

Chambers



GLOBAL PRACTICE GUIDE

Definitive global law guides offering
comparative analysis from top ranked lawyers

Environmental Law

Second Edition

Philippines: Law & Practice
Cruz Marcelo & Tenefrancia

Philippines: Trends & Developments
Cruz Marcelo & Tenefrancia

chambers.com

2019

Law and Practice

Contributed by Cruz Marcelo & Tenefrancia

Contents

1. Regulatory Framework	p.3	10. Contractual Agreements	p.9
1.1 Key Environmental Protection Policies, Principles and Laws	p.3	10.1 Transferring or Apportioning Liability	p.9
2. Enforcement	p.4	10.2 Environmental Insurance	p.9
2.1 Key Regulatory Authorities	p.4	11. Key Laws Governing Contaminated Land	p.9
3. Environmental Incidents and Permits	p.5	11.1 Key Laws Governing Contaminated Land	p.9
3.1 Investigative and Access Points	p.5	12. Climate Change and Emissions Trading	p.10
3.2 Environmental Permits	p.5	12.1 Key Policies, Principles and Laws	p.10
4. Environmental Liability	p.5	12.2 Targets to Reduce Greenhouse Gas Emissions	p.10
4.1 Key Types of Liability	p.5	13. Asbestos	p.10
5. Environmental Incidents and Damage	p.6	13.1 Key Policies, Principles and Laws Relating to Asbestos	p.10
5.1 Liability for Historic Environmental Incidents or Damage	p.6	14. Waste	p.10
5.2 Types of Liability and Key Defences	p.6	14.1 Key Laws and Regulatory Controls	p.10
6. Corporate Liability	p.6	14.2 Retention of Environmental Liability	p.10
6.1 Liability for Environmental Damage or Breaches of Environmental Law	p.6	14.3 Requirements to Design, Take-back, Recover, Recycle or Dispose of Goods	p.11
6.2 Shareholder or Parent Company Liability	p.6	15. Environmental Disclosure and Information	p.11
7. Personal Liability	p.7	15.1 Self-Reporting Requirements	p.11
7.1 Directors and Other Officers	p.7	15.2 Public Environmental Information	p.11
7.2 Insuring Against Liability	p.7	15.3 Corporate Disclosure Requirement	p.11
8. Lender Liability	p.7	16. Transactions	p.12
8.1 Financial Institutions/Lender Liability	p.7	16.1 Environmental Due Diligence	p.12
8.2 Lender Protection	p.7	16.2 Disclosure of Environmental Information	p.12
9. Civil Liability	p.7	17. Taxes	p.12
9.1 Civil Claims	p.7	17.1 Green Taxes	p.12
9.2 Exemplary or Punitive Damages	p.8		
9.3 Class or Group Actions	p.8		
9.4 Landmark Cases	p.8		

Cruz Marcelo & Tenefrancia is a top-tier full-service law firm in the Philippines and a recognised leader in the country for mining and natural resources and energy practice. The firm provides comprehensive counsel to local and foreign clients, including leading mining and energy companies, on a broad range of matters, such as compliance with environmental regulations, nationality requirements, obtaining government approvals and licences including environmental compliance certificates, preparing and review-

ing applications for mineral agreements and exploration permits, and drafting, negotiating and reviewing contracts pertinent to the mining and energy industries, such as joint ventures, operating agreements, and other suitable business arrangements. It also has extensive experience in rendering title opinions, advice on land tenure and ancestral domain issues, and mining litigation and international arbitration, among others. A multi-disciplinary approach allows its lean team to effectively service all its clients' business needs.

Author



Patricia A O Bunye is a senior partner and the deputy managing partner for administration of Cruz Marcelo & Tenefrancia. She heads its mining and natural resources department and the energy practice group and is also a partner in its intellectual property department. Patricia is the founding president of Diwata – Women in Resource Development, Inc, a non-government organisation advocating the responsible development of the Philippines' wealth in resources – principally, through industries such as mining, oil and gas, quarrying and processing other mineral resources from the earth. She is an active member of the Chamber of Mines of the Philippines' Legal Committee and writes a regular column in Philippine Resources Journal, a mining, petroleum and energy publication.

1. Regulatory Framework

1.1 Key Environmental Protection Policies, Principles and Laws

The Philippine Constitution provides special protection to environmental rights. It declares as a policy that the state shall “protect and advance the right to a balanced and healthful ecology in accord with the rhythm and harmony of nature”. Guided by this policy, the Philippine Congress has enacted environmental laws that strictly regulate a large portion of the country's economic activity.

While there is no one main environmental code legislating for environmental protection, there are various statutes and regulations. Philippine legislation on environmental protection is very extensive. These include major environmental laws pertaining to mining, forestry, clean water, clean air, the regulation of toxic and hazardous substances, waste management and environmental impact assessment. Since the Constitution also states that all natural resources and lands of the public domain are under the ownership, full control and supervision of the Philippine State, laws involving the exploitation of natural resources – such as those for mining

and renewable energy – are co-implemented by the Department of Environment and Natural Resources (DENR), the main Philippine environmental regulator.

However, the most consequential shifts in Philippine environmental policy were arguably not spurred by Congress or the executive agencies, but by the judiciary. The environmental activism of the courts is generally traced to the landmark decision of the Supreme Court in *Oposa v Factoran*, G.R. No 101083 (30 July 1993). In *Oposa*, the Supreme Court held that the above-quoted provision in the Constitution is not only a statement of policy that is generally non-binding on Congress or the executive, but a directly enforceable right. This ruling heralded the principle of “intergenerational responsibility”, which primarily liberalises the legal standing of petitioners in environmental cases and extends it to minors and persons not yet conceived. *Oposa* is widely recognised for contributing to the development of international environmental law through this doctrine of intergenerational responsibility.

Another landmark Supreme Court decision, *International Service for the Acquisition of Agri-biotech Applications*,

Inc. v Greenpeace South Asia, G.R. No 209271 (8 December 2015), recognised the application of the precautionary principle. In that case, the Philippine Supreme Court enjoined the field testing of genetically modified eggplants for lack of full scientific certainty as to the effects of “Bt talong” (an eggplant spliced with *Bacillus thuringiensis*), field testing on the environment and the health of the population. While this decision was later reconsidered as the issue had been rendered moot by the expiration of the permits issued by government and the termination of Bt talong field trials subject of said permits, the application of the precautionary principle in the Philippines remains possible because of procedural rules issued by the Supreme Court concerning environmental cases.

