	Tariffs will be reduced by an average of 36% over a period of six years (1994-2000), with each tariff line reduced by at least 15%	Tariffs will be reduced by an average of 24% over ten years (1994-2004), with a reduction by at least 10% for each tariff line.
1.2. Minimum Access Volumes (MAVs). Base reference period is 1986-1988.	Provision of minimum access opportunities for imported agricultural products at 3% of base year domestic consumption starting in 1995 and increasing to 5% by 2000.	Minimum access of 1% of base year domestic consumption starting in 1995 and rising to 4% by 2004.
<b>2. Domestic Support</b>	The Aggregate Measure of Support (AMS) will be reduced by 20% from average of base year (1986-1988) in equal installments over six (6) years.	AMS will be reduced by 13.3% from average of base year (1986-1988) over 10 years.
<b>3. Export Subsidies</b>	Reduction of export subsidies by 21% in volume and 36% in monetary terms over six years.	Reduction by 14% in volume and 24% in monetary terms over nine (9) years.

Source: Pascual and Glipo, 2001

Based on the data from United Nations Trademap, it shows that the Philippines is extremely behind in agri-food export with only US\$5.7 billion compared to its Southeast Asian neighbors. Table 2 provides a comparison among Southeast Asian countries, in terms of agri-food export.

Table 2. Value (in billion US\$) of agri-food export, import and surplus of Southeast Asian countries, 2016

Country	Export	Import	Surplus
Thailand	42.2	15.7	26.5
Indonesia	36.5	17.9	18.6
Malaysia	26.7	17.4	9.3
Vietnam	23.1	14.4	8.6
Philippines	5.7	11.0	5.9

Source: UN Trademap

## **Duties and roles of the Bureau of Customs**

To be an official importer in the Philippines, an enterprise or business should be listed first under the Department of Trade and Industry (DTI) and provide requirements such as various sorts of business licenses on items that will be imported and/or exported. To enlist as an importer, organizations need an Import Clearance Certificate (ICC) from the Bureau of Internal Revenue. Then, importers should enroll with the Bureau of Customs (BOC) and set up an account with the Client Profile Registration System (CPRS). The Import Clearance Certificate is legitimate for three years while the Customs Client Profile Accreditation must be updated every year.

The BOC is the official customs department in the Philippines which is an attached agency under the Department of Finance. It is in charge of assessing and collecting customs revenues, combating illegal trade and all forms of customs fraud, and facilitating trade through effectively managing customs administration system.

To take import clearance cargo delivery from Philippine customs bonded area, three classifications of permissions are required, namely: (1) permission from Philippines Customs authorities; (2) permission from carrier of goods; and (3) permission from custodian of cargo handling at particular import customs port in the Philippines. The documents may have to be prepared in a particular way to comply with the requirements of the import or export country.

In December 2019, the BOC launched its Authorized Economic Operator (AEO) Program for full implementation starting this 2020. According to Customs Commissioner Rey Leonardo Guerrero, the implementation of AEO is in compliance with the country's commitment to the World Customs Organization SAFE Framework Standards to Secure and Facilitate Global Trade. This represents a customs-to-business partnership that seeks to enhance international supply chain security and facilitate movement of legitimate goods.

The AEO program is part of Republic Act (RA) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA). BOC issued Customs Administrative Order (CAO) No. 05-2017 which establishes an AEO program by providing the infrastructure, facility, mechanism, process, and benefits necessary for full implementation. The AEO Program has the following three components:

1. Cargo Security System (CSS) – ensures the integrity and security of imported goods in accordance with the principles of the WCO SAFE Framework;
2. Trade Clearance Facility (TCF) – enables highly compliant stakeholders to clear their goods with minimum or zero customs border intervention; and
3. Mutual Recognition Agreement (MRA) – refers to a formal document between two or more customs administrations outlining the circumstances and conditions in which AEO programs are recognized and accepted between the signing parties.

## **EXTENT AND NATURE OF AGRICULTURAL SMUGGLING IN THE PHILIPPINES**

A research study conducted by Gordoncillo (2013) determined the extent of agricultural smuggling in the Philippines. The extent of agricultural smuggling was approximated by the difference between a specific commodity's volume or value of exports, as declared by the country of source, to the import volume or value of the said commodity, as reported in the country of destination at a specified period of time. Both import and export values were expressed in free on board (FOB) terms. However, the study only assessed the extent of smuggling through "technical smuggling". "Outright smuggling" was not observable due to logistical constraints.

