



# **Rationalization of Fiscal Incentives in Investment Promotion in the Philippines: A Policy Reform Challenge**

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**Dedication**

To

Danilo, Dante & Merced

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## List of Acronyms

AEC	ASEAN Economic Community
AER	Action for Economic Reforms
BOI	Board of Investments
CDC	Clark Development Corporation
CBPD	Congressional Budget and Planning Department
CSOs	Civil Society Organizations
CTRP	Comprehensive Tax Reform Program
DOF	Department of Finance
DTI	Department of Trade and Industry
HOR	House of Representatives
IMF	International Monetary Fund
IPAs	Investments Promotion Agencies
JFC	Joint Foreign Chambers of the Philippines
NGOs	Non-Government Organizations
PEZA	Philippine Economic Zone Authority
PIPA	Philippine Investment Promotion Administration
RA	Republic Act
SBMA	Subic Bay Metropolitan Authority
STSRO	Senate Tax Study and Research Office
UN	United Nations
USAID	United States Agency for International Development
WB	World Bank



## **Abstract**

This paper looks into the problems confronting the fiscal incentives rationalization (FIR) or reform initiatives in the Philippines. The current system of investment incentives system is beset with complexities and problems like proliferation of investment promotion agencies and laws, weak monitoring system and substantial revenue forgone. Hence, the rationalization effort has been instigated and placed high on the reform agenda. It has been ongoing for the last twenty years but to no avail. The paper utilized Kingdon's Multiple Streams or Streams metaphor in trying to understand the role of stakeholders and the problem, policy and politics streams or activities in FIR and their effect on the reform process. Understanding why the attempts at enacting a FIR law has been unsuccessful, this paper proposes a simple way forward by which the possibility of enacting a FIR law may be increased.

## **Relevance to Development Studies**

Investment incentives are generally utilized as a tool for countries in pursuing their development strategies. It is in view of this development dimension that governments compete for investments with their concomitant positive impacts like employment and income generation, technology transfer and other positive multiplier effects. However, fiscal incentives also carry with them negative impacts like foregone revenues and other economic and market distortions.

In using fiscal incentives, countries waive substantial tax revenues that could otherwise be used on infrastructure, education and services. It, therefore, behooves the government to be able strike a balance in fiscal incentives policy regime through policy reform to plug or at least reduce the negative impact of fiscal incentives and make them work better towards the attainment of economic development objectives.

## **Keywords**

Investment promotion, fiscal incentives, policy reform, stakeholders, multiple streams, Philippines

## Chapter 1 Introduction

Incentives<sup>1</sup>, whether of the fiscal (tax holidays or tax exemptions) or non-fiscal form (financial or production assistance) have been a general feature of the investment promotion strategy of many countries. It is a known fact that governments of most developing countries use incentives to attract and direct investments into areas supportive of their growth and development objectives.

Other than generating investments to promote the country's growth and development, incentives also serve a number of other purposes. Incentives can be used to promote employment or labor-intensive investments (additional deduction of labor expenses) or to promote new technology or capital-intensive investments (accelerated depreciation or tax- and duty-free importation of capital equipment). Incentives are also granted to compensate for policy interventions that have repercussions on the allocation of resources and investment decisions (incentives for the down-stream oil industry). Incentives may also be used to promote countryside development (incentives to developers and locators in special economic zones). Market failures or distortions (where market dynamics are not able to yield an optimal level of investments) are another reason why incentives are offered. Incentives may also be extended as an offset to the risks inherent in a given activity (crop insurance, mining, energy exploration, etc.) In all of the instances mentioned, the fundamental framework is that incentives are significant factors in influencing investment decisions and in achieving the country's socio-economic aspirations.

The foregoing notwithstanding, incentives, particularly the fiscal type, carry with them certain costs particularly foregone revenue, lack of transparency and distortions to the economy. Such being the case, the government has pursued the rationalization of fiscal incentives. The Philippine government is still trying to rationalize its investment incentives<sup>2</sup> system, an effort which commenced twenty (20) years ago. This paper is motivated by the seemingly slow grind in the enactment of the fiscal incentives rationalization (hereinafter referred to as FIR) law over the years.

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<sup>1</sup> Fiscal or tax incentives are defined "as all measures that provide for a more favorable tax treatment of certain activities or sectors compared to what is granted to general industry" (Klemm 2009:3). They generally refer to the grant by the government of tax exemption or reduction in order to encourage a particular economic unit to act in some desirable ways (e.g., invest/produce/employ/export/sell more/consume/import/pollute less).