These judicial principles are echoed in the Rules of Procedure for Environmental Cases, a set of rules issued in 2010 for the enforcement or violation of environmental laws. These rules of procedure further liberalised legal standing by introducing the route of citizen suits. Among others, it also introduced or formalised the remedies of:

- the writ of *kalikasan* against extensive environmental damage;
- temporary environmental protection orders for the protection, preservation and rehabilitation of the environment involving extreme urgency;
- the writ of continuing mandamus which directs the government to perform acts in connection with the enforcement or violation of an environmental law; and
- a strategic lawsuit against public participation defence (SLAPP), which may be raised against legal actions intended to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment, or assertion of environmental rights.

Some of these innovations were patterned after similar remedies in other jurisdictions.

Human Rights

One key development in the Philippines is the growing recognition of environmental rights as human rights. More recently, the Philippine Commission on Human Rights (CHR), originally established as an investigative body for human rights violations committed during the President Marcos martial law era, has taken upon itself to investigate the climate change impacts of fossil fuel companies in a petition filed by an international non-governmental organisation. While the CHR, not being an adjudicatory body, cannot grant damages or promulgate decisions, its public hearings and inquiries on human rights violations in relation to climate change were made in both local and international forums. A comprehensive report is set to be released this year.

Climate Change Commission (CCC)

Meanwhile, since the Philippines is regularly ranked as among the most climate-vulnerable countries in the world, interagency bodies such as the Climate Change Commission (CCC) have also been created to co-ordinate, monitor, and evaluate government programmes aimed towards climate resilience. Legal questions have been raised as to the investigative jurisdiction of the CHR over environmental rights, while the mandate of the CCC, and its relation to the functions of the regulators it is tasked to co-ordinate, remains unclear. Nevertheless, these developments indicate the continued expansion of environmental law and policy in the Philippines amid rapid developments in climate change mitigation and environmental protection.

2. Enforcement

2.1 Key Regulatory Authorities

The main executive agency charged with the enforcement of environmental law and policy is the DENR. It is the primary environmental regulator responsible for the conservation, management, development and proper use of the country's environment and natural resources. The DENR is composed of several bureaus such as the Environmental Management Bureau (EMB), which implements environmental laws and sets environmental quality standards, and the Mines and Geosciences Bureau (MGB), which is responsible for the conservation, management, development, and proper use of the country's mineral resources.

Agencies attached to the DENR include the Laguna Lake Development Authority (LLDA), the National Water Resources Board, the Palawan Council for Sustainable Development, the Natural Resources Development Corporation, the National Mapping and Resource Information Authority and the Philippine Mining Development Corporation. The scope of these agencies is limited and specific, although their powers further to their mandate are extensive. For example, the LLDA is empowered by law to issue cease and desist orders against establishments violating waste water discharge regulations in the regions contiguous to the country's largest lake, which include the economically crucial National Capital Region.

Under their devolved powers, local government units (or the provinces, cities, municipalities, barangays, and autonomous region comprising the various political subdivisions of the Philippines) are likewise empowered to enforce particular environmental laws and regulations and pollution control through enactment of local ordinances, under the supervision, control and review of the DENR. The powers of local government units include the imposition of fines and the penalty of imprisonment for violations of local environmental ordinances.

The Supreme Court of the Philippines also approved the creation of environmental courts which are authorised to hear and decide cases and violations of environmental laws committed within their respective territorial jurisdictions. The Office of the Environmental Ombudsman was also established to investigate violations of environmental laws by any public official, employee, office or agency mandated to protect the environment and conserve natural resources.

3. Environmental Incidents and Permits

3.1 Investigative and Access Points

To ensure the implementation of environmental laws, the relevant authorities are empowered to conduct inspections of business establishments, among others, in order to determine their compliance with relevant environmental laws.

A finding of any violation of such laws may result in the imposition of fines, imprisonment and/or revocation of relevant business permits. In the case of the latter, the local government units where the business establishments are located are charged with the power to revoke such business permits for violation of environmental laws.

3.2 Environmental Permits

Environmental Compliance Certificates (ECC) are documents issued by the DENR, through the EMB, certifying that the proposed project or undertaking has complied with all the requirements of the Environmental Impact Statement (EIS) system and the proponent has committed to implement its approved Environmental Management Plan to address any environmental impacts. In turn, the EIS system covers undertakings that have significant adverse impact on environmental quality. Presidential Proclamation No 2146, series of 1991, includes undertakings classified as either Environmentally Critical Projects (ECPs) or located in Environmentally Critical Areas (ECAs) within the scope of the Philippine EIS system.

An ECC is obtained through the Environmental Impact Assessment (EIA) process, where adverse environmental impacts of proposed actions are considerably reduced through a reiterative review process of project siting, design and other alternatives and the subsequent formulation of environmental management and monitoring plans. The EIA is not solely undertaken by the applicant, but also includes an EIA Consultant, the EMB itself, a review committee, affected communities, and other stakeholders.

The DENR, through the EMB, issues an ECC after a positive review of an ECC application, which includes sworn representations of a project proponent. The processing of an ECC application depends on the scale and nature of the proposed project since proposed projects with more significant environmental impacts also often require more complex

and detailed submissions and, thus, an extended period of review.

An ECC contains conditions which a project proponent must comply with. These conditions include fairly standard provisions, as well as special provisions for significant projects. The breach of these conditions may result in fines or the suspension and revocation of the ECC. Meanwhile, because an ECC is required prior to undertaking or operating ECPs or projects in ECAs, operating such projects without an ECC will also result in administrative fines for the project proponent.

Depending on its particular operations, businesses may also be required to secure permits over and above the ECC from the EMB regional offices. Establishments generating hazardous waste, which may include used light bulbs, cooking oil, etc, must register as hazardous waste generators under the implementing rules and regulations (IRR) of the Toxic Substances and Hazardous and Nuclear Wastes Control Act. Each establishment using equipment which generates air pollution, such as gas-powered generators, must secure a permit to operate air pollution source installations pursuant to the IRR of the Clean Air Act.