Technical smuggling as defined by Alano (1984) takes place when the goods and articles are brought into the country using legal trade channels but exhibits several forms of manipulations to escape paying correct taxes, duties and other charges. Some forms of manipulation stated in the study are misclassification, misdeclaration, undervaluation, and falsification of documents.

By definition, misclassification occurs when the product is claimed to be in a wrong category (Ordoñez, 2017). This happens when a particular commodity is declared a different and lower value product than the actual imported item. For instance, poultry choice cuts with a 40% tariff are misclassified as mechanical deboned meat (MDM) to take advantage of its zero tariff. Misdeclaration, on the other hand, is when the product in question is clearly not what it is

declared to be (Ordoñez, 2017). Examples are when onions are declared as office equipment, and drugs are declared as vegetables. Undervaluation deprives the government of the revenue from both tariffs and taxes. As indicated in Section 3519 of Tariff and Customs Code of the Philippines, this refers to “all taxes, fees, and charges imposed by the BOC and the BIR.

The BOC reported a total of US\$ 6.30 million worth of shipments seized in 1981 for various violations of Customs and Tariff Laws (Alano, 1984). This amount is 2.8% of the Customs revenue collected for that year and is 0.6% of the total value of import shipments for the same year.

## **IMPACT OF SMUGGLING AGRICULTURAL PRODUCTS**

Agricultural growth and productivity are constrained by the high cost of production inputs. In the Philippines, fertilizers and pesticides typically account for 20-30% while feeds account for about 70% of the total production costs of crops and livestock, respectively (FAO, 2016). High transportation costs, post-harvest losses, inadequate irrigation infrastructure, and limited access to credit have also been identified as barriers to growth. Aside from these constraints, smuggling of agricultural products is considered as one major problem of the agricultural sector.

Smuggling reduces revenue that the government can generate, reduces competitive advantage of local farmers and endangers consumer’s safety due to risks of entry of pests and diseases (Gordoncillo, 2013). The study conducted by SEARCA reported that direct smuggling of selected agricultural commodities like sugar is easier as it does not require a refrigerated transport facility. It can also be smuggled through the direct channel by declaring it as premix instead of pure sugar. For vegetables, since they are highly perishable and should be kept in refrigerated vans to prolong its shelf life, smuggling can be easily identified. However, these shipments evade inspection and are released without proper documentation.

Commodities such as onion, ginger, and carrots are observed to have lower rates of duty among the selected commodities for different trading agreements with 0 to 40%, 0 to 20% and 0 to 40% duty rates, respectively. For refined sugar and sugarcane, duty rates range from 36 to 65%. Tariffs imposed on pork, chicken, and beef imports were observed to be higher for their meat products as compared to offal and other cut parts.

The Philippines has lifted quantitative restrictions (QRs) on imports of food products except for rice. There is still continuous Tariff-Rate Quotas (TRQs) that exists on a number of agricultural products such as corn, poultry meat, pork, sugar, and coffee. Minimum Access Volumes (MAV) have been established for these commodities (Export Gov, 2019). Sanitary and phytosanitary import clearances are required preceding to the importation of all agricultural commodities, including feeds, live animals, meat and poultry products, plant and plant products, seafood, and fishery items. Moreover, a minimum access volume certificate is required for products entering at the lower in-quota duty such as pork, poultry, corn, coffee, and coffee extract. In all cases, imported meat, fish, and produce require a registered importer to receive the shipment.

The study also showed that milled rice was the top agricultural product being smuggled in the Philippines. During the period 1986 to 2009, US\$1.96 billion worth of milled rice was illegally transported into the country. It is then followed by refined sugar at US\$448.2 million; beef at US\$428.8 million; onion at US\$259.55 million; pork at US\$117.45 million; chicken at US\$27.8 million; ginger at US\$7.8 million; and carrots and turnips at US\$6.5 million (Table 3).

Table 3. Estimated value (in US\$1,000) of technical smuggling of selected agricultural commodities, Philippines, 1986-2019.