<sup>2</sup> Investment incentives are "measurable economic advantages that governments provide to specific enterprises or groups of enterprises, with the goal of steering investment into favored sectors or regions or of influencing the character of such investments. These benefits can be fiscal (as with tax concessions) or non-fiscal (as with grants, loans, or rebates to support business development or enhance competitiveness)" (James 2009:1).

## 1.1 The Problem and Its Background

The current system of Philippine investment incentives is characterized by the proliferation of different investment regimes pursuant to various laws and administered by different bodies consisting of the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Clark Development Corporation, Subic Bay Metropolitan Authority (SBMA), among others. The Philippines provides a host of different tax incentives. e.g., income tax holiday (ITH) for 3 to 8 years; 5 percent tax on gross income earned (in lieu of national and local taxes); increased tax deductions; tax credits; and exemptions from value-added tax (VAT), import duties, and other fees and charges. Such incentives are administered by various investment promoting agencies (IPAs).

The rationalization of fiscal incentives was part of the Comprehensive Tax Reform Program when it was first conceived in 1994 but was not enacted by Congress (Diokno 2010:47). Thereafter, several bills were proposed to effect the rationalization measure but to no avail.

The rationalization or reform of fiscal incentives is a measure sought to address the problems of the current investment incentives system. Under the current set-up, investments are most likely to be drawn to the more developed locations, resulting in an unequal dispersal of investments. The package of fiscal incentives is also faulted due to its being redundant and a source of revenue loss for the government. The revenue foregone represents the costs of fiscal incentives. Hence, there is a need for a simplified incentive scheme that will ensure the efficient provision and management of investment perks without sacrificing the country's attractiveness to investors. The rationalization of fiscal incentives is part of the package of fiscal reforms that the Department of Finance (DOF) has strongly endorsed to Congress to strengthen the tax structure and its administration aspects, raise crucial tax revenues and give the government sufficient fiscal space to achieve the country's economic growth objectives.

Fiscal incentives rationalization has been identified as a priority legislative measure. Thus, a number of bills have been filed in the Philippine with the objective of avoiding overlapping and redundant incentives and cut unnecessary revenue loss.

While the compelling need to rationalize or reform the system of fiscal incentives in the Philippine cannot be denied, it has been in the reform agenda<sup>3</sup> for two decades. The delay in its legislation is causing the government so much in terms of foregone revenues and the equity consequences of fiscal incentives. As such, it has become a long-term fiscal policy challenge for the government. In view of this, this paper intends to look at the FIR challenges from the multiple streams perspective with the end in view of finding out the major hindrance for the failure to enact a FIR law. Having done that, a simple way forward on how to manage to FIR initiative will be offered.

## **1.2 Relevance/Justification**

The rationalization or reform the system of fiscal incentives for investment in the Philippines is rather behind schedule judging from the time it was first proposed in 1994. It is also exigent for good fiscal sense. The enactment of a FIR law continues to be elusive despite the calls of economists, and the government for its reform. Its significance is easily discerned from the impact of incentives on government revenues. The latest revenue foregone figure from the grant of fiscal incentives amounts to Philippine peso (Php) 144 billion in 2011 per the Tax Expenditures Report of the DOF (2014). Such a significant loss in revenue is indicative of how much the country is losing without a rationalized fiscal incentives system.

Aside from minimizing government losses, the proposed rationalization of fiscal incentives aims to establish an incentive system that is easy to administer and monitor, thereby reducing the revenue leakages arising from the proliferation of incentives laws. It also aims to remove redundant incentives as a way of reducing fiscal costs and make sure that fiscal incentives will be given only to those who need them.

Given the importance and urgency of the rationalization of fiscal incentives, it is the objective of this paper to examine the roadblocks to the enactment of the fiscal incentives reforms (e.g., lack of coordination and competing forces (within the executive and legislative branches of government, as well as outside the government) influencing the outcome of the rationalization initiatives.

The results of the study may be useful in the identification of problems and challenges in fiscal incentives reform legislation as to provide a ‘way forward’

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<sup>3</sup> “The agenda is the list of subjects or problems to which government officials, and people outside of government closely associated with those officials, are paying some attention at any given time.” (Kingdon 1984:3).

for a more timely and responsive way of managing and overcoming the problems relative to fiscal incentives reform and other similar reform undertaking.