Establishments that discharge waste water but are not connected to sewer lines must secure waste water discharge permits under the IRR of the Clean Water Act. Businesses that fail to register, do not secure the proper permits, or discharge effluent outside the permissible standards are liable for administrative fines that may accumulate daily depending on the specific regulation breached and the extent of the violation. Establishments generating waste water and operating in the National Capital Region and the industrial towns circling the Laguna Lake are also required by the LLDA to secure separate discharge permits or, should they be interconnected to sewage lines, the corresponding discharge permit exemptions.

Certain permits issued by national agencies (eg, a tree-cutting permit), require letters of no objection from the concerned local government unit. In this sense, the local government has some participation in the issuance of environmental permits.

4. Environmental Liability

4.1 Key Types of Liability

The Philippines acknowledges and adopts the “polluter pays” principle and the “precautionary principle”. Hence, liabilities for environmental damage or harm are imposed upon the polluters themselves. The liabilities that may be imposed on the polluters who cause environmental damage are administrative, civil and criminal.

Administrative liability includes the revocation of the violator's permits and/or franchises, as well as the rehabilitation or clean-up of the environmental damage caused. This type of liability is determined and imposed by regulators, including the DENR and EMB, in simplified administrative proceedings, although these may be reviewed by the courts. Criminal liability carries with it the imposition of fines and/or imprisonment. Civil liability includes the obligation to indemnify the persons who suffered damages due the environmental harm caused, as well as the undertaking to carry out rehabilitation or clean-up of the environmental damage. Unlike administrative liability, both criminal and civil liabilities are imposed by the courts.

5. Environmental Incidents and Damage

5.1 Liability for Historic Environmental Incidents or Damage

Generally, the liability for damage caused, including environmental damage, is personal to the polluter and is not transferred to its successor-in-interest. Specifically, for corporations, the Nell Doctrine laid out by the Supreme Court in *The Edward J. Nell Company v Pacific Farms*, G.R. No L-20850 (29 November 1965) applies. The Nell Doctrine states the general rule that the transfer of all the assets of a corporation to another shall not render the latter responsible for the liabilities of the transferor. Notably, the Nell Doctrine recognises a number of exceptions, such as:

- where the transferee corporation expressly or implicitly agrees to assume such liability;
- where the transaction amounts to a consolidation or merger of the transferor and transferee corporations;
- where the transferee corporation is merely a continuation of the transferor corporation; and
- where the transaction is entered into fraudulently in order to escape such liability.

Hence, the corporate successor-in-interest may be held accountable for the liabilities of its predecessor-in-interest when the successor-in-interest purchases not only the assets of the predecessor-in-interest, but also its business, including its goodwill. In this case, there is a continuation of the business of the predecessor-in-interest vested upon the successor-in-interest. As a result of the sale, the transferor is merely left with its juridical existence, devoid of its industry and earning capacity.

5.2 Types of Liability and Key Defences

As stated in **4.1 Key Types of Liability**, liability for environmental damage and the violation of environmental rules and regulations is administrative, civil or criminal in nature. Since these are separate and distinct in Philippine law, these types of liability concur in that a person's breach of environ-

mental regulations may result in only one, some or all three of the foregoing.

These types of liability are imposed only if the corresponding standard of proof is met. For administrative liability, the same may only be imposed if there is "substantial evidence", defined as evidence which a reasonable mind might accept as adequate to justify a conclusion. As to civil liability, the higher standard of "preponderance of evidence" applies. This requires that evidence adduced by one side be, as a whole, superior to or have greater weight than that of the other. For criminal liabilities, the most exacting standard of "proof beyond reasonable doubt" must be met. This requires "moral certainty", further defined as the degree of proof which produces conviction in an unprejudiced mind. That the proper standard of proof has not been met is thus a defence against administrative, civil or criminal charges for violating environmental laws and regulations.

There are broad defences that are specific to each liability. For instance, under civil law, liability may be mitigated or excused in case the damage caused was due solely to fortuitous events, which are beyond the control of the alleged polluter. The administrative liability of polluters may also be limited to their compliance with the terms of their respective permits or franchises, as may be applicable. As to criminal liability, there are defences that rely on proving circumstances that would either justify the act complained of or exempt the perpetrator from liability.

6. Corporate Liability

6.1 Liability for Environmental Damage or Breaches of Environmental Law

As stated in **4.1 Key Types of Liability**, the liability for environmental damage or breaches of environmental law may be administrative, civil, and criminal. For both administrative and civil liability, the corporation may be held directly liable.

However, in principle, criminal liability cannot be directly imposed on a corporation since only natural persons can suffer imprisonment, although the corporation may theoretically be fined.

6.2 Shareholder or Parent Company Liability

The general rule is that a corporation has a separate and distinct personality from its stockholders and members and is not affected by the personal rights, obligations, and transactions of the latter. However, courts may "pierce the corporate veil" and consider the corporation as one with its stockholders and members:

- when the separate corporate personality is used to defeat public convenience, justify a wrong, protect fraud or

defend crime, or is used as a shield to confuse the legitimate issues;

- when the corporation is merely an adjunct, a business conduit or an alter ego of another corporation;
- where the corporation is so organised and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation;
- when the corporation is used as a cloak or cover for fraud or illegality, or to work injustice; or
- where necessary to achieve equity or for the protection of creditors.

In such cases, the corporation will be considered as a mere association of persons and liability will directly attach to its stockholders or members.

The same is true for corporate subsidiaries with respect to their parent companies.

7. Personal Liability

7.1 Directors and Other Officers

Directors or officers who wilfully and knowingly vote for or assent to patently unlawful acts of the corporation, such as violation of environmental laws, may be held personally liable for said violation under the Revised Corporation Code.

This liability under the Revised Corporation Code is separate from the liability under the environmental statute or regulation that was criminally breached. As stated, corporations generally cannot be held criminally liable as they are not natural persons. Hence, specific laws provide for special rules as to who may be criminally prosecuted and held liable. For example, in case of the violation by a corporation of the Clean Water Act, the officer, director or agent primarily responsible for the violation shall be held liable. For violating the Toxic Substances and Hazardous and Nuclear Wastes Control Act, the partner, president, director or manager who shall consent to or shall knowingly tolerate such violation shall be held liable. For violations of the Ecological Solid Waste Management Act, the chief executive officer, president, general manager, managing partner or such other officer-in-charge shall be held liable. In all these, and as a general principle, criminal liability can only be exacted from responsible persons who personally and knowingly participated in or sanctioned the criminal acts of the corporation.