Year	Rice, milled	Sugar, Refined	Beef, Meat	Onion, Dry	Pork, Pig Meat	Chicken Meat	Ginger	Carrots & Turnips
1986	475	193	23	108	58	0	0	0
1987	203	25	171	88	15	0	0	3
1988	4,256	311	5,219	140	3	0	3	7
1989	37,179	87	240	493	508	0	19	14
1990	13,959	5,190	283	472	590	24	47	9
1991	15,098	7,609	1,344	277	473	680	2	3
1992	110	14,405	1,093	202	261	355	14	0
1993	1,042	25,873	725	40	352	499	6	1
1994	309	40,183	287	903	484	1,337	68	0
1995	13,490	47,384	28,931	535	409	1,371	24	0
1996	216,317	16,230	15,872	2,859	2,058	1,632	47	0
1997	51,449	36,487	10,729	3,696	644	1,750	60	63
1998	259,350	23,228	7,116	2,081	1,781	668	36	26
1999	50,347	16,392	46,338	2,267	2,861	12	133	13
2000	5,686	28,884	944	4,310	8,269	535	79	17
2001	4,744	8,374	43,791	7,159	4,290	453	67	14
2002	46,694	16,013	16,230	9,937	2,556	880	905	2,869
2003	27,803	9,958	17,896	7,510	11,863	652	181	2,046
2004	38,137	16,305	22,791	14,193	2,514	815	26	714
2005	43,263	7,452	20,478	13,821	4,317	518	71	16
2006	7,859	2,515	21,741	12,333	530	4,883	10	58
2007	34,359	18,806	55,323	26,345	19,312	3,626	245	26
2008	290,543	62,819	68,160	70,979	24,811	1,049	963	14
2009	33,766	43,485	43,074	78,808	28,499	6,072	4,804	557
<b>Total</b>	<b>1,196,438</b>	<b>448,208</b>	<b>428,799</b>	<b>259,556</b>	<b>117,458</b>	<b>27,811</b>	<b>7,810</b>	<b>6,470</b>
<b>Average</b>	<b>49,852</b>	<b>18,675</b>	<b>17,867</b>	<b>10,815</b>	<b>4,894</b>	<b>1,159</b>	<b>325</b>	<b>270</b>

Source: FAOSTAT and UN COMTRADE, SEARCA

The United Nations Comtrade gathered data on technical smuggling for all goods by comparing value of export of countries sending goods to the Philippines with the BOC's record of imports from these countries (Table 4). The difference of these values is attributed to smuggling.

Table 4. Estimated value (in billion US\$) of smuggling in the Philippines, (2004-2016).

Year	Exporting Countries Report	Imports Recorded by BOC	Difference due to under-reporting	Percent Under-reported	Government Revenue Loss
2004	45.6	41.9	3.7	8%	26.6
2005	46.6	43.9	2.7	6%	18.4
2006	51.9	46.4	5.5	11%	39.5
2007	58.6	49.3	9.3	16%	66.7
2008	66.2	50.7	15.6	24%	112.2
2009	54.5	40.4	14.2	26%	107.0
2010	70.9	51.1	19.8	28%	142.4
2011	78.5	54.9	23.5	30%	169.3
2012	84.7	56.3	28.4	33%	204.3
2013	88.2	57.3	30.9	35%	231.1
2014	94.2	60.5	33.7	36%	242.6
2015	93.5	64.2	29.2	31%	203.5
2016	98.6	79.6	19.1	19%	143.3

Source: UN Trade Statistics

Smuggling causes significant reduction in government revenues due to uncollected taxes and customs duties. Moreover, it can significantly reduce farm income due to distortion of prices and slowdown in output production. Agricultural production and overall health of consumers are also put to risk due to possible entry of harmful pests and diseases. Further, agricultural smuggling can result to income inequality and affect overall well-being of farmers and other stakeholders.