In view of the foregoing relevance and justification, this paper attempts to address the main research question: How are competing forces in terms of actors (e.g. the Executive Branch, legislators, investors, and private sector/civil society organizations), their power and influence, sustaining or blocking the rationalization of fiscal incentives? The following sub-questions were used to help answer the main question:

1. Who are the actors in fiscal incentives rationalization and how do their interests and ideas affect and direct the fiscal incentive reform initiatives?
2. How does the policy reform process impact on the enactment of the FIR legislation?
3. What are the lessons that can be learned and its implications in managing the said reform?

### **1.3 Research Methodologies and Sources of Empirical Evidences**

The study principally employed qualitative research in data gathering. It involved key informant interviews (See Annex A for the Interview Guide) with actors who are in the mainstream of fiscal incentives rationalization initiative from the executive and legislative branches as well as the private sector. The information supplied by these individuals/groups constitutes vital reference materials for the study. This key informant study examines factors and obstacles affecting the timely passage of the FI proposals or bills into law.

The paper also relied on the review of relevant government documents (laws and bills). In particular, a review of current and previous bills relative to the rationalization as well as committee reports on public hearings were also conducted to examine the tenor on how the legislators and other stakeholders conceive how incentives should be rationalized. Relevant data were also taken from journal articles, published books, and reports from World Bank (WB), International Monetary Fund (IMF), government agencies and other public policy literature. To supplement traditional research, electronic research was also conducted through the use of online studies on fiscal incentives and policy reforms.

Likewise, the degree of power and interest of the key actors in the FIR process was taken up within the interview to come up with a stakeholder

analysis. The rating of the stakeholders' power and interest were done by the respondents themselves as actual participants in the FIR initiative. This is so as understanding how different actors/groups influence, support or oppose the proposal is essential also to our analysis of the hurdles for the fiscal incentives reform initiative.

The stakeholder analysis can be used to gauge the power, interest, position and importance of the different categories of stakeholders in the FIR initiative. Conducting the stakeholder analysis at this stage could give us an idea on how the stakeholders' attitude (support or opposition) towards the FIR proposal impact on FIR's pace in getting passed into a law. This could also be used to review the disputes and incompatibilities among actors which the policymakers can find useful in designing a strategy to address the problem through stakeholder management, coalition building, etc. The motivations of actors and their competing demands can help us understand the FIR as streams in policy process.

The study used purposive sampling. Specifically, 10 respondents (See Annex B for the respondents' profile) were interviewed representing the following:

<b>Respondents</b>	<b>Number</b>
Government	
House of Representatives	
1. Legislator-Representative	1
2. Ways and Means Committee	1
3. Congressional Policy and Budget Department	1
Senate	
1. Legislator-Senator	1
2. Ways and Means Committee	1
3. Senate Tax Study and Research Office	1
Executive Branch/Investment Promotion Agency	
1. Department of Finance	1
2. Philippine Economic Zone Authority	1
Private Sector (Business Association, Civil Society Organization/ Non-Government Organizations	
1. Action for Economic Reforms	1
2. Joint Foreign Chambers	1

The target number of interviews was determined prior to field work. The choice of respondents points to the desire to get into the realities of the policy process in rationalizing investment incentives in the country as they are actually involved in or

has knowledge of the fiscal incentive rationalization initiative. Time constraint limited the number of respondents to one representative from each category of stakeholders identified above. The questions in the interview guide were supplemented by probing questions as the interviewer deemed necessary.

Interview requests were generally made through email, telephone calls and personal visits. Some respondents were not able to provide for a specific date despite their prior agreement to hold the interview until the time I left the Philippines for the Netherlands in September, 2014. Hence, two (2) respondents (one IPA and one legislator) were no longer interviewed. While they agreed to send the answers to the questions via email, said answers were not received despite several follow-ups.

## **1.4 Scope and Limitation**

The subject of this paper covers only the rationalization of fiscal incentives as they relate to investment promotion. Likewise, it shall not cover the design, content, structure and tools of the reform proposals but the focus would be on the challenges on the reform process.