7.2 Insuring Against Liability

There is no prohibition against insuring one's liability for environmental damage or breaches of environmental law. Liability insurance, which is a type of insurance contract that protects against liability in connection with the insured's business or profession, is allowed in the Philippines.

8. Lender Liability

8.1 Financial Institutions/Lender Liability

This is not applicable in the Philippines and there is no law or principle which generally holds lenders liable for the acts of borrowers.

8.2 Lender Protection

To avoid any doubt as to their lack of liability, lenders may properly structure their lending agreements. Lenders may also protect themselves by availing of liability insurance.

9. Civil Liability

9.1 Civil Claims

Civil claims for compensation and similar remedies may be anchored on various provisions of the Civil Code, which is the law that generally governs claims for civil liability. Its Article 20 imposes a civil liability on a person who, contrary to law, wilfully or negligently causes damage to another. Article 21 imposes a similar liability on a person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy. Article 2176 provides for the payment of damages due to quasi-delict or an act or omission that causes damage to another, there being fault or negligence and no pre-existing contractual relation between the parties. Article 2176, in particular, has been used for class suits based on acts that have a significant health and environmental impact. In *Navida v Dizon*, G.R. No 125078 (30 May 2011), a group of plaintiffs sought damages for injuries sustained due to chemical exposure. The Supreme Court considered the plaintiffs' cause of action to be a quasi-delict under Article 2176 of the Civil Code and remanded the case to the trial court of origin to determine civil liability of the defendants.

Title XVIII of the Civil Code details the rules for awarding actual or compensatory damages, moral damages, nominal damages, temperate damages, liquidated damages, or exemplary damages arising from any of the said civil liabilities.

The Supreme Court's Rules of Procedure for Environmental Cases (A.M. No 09-6-8-SC) provides for the payment of damages as part of the reliefs in the issuance of a writ of continuing mandamus. When any agency or instrumentality of the government or officer unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved may file a petition for continuing mandamus and pray for the courts to command the respondent to undertake an act or series of acts until the

judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations.

Although not civil liability, strictly speaking, Philippine laws may require project proponents to set up reserve funds in anticipation of claims from affected stakeholders. For example, the Philippine Mining Act provides for compensation through the mandatory payment of mines wastes and tailing fees that accrue to a reserve fund used exclusively for payment for damages caused by mining pollution to lives and personal safety; lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and infrastructure and the re-vegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing.

9.2 Exemplary or Punitive Damages

In Philippine law, exemplary damages are awarded under Article 2229 of the Civil Code “by way of example or correction for the public good”. However, exemplary damages cannot be recovered as a matter of right and are discretionary on the court.

Generally, exemplary damages may be awarded only if it has been shown that the plaintiff is also entitled to compensatory, moral, or temperate damages. Further, exemplary damages must be justified by particular circumstances. In criminal cases, exemplary damages may be awarded if the crime was committed with one or more aggravating circumstances. In civil cases, exemplary damages may be awarded if the defendant acted with gross negligence in cases involving quasi-delicts, or if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner in cases involving contracts and quasi-contracts.

The Civil Code does not provide for the award of exemplary damages in administrative cases. However, environmental regulators often impose the maximum administrative penalty for egregious violations of environmental laws and regulations in order to serve as a public example.

9.3 Class or Group Actions

Class suits are allowed under the Rules of Court when the subject matter of the controversy is one of common or general interest to persons so numerous that it is impracticable to join all as parties. In these instances, a number of plaintiffs, which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned, may bring the suit for and on behalf of the class.

The Supreme Court treated the landmark case of *Oposa v Factoran*, G.R. No 101083 (30 July 1993) as a class suit and recognised that the same may be initiated for environmental-related civil claims, even on behalf of unborn genera-

tions. It is worth noting that the propriety of a class suit was never raised in the case, and there is a view among academics that *Oposa* is not precedent on this point.

Notwithstanding *Oposa*, the Supreme Court has not been liberal in allowing class suits for environmental-related civil claims. In *Navida v Dizon*, G.R. No 125078 (30 May 2011), where a group sought damages for injuries sustained due to chemical exposure, the Supreme Court expressed its view that while class suits are allowed in the Philippines, the device has been employed strictly and only after compliance with numerous procedural requirements. In *Resident Marine Mammals v Reyes*, G.R. No 180771 (21 April 2015), where the petitioners brought the environmental suit on behalf of animals, the Supreme Court held that the class of animals does not have standing considering they are not natural persons. However, the Supreme Court recognised the standing of the stewards of animals, citing the Rules of Procedure for Environmental Cases which: (i) allows for a citizen’s suit; and (ii) permit any Filipino citizen to file an action before Philippine courts for violations of environmental laws.

9.4 Landmark Cases

Oposa v Factoran is a landmark case, internationally recognised for introducing the doctrine of intergenerational responsibility. In the words of the Supreme Court, “every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology.” Recognising intergenerational responsibility, the Supreme Court allowed the petitioners to file the case on behalf of future generations, including those unborn.

In *Metropolitan Manila Development Authority v Concerned Residents of Manila Bay*, G.R. Nos 171947-48 (18 December 2008), the Supreme Court issued a writ of continuing mandamus, adopting such remedy from other jurisdictions, to ensure that its decision would not be made useless by administrative inaction or indifference. Notwithstanding the absence of a categorical legal provision specifically mandating positive action, the Supreme Court ordered several government agencies to clean up, rehabilitate, and preserve the Manila Bay, citing the said agencies’ “obligation to future generations of Filipinos to keep the waters of the Manila Bay clean and clear as humanly possible”. By virtue of the continuing mandamus, the said agencies were required to submit regular reports on their compliance with the order to rehabilitate Manila Bay. The writ of continuing mandamus was later formalised in the Rules of Procedure for Environmental Cases.

In *Navida v Dizon*, G.R. No 125078 (30 May 2011), the Supreme Court recognised the jurisdiction of Philippine courts over civil cases involving claims for damages arising from environmental-related injuries to health, even when

such alleged injuries were caused by pesticides and other related activities that were manufactured or occurred outside the Philippines.