The Philippines is the world's seventh largest importer of pork, a major staple in the country. Significant impact of smuggling pork and its products can cause outbreaks such as foot and mouth disease (FMD), African swine fever (ASF), classical swine fever (CSF) and swine vesicular disease (SVD) which can cause significant economic and social costs as well as severe trade limitations (Wooldridge, 2006). A number of commodities may be contaminated with these hazards, including meat and meat products derived from infected animals. In 2019, the swine industry in the country was significantly affected by ASF. Initially, authorities suspected that the ASF stemmed from backyard raisers feeding their hogs with "swill" or leftover food/scraps from hotels and restaurants. Later, they added that ASF could also be traced from smuggled frozen meat and returning overseas Filipino workers who brought back infected meat products. ASF outbreak was declared by 13 provinces in the country which resulted to banning of entry of pork and pork products from areas that have confirmed cases of the disease (Philippine News Agency, 2020). This has affected many hog raisers, traders and consumers. Recently, BOC ordered the condemnation of processed meat products from China that tested positive for ASF based from the laboratory tests results conducted by the port's Veterinary Quarantine Services. Customs Commissioner Rey Leonardo Guerrero even stated that the BOC is not going to tolerate misdeclared goods or any form of importation that will endanger the country's industries and consumer's health.

## **MAJOR POLICIES AGAINST AGRICULTURAL SMUGGLING**

### **The Anti-Agricultural Smuggling Act of 2016 (Republic Act 10845)**

Republic Act No. 10845, otherwise known as the Anti-Agricultural Smuggling Act of 2016 was signed into law on May 23, 2016. The law declares large-scale agricultural smuggling as economic sabotage. Primarily, it aims to boost

productivity of the agricultural sector and protect Filipino farmers and agricultural enterprises from illegal traders and importers. The crime of large-scale agricultural smuggling is committed by engaging in any of the following activities which involve at least Php 1 million (US\$ 19,700.55) worth of sugar, corn, pork, poultry, garlic, onion, carrots, fish, and cruciferous vegetables, in their raw state, or which have undergone the simple processes of preparation and preservation for the market, or a minimum of Php10 million (US\$ 197,055.52<sup>1</sup>) worth of rice, as valued by the Bureau of Customs:

- a. Importing or bringing into the Philippines without the required import permits from the regulatory agencies;
- b. Using import permits or persons, natural or juridical, other than those specifically named in the permit;
- c. Using fake, fictitious or fraudulent import permits or shipping documents;
- d. Selling, lending, leasing, assigning, consenting or allowing the use of import permits of corporations, non-government organizations, associations, cooperatives, or single proprietorship by other persons;
- e. Misclassification, undervaluation or misdeclaration upon filing of import entry and revenue declaration with the BOC in order to evade of the payment of rightful taxes and duties due to the government;
- f. Organizing or using dummy corporations, non-government organizations, associations, cooperatives or single proprietorships for the purpose of acquiring import permits; and
- g. Transporting or storing the agricultural product subject to economic sabotage regardless of quantity; and
- h. Acting as broker of the violating importer.

RA 10845 provided for the following sanctions and penalties for those who will violate the law:

- a. Penalty of life imprisonment and a fine of twice the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on any person who commits any of the acts enumerated under Section 3 of RA 10845;
- b. The penalty of imprisonment of not less than seventeen (17) years but not more than twenty (20) years, and a fine of twice the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the officers of dummy corporations, non-government organizations, associations, cooperatives, or single proprietorships who knowingly sell, lend, lease, assign, consent or allow the unauthorized use of their import permits for purposes of smuggling;
- c. The penalty of imprisonment of not less than fourteen (14) years but not more than seventeen (17) years and a fine equal to the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:
  - (1) The registered owner and its lessee or charterer, in case of lease, of a chartered boat, motorized commercial vessel of more than three (3) gross tonnage, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;
  - (2) The registered owner and its lessee, in case of lease of six (6) or more wheeler trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;
  - (3) The registered owner and lessee of a warehouse, or any property, who knowingly stores the smuggled agricultural product subject to economic sabotage; or
  - (4) The registered owner, lessee, president or chief executive officer of the private port, fish port, fish landing sites, resorts, and airports who knowingly allows the agricultural product to be smuggled into the country.

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<sup>1</sup> Exchange rate used: US\$ = Php 50.88. Based from the Reference Exchange Rate of the Bangko Sentral ng Pilipinas on April 7, 2020



- d. The penalty of imprisonment of not less than twelve (12) years but not more than fourteen (14) years and a fine equal to the fair value of the smuggled agricultural product subject to economic sabotage and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:
- (1) The registered owner and its lessee or charterer, in case of lease; of a chartered boat, motorized commercial vessel of three (3) gross tonnage or less, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity; or
  - (2) The registered owner and its lessee, in case of lease, of less than six (6) wheeler trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity.