The choice of research topic was motivated by my interest in the developments in policies concerning fiscal incentives in view of my connection with the Fiscal Incentives Branch of the National Tax Research Center (NTRC), an attached agency of the DOF. I am undertaking this study as a student of ISS and not as a member of the NTRC. The fact that I am connected with the DOF may give rise to the view that I may be partial to the position of the DOF on incentive rationalization. However, it is emphasized that this study was conducted strictly as an academic exercise and not in any way work-related.

## **1.5 Structure of the Paper**

Chapter 1 of this paper presents the introduction, the problem and its background, methodologies and its scope and limitation. Chapter 2 reflects the review of literature and conceptual framework. Chapter 3 concerns the presentation and analysis of findings. It starts with the overview of the investment incentives system and its problems which serve as the impetus for reform or rationalization initiatives. The legislative process is also highlighted to better understand the FIR process. A simple stakeholder analysis is also presented to better appreciate how the interactions of the stakeholders or key actors in the reform process impact on the outcome of the initiative. Then the paper builds up on the FIR vis-à-vis the streams model as an explanation for the failure of the FIR bills to be enacted. This is followed by a conclusion with a way forward in Chapter 4.

## Chapter 2 Review of Related Literature/Conceptual Framework

### 2.1 Review of Related Literature

This portion reviews the literature related to the subject matter of the study. As may be observed, the subject fiscal incentives had been exhaustively discussed in a number of papers and studies. Generally, these papers reveal that facets of fiscal incentives which appear to be universal. Most governments use fiscal incentives to attract investments.

The proliferation of fiscal incentives especially in developing countries can be observed over several decades. Their appeal as a policy instrument can be seen in the so-called “race-to-the bottom” whereby countries compete in giving generous incentives to local and foreign investors. Countries often employ a mix of incentives to channel investment for development of a particular area or region, industrial or sectoral promotion, export promotion and transfer of technology (UNCTAD 2000:12-13).

According to James (2009:iv), all investment incentive policy has potential benefits in the form of revenues from increased investment, jobs as well as other positive externalities such as anchor investments likely to produce multiplier effects through signalling and backward linkages into the domestic industries. But they are also associated with costs due to revenue losses from investments that would have been made even without the incentives and economic distortions and leakages.

Fiscal incentives have been linked with higher investment in several countries like Singapore and Ireland (James 2009:1). Daude, et al. (2014:9) cites Keen who developed a model where preferential regimes can have a useful purpose by confining tax competition to particular parts of the tax system. Through the grant tax incentives, competition for mobile capital can be had without subjecting the rest of the system and the economy to harmful tax competition.

In the case of foreign investors who generally are the principal target of most tax incentives, their decision to locate in a country is based on a number of factors like transparent regulatory systems, natural resources, political stability, infrastructure, skilled labor and where tax incentives are not the most important one (Tanzi and Zee 2001).

The Organization for Economic Co-operation and Development (OECD) (2014:1) echoes the same observation that developed and developing countries offer various incentives to attract investors and foster economic growth. This is despite the strong evidence against the effectiveness of some tax incentives for



investment, including those of tax free zones and tax holidays. Ineffective fiscal incentives cannot substitute for poor investment climate and may damage a country's revenue base by eating away resources for the infrastructure, political stability and education- the so-called real drivers of investment decisions.

In the case of South Asia, Pant and Das (2004:35-36) confirm the propensity of developing countries to offer fiscal and non-fiscal incentives in the course of competition for foreign direct investments (FDI). They stressed that incentives tend to be very costly as they can negatively impact on national savings, trade and balance of payments. But fiscal incentives continue to be offered even when it is obvious that FDI is a function of economic parameters such as policy stability, size of markets (export or otherwise) rather than a particular incentive. As such, incentives generally attract largely footloose investments within the region to its gain and can be costly for a particular region as a whole. There are limited studies on cost-benefit analysis of incentives in the region but existing studies points to employment as well as generation, more government revenues, reduced prices, technology diffusion and learning as benefits from incentives.

Botman et al (2008:12-13) summarizes some concerns against incentives as follows: (a) they carry current and future revenue loss causing inequities; b) difference in the tax treatment between and within sector lead to resource allocation distortions; c) incentives generate tax abuse opportunities; d) tax holidays attract footloose firms taking advantage of the tax privilege and leave upon the expiration of the incentive; e) the benefits of tax incentives may be reversed if FDI is taxed on a worldwide basis f) tax holidays are inefficient in early life of new enterprises which are often not profitable in early gestation period; g) social infrastructure expenditure could be more valuable in attracting investments to less developed regions than tax holidays; and (h) taxes are not the most important factor in investment decisions and infrastructure, labor costs, market size and a stable political and economic environment, aptly to be more influential.