In *Resident Marine Mammals v Reyes*, G.R. No 180771 (21 April 2015), the Supreme Court held that under the Rules of Procedure for Environmental Cases, any Filipino citizen, as a steward of nature, may bring a suit to enforce environmental laws. The Supreme Court recognised the petitioners as stewards with legal standing to file the petition as there may be violations of laws concerning the habitat of the resident marine mammals.

In *International Service for the Acquisition of Agri-biotech Applications, Inc. v Greenpeace South Asia*, G.R. No. 209271 (8 December 2015), the Supreme Court applied the precautionary principle, but cautioned that it be treated as a principle of last resort. The Supreme Court held that “When these features – uncertainty, the possibility of irreversible harm, and the possibility of serious harm – coincide, the case for the precautionary principle is strongest. When in doubt, cases must be resolved in favor of the constitutional right to a balanced and healthful ecology.” The decision of the Supreme Court was later vacated in a 2016 resolution on the ground of mootness, but the foregoing dictum on the application of the precautionary principle may reappear in later cases, especially since the Rules of Procedure for Environmental Cases expressly allow resort to the precautionary principle.

In *Mosqueda v Pilipino Banana Growers & Exporters Association, Inc.*, G.R. No 189185 (16 August 2016), the Supreme Court rejected the application of the precautionary principle in the absence of any scientific basis. While recognising that the precautionary principle allows lack of full scientific certainty in establishing a connection between the serious or irreversible harm and the human activity, the Supreme Court held that its application is still premised on empirical studies and scientific analysis. It can only be invoked after scientific inquiry takes place and cannot be based merely on emotional concern.

In *Maynilad Water Services, Inc. v Secretary of the Department of Environment and Natural Resources*, G.R. No 202897 (6 August 2019), the Supreme Court introduced the Public Trust Doctrine protruding from the basic tenet that water is a vital part of human existence. Under the Public Trust Doctrine, the public is regarded as the beneficial owner of trust resources, and courts can enforce the Public Trust Doctrine even against the government itself. Applying the Public Trust Doctrine, the Supreme Court held the government agency Metropolitan Waterworks and Sewerage System jointly liable with the private concessionaires Maynilad Water Services, Inc. and Manila Water Company, Inc. in the amount of approximately USD40 million for violating the Clean Water Act.

10. Contractual Agreements

10.1 Transferring or Apportioning Liability

Liability for breaches of law cannot be transferred through contractual agreements since a contract cannot override the law, which determines the persons to be made liable and the extent of their responsibility. Hence, any contractual transfer of liability may be void even between private parties for being contrary to public policy.

However, laws allow government regulators to recognise a change in ownership of environmentally critical projects. The change in ownership effectively transfers liability to the new registered owner. Under the implementing rules and regulations of Presidential Decree No 1586, a change in ownership is considered a minor amendment of the ECC. To effect a change in ownership, the registered owner must file a letter of request addressed to the EMB Regional Director. According to the Revised Procedural Manual for DAO 2003-30, the transfer of ownership of the project or ECC without prior approval of the ECC-issuing authority is a minor offence subject to a fine.

10.2 Environmental Insurance

Environmental insurance is not a product offered by most insurance companies operating in the Philippines. Based on an industry survey, there is at least one insurance company offering environmental insurance. The risks insured against are environmental risks and exposures, specifically those caused by pollution. The insurance policy covers bodily injury, damage to property, legal representation costs, and clean-up costs.

11. Key Laws Governing Contaminated Land

11.1 Key Laws Governing Contaminated Land

Several key laws regulate against contamination of topsoil or subsoil layers of land. The provisions meant to address the circumstances that result in land degradation are not found under one law but are spread in different thematic enactments.

The Toxic Substances and Hazardous and Nuclear Wastes Control Act prohibits, under threat of imprisonment, the unauthorised use, processing, and disposal of hazardous chemical substances, mixtures, and nuclear wastes in Philippine territory. The Ecological Solid Waste Management Act ensures the proper segregation, collection, transport, storage, treatment and disposal of solid waste. The Clean Water Act mandates the conservation of all water bodies, the provisions of which extend to the regulation of activities resulting in the abatement and control of pollution from land-based sources. Mining laws and their implementing rules also pro-

vide for certain mechanisms towards the proper disposal of mining by-products.

The above laws and the enabling charters of regulatory authorities grant the latter enough powers to implement remediation. These include the power to order clean-ups and restoration undertakings and the power to issue cease-and-desist or closure orders in proper cases.

In general, remediation plans are required from applicants of operational and environmental licences. General and personal remediation undertakings consistent with these plans take effect upon an administrative finding of breach. Exceptional cases are addressed via ad hoc committees comprising relevant national government agencies and the affected local government unit.

12. Climate Change and Emissions Trading

12.1 Key Policies, Principles and Laws

The Philippines has long recognised the impact of climate change starting with its commitment to the Global Program of Action for Sustainable Development or Agenda 21, as adopted by the United Nations Conference on Environment and Development in 1992. Several later enactments enshrine the country's adherence to the principle of protecting the climate system on the basis of climate justice or common but differentiated responsibilities. These laws adopt the precautionary principle to guide decision-making processes in climate risk management.

Legislative efforts include: the Climate Change Act, which aims to provide interventions that address anthropogenic emissions by sources and removals by sinks of all greenhouse gases, including ozone-depleting substances and their substitutes; the Philippine Clean Air Act, which promotes the use of state-of-the-art, environmentally-sound and safe non-burn technologies for the handling, treatment, thermal destruction, utilisation, and disposal of sorted, unrecycled, uncomposted municipal, bio-medical and hazardous wastes; and the People's Survival Fund, which mandates the integration of disaster risk reduction activities into climate change programmes and initiatives and the appropriation of a government fund that serves as a long-term financing to climate change mitigation projects.

12.2 Targets to Reduce Greenhouse Gas Emissions

In October 2015, the Philippines, pursuant to an agreement in the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), submitted its Intended Nationally Determined Contribution (INDC) towards achieving a conditional 70% greenhouse gas emissions reduction by 2030, which will come from the energy, transport, waste, forestry, and industry sectors. The

CCC is still in the process of revising its contributions, following a national policy review and discussions with the sectors involved. With the country's accession to the Paris Agreement in April 2017, the Philippines' INDC will be updated and the first Nationally Determined Contribution will be submitted to the UNFCCC before 2020.