In all cases, the smuggled agricultural products shall be confiscated and the property used in agricultural smuggling, consistent with Section 2530 of the Tariff and Customs Code and without prejudice to Section 2531 of the same Code shall be forfeited in favor of the government.

### **The Customs Modernization and Tariff Act (Republic Act 10863)**

Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), was signed into law on 30 May 2016. CMTA amended the Tariff and Customs Code of the Philippines (TCCP) with the following objectives:

- a. Develop and implement programs for the continuous enhancement of customs systems and processes that will harmonize customs procedures;
- b. Adopt clear and transparent customs rules, regulations, policies and procedures, consistent with international standards and customs best practices;
- c. Establish a regime of transparency of and accessibility to customs information, customs laws, rules, regulations, administrative policies, procedures and practices, in order to ensure informed and diligent compliance with customs practices and procedures by stakeholders;
- d. Consult, coordinate and cooperate with other government agencies and the private sector in implementing and developing customs policy;
- e. Provide a fair and expeditious administrative and judicial appellate remedy for customs related grievances and matters;
- f. Employ modern practices in customs administration and utilize information and communications technology in the implementation of customs functions; and
- g. Institute professionalism and meritocracy in customs tax administration by attracting and retaining competent and capable customs officers and personnel to enforce the provisions of Act.

Price inspections based on severely undervalued goods have legal basis under CMTA. Section 707, states that the BOC has the right to ascertain the truth or accuracy of any statement, document or declaration presented for customs valuation purposes. In cases of delay, the importer has recourse to secure a bond while appealing the valuation of the good. CMTA Section 1402 grants a 20% surcharge on the dutiable value of the good if the importer refuses to give evidence or submit documents for assessment.

### **Department of Agriculture Administrative Order No. 08, Series of 2009**

The Department of Agriculture (DA) plays an important role in fighting the battle against agricultural smuggling. The DA Administrative Order No. 08, Series of 2009 indicated that it is the paramount objective of the government, in view of trade liberalization, to adopt and enforce rules and regulations necessary to protect human, animal or plant life or health, ensuring that the agricultural and fishery products are safe for consumers. Further, it is to prevent the introduction, establishment and spread of pests or diseases among animals or plants. The AO specifically emphasized that smuggled agricultural and fish and fishery/aquatic products, fertilizers, pesticides and other agricultural chemicals, veterinary drugs and biological products pose serious threat to human, animal or plant life or health. The World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures recognizes that member-countries have the right to make SPS measures necessary to protect human, animal or plant life or health.

Moreover, the Department's various bureaus and agencies have their own set of rules and regulations on the importation of various products under their coverage. Also, there is a need to rationalize, harmonize and strengthen these various rules and regulations to promote transparency and in order to facilitate trade without compromising safety of human, animal or plant life or health or causing damage to the environment. The automation of the harmonized business processes of the regulatory agencies particularly in the application and issuance of the SPS Import Clearance will enhance the delivery of services which will lead to the adoption of best practices in the global trade.

### **Creation of Various Anti-smuggling Task Force**

In order to combat the smuggling of commodities and products in the Philippines, various anti-smuggling groups were established. These included the Anti-Smuggling Task Force, the Compliance and Regulatory Enforcement for Security and Trade Office (CREST-O) under the Department of Agriculture and the Anti-Smuggling Committee (ASC) of the Federation of Philippine Industries (FPI).