It is worth noting that some countries are making efforts to report foregone revenues as part of tax consensus on the need to tackle the weaknesses of tax incentives for investment. Such is noticeable as many OECD donor governments are gradually encouraging developing countries to better manage their revenue potential. The significance of addressing the governance of tax incentives was raised by the IMF, OECD, UN and WB in their joint report to the G-20 in 2011. Relatedly, the OECD's Task Force on Tax and Development has identified the need for a more effective global transparency framework for tax incentives for investment (OECD 2014:2).

Botman et al (2008:18) refers to several countries (Egypt, Mauritius and Slovak Republic) which shifted away from fiscal incentives. For instance, Egypt

reduced the top marginal rate from 32% to 20% for individuals and from 40% to 20% for partnerships and corporations under the new income tax law in 2005. Such reform also liberalized depreciation, increased exemption level and phased out ITH although grandfathering existing beneficiaries. In Mauritius, it came in the form of elimination of all existing provisions of tax credits and tax holidays. Moreover, the corporate tax rate was reduced from 25% to 22.5%. Relatedly, The Slovak Republic adopted in 2004 a single 19% rate on personal and corporate income. The reduction in the corporate income tax from 25% was in combination with a faster depreciation, more liberal carry forward regime and the abolition of tax holidays for new enterprises.

The foregoing illustrates the preference for reduced tax rate over tax holidays. As already mentioned, one disadvantage for granting tax holidays is that they more often attract transitory or footloose projects rather than sustainable and longer run ventures that could produce more economic benefits. Another drawback thereof is that they discourage future or sequential investments because of its limited availment period. On the other hand, reduced tax rates promotes investments over time or over the life of the investments.

The adoption of fiscal incentives to attract investment is generally based on the principle that the grant of tax incentives will encourage domestic or foreign investors to initiate activities that would not have been undertaken or to expand their investments. It makes the investments more attractive because of fast recovery of capital and higher profits. It also encourages reinvestment by making available to the taxpayer more funds due to tax savings. It is also used as a mechanism for diverting the flow of investments away from activities with insignificant to those with high development potential (Dizon 1998).

The foregoing tenets were used by the Philippine government in the formulation of its fiscal incentives system. Fiscal incentives were used as a tool in the pursuit of economic development that enhance the delivery of basic social services and uplift the welfare of general population. They were also used as instrument to continue the inflow of investments and create employment opportunities in strategic countryside areas, particularly the special economic zones. However, the promotion of tax incentives requires yielding of revenues, sacrifice in the basic fairness of the taxing system and a careful balancing of the potential gains of incentives against the revenue and equity consequences of their adoption (Dizon 1998).

Relatedly, there are several studies which frown at the offer of generous incentives. These studies generally see that the current incentive regime has been unsuccessful in attracting FDIs and carries with them substantial foregone revenues (Medalla 2006, Reside 2006 and Aldaba 2006). As noted by Botman et al (2008:12) some problems are distinct to the Philippines relative to fiscal

incentives as follows: a) multiple laws and agencies administering incentives as to give rise to unwarranted competition among IPAs and confusion to investors; b) multiple IPAs also mean that a significant number of resources are involved in providing essentially the same services; and c) weak monitoring of investors' compliance with the conditions of incentive grant.

Medalla (2006:1) points that while some fiscal incentives in the country make exports competitive, the tax incentives given to domestic market firms were redundant (i.e., investors would still locate in the Philippines even without the incentives) or just served to divert investments from those which could have contributed more to the tax effort.

As noted by Morales-Alikpala (2010:8), despite the incentives that abound in the country, it has not gained high investment level enjoyed by its neighbors. Thus, the failure to attract substantive investments has been attributed to the political instability as well as the absence of relevant infrastructure in the country. She (2010:4-5) stressed, however, that while the fiscal incentives may be of little value in attracting investments, the provision of incentives to deserving investors should not be totally abandoned. This is so as a carefully crafted fiscal incentives have an important role to play in the broader strategic industrial promotion framework. For instance, a bidding war took place between the Philippines and Vietnam for the locating Canon's regional production facility in 2001. Vietnam won the bidding by its additional two-year ITH. By 2004, Canon Vietnam Co. Ltd. was its largest exporter, producing 25 percent (25%) of Canon's total global production of bubble jet printers with earnings of more than US\$200 million.