13. Asbestos

13.1 Key Policies, Principles and Laws Relating to Asbestos

Although there is no law dedicated to the regulation of asbestos, the DENR has exercised its administrative powers under the Toxic Substances and Hazardous and Nuclear Wastes Control Act to regulate asbestos as a hazardous material. Accordingly, a permit is required to engage in or conduct activities which use or process asbestos or otherwise dispose of it. The Department of Labor and Employment has promulgated a rule which mandates that workers shall have as close to zero occupational exposure limits as reasonably practicable, but in no case shall this exceed the threshold limit value for asbestos of 0.1 fibre per cubic centimeter of air in an eight-hour work period – this is in accordance with international standards. The Clean Air Act further mandates the annual publication of hazardous pollutants, which currently includes asbestos, with corresponding ambient guideline values and/or standards.

14. Waste

14.1 Key Laws and Regulatory Controls

The designated implementing agencies of waste management laws are the local government units. The Local Government Code of 1991 authorises each local government unit to establish its own system with respect to the collection, segregation, processing, treatment, and disposal of waste. Upon the passage of the Ecological Solid Waste Management Act, all LGUs are mandated to form local boards which must establish and adopt solid waste management plans (SWMP) consistent with the minimum standards set by the national solid waste management framework. The law further allows the adoption of revenue-generating measures which ensure the viability of each local government unit's SWMP. The standard SWMP must provide for waste characterisation, proper waste collection and transfer, waste processing, waste reduction at source, recycling, and designated locations for final waste disposal, among others.

14.2 Retention of Environmental Liability

Disposal of hazardous wastes by a third party does not relieve the producer or consignor of waste from liability. Waste generators, as defined under Philippine law, continue to be responsible for wastes generated in their premises until the wastes have been certified by an accredited waste treater

as adequately treated, recycled, reprocessed, or disposed of. For the disposal of a third party to have the effect of absolving the generator from responsibility, the third party itself must be an accredited entity who in turn must issue a certification for this purpose.

14.3 Requirements to Design, Take-back, Recover, Recycle or Dispose of Goods

The law does not expressly prescribe as a penalty the direct take-back, recovery, or disposal of waste by persons held liable themselves. However, the adjudicating body may order that the same be done at the expense of those responsible. An instance where the obligation to recover falls directly on persons liable is that found under the Toxic Substances and Hazardous and Nuclear Wastes Control Act. It provides that any person or firm responsible or connected with the bringing or importation into the country of hazardous or nuclear wastes shall be under obligation to transport or send back the said prohibited wastes.

15. Environmental Disclosure and Information

15.1 Self-Reporting Requirements

In the Philippines, the public is mandated to be vigilant by monitoring the environmental impacts of projects granted an ECC and providing relevant feedback. Further to this, there is a Multi-Partite Monitoring Team (MMT) composed of representatives of various project stakeholders and the public. For ECPs, the MMT is mandated to conduct quarterly ocular visits to validate a proponent's compliance with its ECC. Non-reporting by the MMT of actual adverse environmental impacts during project implementation shall be immediately investigated by the EMB.

15.2 Public Environmental Information

The Philippine Constitution recognises the fundamental right of the people to information on matters of public concern. At present, there is no freedom of information act that would provide an expedited procedure for granting requests for information. Nevertheless, this constitutional right may be readily invoked by any citizen before courts that are empowered to issue writs of mandamus, which can command relevant government agencies to disclose the said information.

Since court litigation may be tedious, the President has issued an executive order to implement freedom of information in executive agencies, which include the main environmental regulators. In particular, executive agencies have been required to issue freedom of information manuals to guide the public in filing such requests. Hence, in the Philippines, the public can obtain non-privileged environmental information from public authorities and bodies, particularly

from the respective records officer of the various regional offices of the DENR around the country.

However, this right is not absolute. Environmental information that contains personal information about an individual may be requested only if it is material or relevant to the subject matter of the request and its disclosure is permissible under existing laws. For environmental information other than those relating to personal information of an individual, the same can be requested provided that it is not listed in the inventory of exceptions prepared by the Office of the President. These exceptions include information relating to national security or defence, information concerning the nature and specific location of, for example, a potentially significant cave, information which may put business operations at risk, application data in connection with various pollution permits, and any data submitted in the course of applying for an ECC, among others.

Moreover, during the lifetime or existence of a mining permit, the public may not access information on the results of metallurgical analyses, documents submitted by mining clients in support of their mining applications, feasibility studies of mining companies, drilling reports, mineral resource reports, final exploration reports declaring a mineral resources inventory, and geologic reports.

With regard to environmental information with the Philippine Institute of Volcanology and Seismology, the public may be denied access to Philippine Geo-portal Data on ground rapture and active faults.

The Philippine government, through its relevant agencies, has adopted and implemented the Globally Harmonized System (GHS) to standardise and harmonise the classification and labelling of chemicals. It is a logical and comprehensive approach to defining health, physical and environmental hazards of chemicals. This environmental information is available to the public.

15.3 Corporate Disclosure Requirement

Beginning in 2020 with their submission of their 2019 annual reports, publicly listed companies will be required to disclose environmental information under the Sustainability Reporting Guidelines for Publicly Listed Companies, issued by the Securities and Exchange Commission (SEC). They must submit their respective sustainability reports annually to the SEC. The material environmental information a publicly listed company is required to disclose relates to the manner by which the company manages the natural resources it needs for its business, as well as how it optimises such use to reduce, if not totally eradicate, negative impacts on the environment. Publicly listed companies will also be required to disclose material information concerning the economic and societal impacts of their operations.

For the first three years of implementation, the SEC will adopt a “comply or explain” approach, allowing companies to provide sufficient explanations for items in the reporting template where data is not yet available. Failure to comply with the requirement is equivalent to the submission of an incomplete annual report, for which companies may be fined for each day of non-compliance.

16. Transactions

16.1 Environmental Due Diligence

Environmental due diligence is not typically conducted on M&A, finance and property transactions in the Philippines, although there is a trend towards this. Stakeholders are now more particular with the manner a business affects the economy, the environment, as well as the community through its operations. The response of a company to sustainability issues is recognised as an indicator as to its competitiveness or edge and long-term success.