1. The Bureau of Customs in 2018 created the Anti-Smuggling Task Force with the aim of intensifying its fight against illegal importation of goods and other items in the country. The task force serves as the agency's prosecution arm for anti-smuggling activities. It coordinates with other law enforcement units in the bureau such as the Intelligence Group (IG) and the Enforcement and Security Service (ESS) to forge a stronger arm against rampant smuggling. IG focuses on gathering intelligence reports on attempts of smuggling through the country's ports while ESS helps on the anti-smuggling operations. Under the task force, the Bureau Action Team against Smugglers (BATAS) serves as the investigative and the prosecution arm.
2. The Compliance and Regulatory Enforcement for Security and Trade Office (CREST-O) was created by DA Secretary William D. Dar in 2019. CREST-O is a unified and integrated regulatory enforcement unit of DA that aims to protect the local farmers, especially in the light of Rice Tariffication Law.
3. The Federation of Philippine Industries (FPI) is a Securities and Exchange Commission (SEC)-registered organization which is composed of various industry leaders in the country. FPI is a partner of the Philippine government whose advice and counsel are sought to promote and develop globally-competitive industries. In terms of fighting against smuggling, FPI established its Anti-Smuggling Committee (ASC) which laid-out the following Action Plan:
  - a. Industry should be provided access to inward foreign manifests to enable it to effectively detect misdeclared or misclassified shipments and alert the appropriate customs personnel on time;
  - b. Validate Custom's accredited importers in order to eliminate fictitious or the so-called fly-by-night importers;
  - c. Importers should only be allowed to use ports nearest their place of business;
  - d. Close all bonded trading warehouses; no new bonded warehouse should be opened, and strictly monitor all other Customs bonded warehouses.;
  - e. Customs Bonding System. FPI raised the issue on the certification of assurance companies who issue bonds or guarantees for imports whose value is greater than their capitalization should be addressed. Anomalous transactions in the bonding system of the Customs have been uncovered through the legal brief that FPI submitted before.;
  - f. Goods requiring mandatory product standards can only be released after issuance of Import Commodity Clearance (ICC) by the Bureau of Product Standards;
  - g. The Bureau of Customs should provide certified true copies of documents supporting any case that will be filed with the Department of Justice, copy furnished the Secretary of Finance, for violation of customs laws and regulations.;
  - h. X-ray machines should be installed in the country's international seaports and airports to screen cargo vans, for both export and import, as these would serve as significant deterrents to smuggling and terrorism;
  - i. Require all stores selling imported goods to ask for document (documents to be determined by Customs) from their suppliers. Receipts should clearly indicate the names and addresses of the suppliers. Imported goods found in the local stores without required documents shall be presumed as contraband and therefore subject to confiscation and

- j. Constant review of the valuation procedure by involving specific industry organizations. A base CIF value for all items imported should be established and strictly implemented. All prices of imports agreed upon with the private sector should also be immediately and strictly executed.

## **INITIAL IMPACTS OF THE ANTI-SMUGGLING POLICIES**

The passing of RA 10845 supports one of the 10-point economic agenda of President Duterte, which focuses on the agricultural sector. By placing more safeguards on illegal importation, the Anti-Agricultural Smuggling Act will, in effect, provide small farmers more opportunity to market access and encourage them to increase their productivity.

During the implementation of RA 10845 and 10863 which began in 2016, BOC started to achieve its target revenues. In 2018, BOC achieved its target revenue for the year posted at PhP585.54 million (US\$11.54 million) of collections. Further, the Port of Manila (POM) was able to seize a total of PhP314.51 million (US\$6.20 million) worth of misdeclared goods in 2019. This is 17.28% higher than the PhP268.16 million (US\$5.28 million) worth of apprehensions in the past years. In addition, BOC seized 100, 20-footer containers loaded with 2,500 tons of white rice estimated to be worth PhP125 million (US\$2.46 million) at the Manila International Container Port (MICP).

## **SUMMARY AND POLICY RECOMMENDATIONS**

Smuggling is seen as one of the major issues in Philippine agriculture which impedes the sector's growth. It results to economic sabotage due to uncollected taxes and income of the government, distorts local commodity prices affecting farmers and producers, and may cause entry of crop and animal diseases affecting food supply and over health of consumers. To address issues arising from smuggling, the Bureau of Customs, the lead agency to protect the country from smuggling and custom fraud, created anti-smuggling task force. This was supported by initiatives of agencies such as the Department of Agriculture through the Compliance and Regulatory Enforcement for Security and Trade Office and the Federation of Philippine Industries through its Anti-Smuggling Committee. The passing of landmark laws such as the Anti-Agricultural Smuggling Act of 2016 (RA10845) and the Customs Modernization and Tariff Act (RA 10863) institutionalized the country's fight against smuggling.

In order to combat the adverse effects of agricultural smuggling, it is recommended to strengthen the importer accreditation procedure and vigorous implementation of anti-smuggling programs be sustained to improve the government's revenue collection and to protect local farmers against unfair competition. Above all, it is important to ensure that the objectives and strategies under the BOC Strategic Transformation Plan for 2017-2021 be implemented. Specifically, focus should be given in the institutionalization of moral and value formation as part of the anti-corruption initiatives of the Bureau, the development and monitoring of the Integrity Management Program (IMP) implementation and the rationalization of BOC organization structure and strengthening its intelligence and enforcement capabilities.