However, with regard to the purchase of assets or shares of a company, a purchaser will typically perform environmental due diligence. Purchasers of assets or shares of a company are on the look-out for contracts or agreements pertaining to environmentally critical projects entered into by the seller where such contracts have a continuing liability clause. Continuing liability clauses provide that any liability or obligation that has accrued upon the termination of the contract shall still subsist despite the termination of the agreement. Thus, even if the agreement shall be binding only between the original parties, the purchaser of assets or shares may be held liable, to a certain extent, for liability arising from this with respect to environmental hazards that may be brought about by the subject of the purchase.

At present, companies do perform due diligence mainly on compliance with the various environmental laws, rules, and regulations rather than on environmental risks.

16.2 Disclosure of Environmental Information

In the Philippines, disclosure of environmental information to a purchaser is not required by law prior to a sale.

Cruz Marcelo & Tenefrancia

One Orion 9th, 10th, 11th & 12th Floors
11th Avenue Corner
University Parkway
Bonifacio Global City 1634
Metro Manila
Philippines

Tel: +632 8810 5858
Fax: +632 8810 3838
Email: info@cruzmarcelo.com
Web: www.cruzmarcelo.com

**CRUZ MARCELO
& TENEFRANCIA**

17. Taxes

17.1 Green Taxes

The Philippines currently does not have green taxes. However, to encourage business enterprises to take steps in the conservation and protection of the environment, there are fiscal incentives for particular activities.

For instance, the Tourism Act provides for a social responsibility incentive for Tourism Enterprise Zone Operators and registered Tourism Enterprises where they can avail up to 50% of the cost of environmental protection as an additional deduction for taxation purposes.

Moreover, in order to encourage businesses to generate and sustain green jobs as certified by the CCC, enterprises can enjoy an additional deduction of 50% of the total expenses for skills training and research development expenses for taxation purposes under the Green Jobs Act. Under the same law, the importation of capital equipment actually, directly and exclusively used in the promotion of green jobs shall be tax-free and duty-free.

Under the Renewable Energy Act, developers of renewable energy facilities are also entitled to incentives such as income tax holidays for seven years, a lower corporate income tax rate thereafter, a zero-rated value-added tax, as well as tax exemption on the sale of carbon emission credits.

The Biofuels Act provides for a zero-rated value-added tax on the sale of raw materials to produce biofuels.

Under the Clean Water Act, entities enjoy tax and duty-free importation of machineries used for industrial waste water treatment/collection and treatment facilities. Donations to enterprises for the support and maintenance of the program for effective water quality management shall be exempt from the donor's tax and shall be a qualified deduction from the gross income of the donor for income tax purposes. Tax credits and/or accelerated depreciation deductions are also given as incentives to industries that install pollution control devices or employ mechanisms to reduce pollution under the Clean Air Act.

Likewise, the Ecological Solid Waste Management Act provides that enterprises shall enjoy tax-free and duty-free importation of machineries used for collection, transportation, segregation, recycling, reuse and composting of solid waste. Donations to enterprises for the support and maintenance of the programme for effective solid waste management shall be exempt from donor's tax and shall be a qualified deduction from the gross income of the donor for income tax purposes.

Trends and Developments

Contributed by Cruz Marcelo & Tenefrancia

Cruz Marcelo & Tenefrancia is a top tier full-service law firm in the Philippines and a recognised leader in the country for mining and natural resources and energy practice. The firm provides comprehensive counsel to local and foreign clients, including leading mining and energy companies, on a broad range of matters, such as compliance with environmental regulations, nationality requirements, obtaining government approvals and licences – these include environmental compliance certificates, preparing and reviewing applications for mineral agreements and explora-

tion permits, and drafting, negotiating and reviewing contracts pertinent to the mining and energy industries, such as joint ventures, operating agreements, and other suitable business arrangements. It also has extensive experience in rendering title opinions, advice on land tenure and ancestral domain issues, and mining litigation and international arbitration, among others. A multi-disciplinary approach, often involving collaboration with the firm's other departments, allows its lean team to effectively service all its clients' business needs.

Authors



Patricia A O Bunye is a senior partner and the deputy managing partner for administration of Cruz Marcelo & Tenefrancia. She heads its mining and natural resources department and the energy practice group and is also a partner in its intellectual property department. Patricia is the founding president of Diwata – Women in Resource Development, Inc., a non-government organisation advocating the responsible development of the Philippines' wealth in resources, principally through industries such as mining, oil and gas, quarrying and processing other mineral resources from the earth. She is an active member of the Chamber of Mines of the Philippines' Legal Committee and writes a regular column in "Philippine Resources Journal", a mining, petroleum and energy publication.



Paolo S Tamase is an associate of Cruz Marcelo & Tenefrancia. He is a member of the litigation and dispute resolution and mining and natural resources departments, as well as its arbitration, trade, and energy practice groups.

The Philippines is among the ten countries across the world with the greatest biodiversity and is host to a large number of flora and fauna, many of which are threatened or endangered. As an archipelago of more than 7,000 islands in the Pacific typhoon belt, it also counts among the most climate-vulnerable states. The increasing intensity of the 20-plus storms that visit it yearly and the worsening severity of the seasonal monsoon and floods, alternating with perennial drought, pose serious challenges in the country's effort to preserve its ecological heritage. Hence, even though it is a developing country with a relatively insignificant contribution to climate change, there is political pressure from an active civil society for a governmental response, consisting mostly of "green bills" and a strict implementation of existing environmental regulations.

Recent Legislation

Recent legislation is particularly focused on incentivising investments in green technology and energy. In 2016, the Philippine Congress passed the Green Jobs Act, which incentivises the creation of green jobs as certified by the Climate Change Commission. In particular, the Green Jobs Act provides for an additional special deduction from taxable income equivalent to 50% of the total expenses for skills training and research development, and the tax and duty-free importation of capital equipment actually, directly, and exclusively used in the promotion of green jobs.

The Green Jobs Act supplements the Renewable Energy Act, which already provides developers of renewable energy facilities with incentives such as income tax holidays for seven years, a lower corporate income tax rate thereafter, a zero-rated value-added tax, as well as tax exemption on the sale of carbon emission credits, and the Biofuels Act, which provides for a zero-rated value-added tax on the sale of raw materials to produce biofuels.