## **REFERENCES**

- Agriculture (2016). "The Anti-Agricultural Smuggling Act: A Sweet Victory for Filipino Farmers". Retrieved from: <https://www.agriculture.com.ph/2018/09/14/the-anti-agricultural-smuggling-act-a-sweet-victory-for-filipino-farmers/>
- Business Mirror (2019). "24 years with the WTO: Is it still relevant to PHL?". Retrieved from: <https://businessmirror.com.ph/2019/07/25/24-years-with-the-wto-is-it-still-relevant-to-phl/>
- Business World (2019). "Trade protections under the Customs Modernization and Tariff Act". Retrieve from: <https://www.bworldonline.com/trade-protections-under-the-customs-modernization-and-tariff-act/>
- Department of Agriculture (2009). "DA-Administrative Order No. 08 Series of 2009". Retrieved from: <https://www.bfar.da.gov.ph/services?id=174>
- Diokno, B. (2016). "Large-scale smuggling of agricultural products is anti-poor". Business World. Retrieved from: <https://www.pressreader.com/philippines/business-world/20160406/282282434447577>
- Exports Gov (2019). "Philippines – Trade Barriers". Retrieved from: <https://www.export.gov/apex/article2?id=Philippines-Trade-Barriers>
- FAO (2018). "Country Gender Assessment of Agriculture and the Rural Sector in the Philippines".

- Arranza, J. "Addressing Smuggling in the Philippines – Recommendations of the Federation of Philippine Industries". Retrieved from: <http://www.fpi.ph/fpi.cms/Research/uploads/Addressing%20Smuggling%20in%20the%20Philippines.pdf>
- Fernandez, R. (2014). "Agri smuggling \$10-B trade – study". The Philippine Star. Retrieved from: <https://www.philstar.com/headlines/2014/02/16/1290917/agri-smuggling-10-b-trade-study>
- Gordoncillo, P., Quicoy, C., Delos Reyes, J. and Vista, A. (2013). Effectiveness of Anti-Smuggling Policies for Selected Agricultural Commodities in the Philippines. *Journal of the International Society for Southeast Asian Agricultural Sciences*.
- Gordoncillo, P., Quicoy, C., Delos Reyes, J. and Vista, A. (2013). Assessment of Smuggling of Selected Agricultural Commodities in the Philippines. Southeast Asian Regional Center for Graduate Study and Research in Agriculture (SEARCA).
- Official Gazette (2016). "Republic Act No. 10845". Retrieved from: <https://www.officialgazette.gov.ph/2016/05/23/republic-act-no-10845/>
- Official Gazette (2016). "Republic Act No. 10863". Retrieved from: <https://www.officialgazette.gov.ph/2016/05/30/republic-act-no-10863/>
- New Agriculturist (2012). "Country profile: The Philippines". Retrieved from: <http://www.new-ag.info/en/country/profile.php?a=2551>
- Patinio (2020). "BOC orders condemnation of ASF-positive pork dumplings from China". Philippine News Agency. Retrieved from: <https://www.pna.gov.ph/articles/1091926>
- PIDS (2019). "IN FOCUS: Food Security and Inclusive Growth". Retrieved from: <https://www.pids.gov.ph/infocus/76>
- Philippine News Agency (2020). "BOC orders condemnation of ASF-positive pork dumplings from China". Retrieved from: <https://www.pna.gov.ph/articles/1091926>
- PwC Philippines (2016). "Anti-Agricultural Smuggling Act of 2016". Retrieved from: <https://www.pwc.com/ph/en/taxwise-or-otherwise/2016/anti-agricultural-smuggling-act-2016.html>
- Senate of the Philippines 18th Congress (2018). "JV: Implement the Anti-Agricultural Smuggling Law Relentlessly". Retrieved from: [https://www.senate.gov.ph/press\\_release/2018/0306\\_ejercito1.asp](https://www.senate.gov.ph/press_release/2018/0306_ejercito1.asp)
- Wooldridge, M. (2006). "Quantitative risk assessment case study: smuggled meats as disease vectors". Retrieved from: <https://www.ncbi.nlm.nih.gov/pubmed/16796040>