Strict Enforcement of Existing Environmental Regulations

While there is no shortage of environmental regulations for water, air, and waste management, the main criticism has always been their lax enforcement. This has noticeably changed in recent years, with the main environmental regulator taking a proactive role in implementing these regulations. Philippine practitioners have thus observed that the Department of Environment and Natural Resources (DENR), through the regional offices of the Environmental Management Bureau, has been more intent on ensuring compliance with the many registration and permitting requirements imposed by the Clean Air Act, the Clean Water Act, the Ecological Solid Waste Management Act, the Toxic Substances and Hazardous and Nuclear Wastes Control Act, and their respective implementing rules and regulations, among many others. As these registrations and permits require the submission of multiple applications and occasionally voluminous documents, companies have been

increasingly relying on the expertise of law firms focused on environmental and natural resources law.

Over and above these registration and permitting requirements, the DENR and its component bureaus have likewise exacted strict compliance with water quality and effluent standards. Large restaurant and food and beverage companies are particularly monitored, not only because of their relatively large environmental impact, but also to serve as an example for smaller establishments. These companies have thus engaged law firms experienced in administrative procedures, especially before the DENR and its component bureaus, to ensure that their equally important rights to due process are sufficiently protected, notwithstanding the more determined and strong-willed enforcement of environmental laws and regulations.

This stricter enforcement has been most felt in the Laguna Lake area, comprising of National Capital Region and the industrial towns circling South-East Asia's third largest freshwater lake. While the Laguna Lake Development Authority (LLDA) has been traditionally focused on the demolition of illegal fish pens and regulating the discharge of waste water into the Laguna Lake and its tributaries, it has recently been enlisted by the DENR to assist in the clean-up of the Manila Bay area. Hence, establishments located near the Manila Bay, particularly those in the port area and the busy districts of Malate and Ermita fronting the said feature, have been thoroughly inspected not only for compliance with additional registration and permitting requirements, but also for water quality and waste water discharge regulations.

The DENR, in co-operation with the Department of Tourism, has also taken a lead role in the clean-up of the world-famous Boracay Island. Establishments that continue to operate along its famous White Beach have been subjected to regular monitoring and have been required to diligently comply with easement regulations in the Water Code.

Developments in Environmental Litigation

It has almost been a decade since the Supreme Court implemented the Rules of Procedure for Environmental Cases, which were designed to expedite cases involving the violation of environmental laws and provide remedies for the protection of environmental rights. Since the decisions of lower courts are not published in reports, it is difficult to estimate the extent of environmental litigation under the said rules. However, recent decisions of the Supreme Court have shown principles embodied in the said rules, such as the precautionary principle and the relaxed rules on standing, at work.

In *Resident Marine Mammals v Reyes*, G.R. No 180771 (21 April 2015), the Supreme Court held that any Filipino citizen, as a steward of nature, may bring a suit to enforce environmental laws. The Supreme Court recognised the petitioners as stewards with legal standing to file the petition as

there may be violations of laws concerning the habitat of the resident marine mammals.

In *International Service for the Acquisition of Agri-biotech Applications, Inc. v Greenpeace South Asia*, G.R. No 209271 (8 December 2015), the Supreme Court applied the precautionary principle, but cautioned that it be treated as a principle of last resort. The Supreme Court held that “When these features – uncertainty, the possibility of irreversible harm, and the possibility of serious harm – coincide, the case for the precautionary principle is strongest. When in doubt, cases must be resolved in favour of the constitutional right to a balanced and healthful ecology.” The decision of the Supreme Court was later vacated in a 2016 resolution on the ground of mootness, but the foregoing dictum on the application of the precautionary principle may reappear in later cases, especially since the Rules of Procedure for Environmental Cases expressly allow resort to the precautionary principle.

In *Mosqueda v Pilipino Banana Growers & Exporters Association, Inc.*, G.R. No 189185 (16 August 2016), the Supreme Court rejected the application of the precautionary principle in the absence of any scientific basis. While recognising that the precautionary principle allows lack of full scientific certainty in establishing a connection between the serious or irreversible harm and the human activity, the Supreme Court held that its application is still premised on empirical studies and scientific analysis. It can only be invoked after scientific inquiry takes place and cannot be based merely on emotional concern.

In *Maynilad Water Services, Inc. v Secretary of the Department of Environment and Natural Resources*, G.R. No 202897 (6 August 2019), the Supreme Court introduced the Public Trust Doctrine protruding from the basic tenet that water is a vital part of human existence. Under the Public Trust Doctrine, the public is regarded as the beneficial owner of trust resources, and courts can enforce the Public Trust Doctrine even against the government itself. Applying the Public Trust Doctrine, the Supreme Court held the govern-

ment agency Metropolitan Waterworks and Sewerage System jointly liable with the private concessionaires Maynilad Water Services, Inc. and Manila Water Company, Inc. in the amount of approximately USD40 million for violating the Clean Water Act.

One key development in the Philippines is the growing recognition of environmental rights as human rights. More recently, the Philippine Commission on Human Rights (CHR), originally established as an investigative body for human rights violations committed during the President Marcos martial law era, has taken upon itself to investigate the climate change impacts of fossil fuel companies in a petition filed by an international non-governmental organisation. While the CHR, not being an adjudicatory body, cannot grant damages or promulgate decisions, its public hearings and inquiries on human rights violations in relation to climate change were made in both local and international forums. A comprehensive report is set to be released this year.

Climate Change Mitigation

Recent Philippine response to climate change has mostly been in the area of legislation. The Climate Change Act of 2009 was amended in order to establish a “People’s Survival Fund” for the financing of climate change adaptation programs and projects. The same amendment also expanded the membership of the Climate Change Commission, an interagency consultative body, to include agencies such as the Departments of Finance, Budget and Management, Science and Technology, and government financial institutions (with the exception of the Bangko Sentral ng Pilipinas or the central bank).

However, because the Climate Change Commission is a consultative body, it does not possess regulatory or adjudicative powers. These power remains with agencies such as the DENR, and the role of the Climate Change Commission has been limited to the formulation of policy and the coordination of plans and programs further to the Philippines’ response to climate change.

Cruz Marcelo & Tenefrancia

One Orion 9th, 10th, 11th & 12th Floors
11th Avenue Corner
University Parkway
Bonifacio Global City 1634
Metro Manila
Philippines

CRUZ MARCELO
& TENEFRANCIA

Tel: +632 8810 5858
Fax: +632 8810 3838
Email: info@cruzmarcelo.com
Web: www.cruzmarcelo.com