To summarize, supporters of fiscal incentives argue the need to increase investments because of job creation and other socio-economic benefits. In contrast opponents of incentives maintain that they are not effective, portend high revenue costs, facilitate corruption, distort investment decisions and lead to complicated and less transparent tax system. Thus, there are valid reasons for and against the use of investment incentives. This is because in some cases, incentives programs produced success but in other countries, they failed to stimulate substantial investment. Results vary according to the circumstances. Given the variety in observations, it is more practical for the concerned government to study in a comprehensive manner the impact of tax incentives on investments and the economy.

The policy to reform or rationalize the investment incentives is not unique to the Philippines. While some countries were able to wean away from fiscal incentives, the Philippines continues to face a policy challenge thereon for the last 20 years. As such, it would also be relevant to look into policy change or reform literature to inform us about policy challenges.

The investment incentive policy stance of the Philippines continue to be one of attraction. However, given the diverse observations on their importance and the problems brought about by their implementation, the government deemed it necessary to pursue fiscal incentive policy rationalization and reform.

While the reform was part of the policy recommendations of the Presidential Task Force on Tax Reforms created by President Ramos in 1994, it was not included in the Comprehensive Tax Reform Program (CTRP) enacted in 1997 (Diokno 2010:47). Up to now, it has remained an unfinished business in the government's reform agenda.

Policy reform involves many groups with a stake in the reform process with the government usually playing a key role as the formal initiator and implementer of reforms (Abonyi 2013:2). Accordingly, the process of change associated with policy reform is "both shaped by politics and is a shaper of politics". Some stakeholders are considered as 'reform losers' in terms of benefits, power relations and interest. On the other hand, there are stakeholders who support the reforms and are seen as 'reform winners' (Abonyi 2013:9).

According to the WB (2008:12), "policy reform is often complex, multi-directional, fragmented, frequently interrupted and unpredictable". A policy reform is, thus, dependent not only on the design of good policies, but on the management of their design and implementation and being sensitive to stakeholder concerns and influences. It is both technical and political, whereby technical solutions go side by side with consensus-building, compromise and adaptation, participation, conflict resolution and communication. Hence, reform process refers to the "forms of participation, communication and decision-making through which policy reform is negotiated and implemented" (WB 2008:23).

It would be worthwhile to look at the Philippine experience at reforming the value-added tax (VAT) in 2005 to gauge how policy reform process is managed in the Philippines. As noted by Bernardo and Tang (2013:33), presidential leadership is a vital element in tax or any reform in the country. In 2005, with the mounting financial problem, then President Arroyo had to use her goodwill and fresh electoral mandate to convince the legislature to reform and increase the VAT. Relatedly, past reform initiatives that involved the 24-member Senate and 200 plus member-House of Representative (HOR) saw through the complex legislative process and entailed uncertainty in the reform process in terms of time, policy trade-offs and reform features. In this sense, reform actors with their motivations and plans on how to overpower resistance needs to be factored into negotiations on the reform initiatives. The participation of bureaucrats and agencies, academe, civil society groups, business groups and

donors supported the passage of the law on VAT reform. Because the proposed bill was certified as ‘urgent’ by the President, the HOR conducted marathon hearings and the Consolidated Bill was transmitted to the Senate to expedite the enactment of the VAT rate increase from 10% to 12% to address the revenue requirement (Bernardo and Tang 2013:54).

## 2.2 Conceptual Framework

Public policy is important because it affects all of us. Governments formulate public policy. It is defined as “any action taken by governments that represents previously agreed responses to specified circumstances (Mintrom and Williams 2013:4). It can be “characterized as a complex, dynamic, constantly evolving interactive and adaptive system. The process is stakeholder-driven. Actors are engaged in a goal-driven decision-making process and have a great deal of autonomy in the way they organize their work” (Geurts 2014:6).

On the other hand, Gregory (1993:214) described policy making as “a process of political and social interaction –negotiation, bargaining, etc. – among groups promoting and protecting differing and competing interests and values.”

Policy reform revolves around change, i.e., changing laws, rules, regulations, institutions as well as incentives, expectations, capabilities and behavior to bring about improvements in the quality of life. Reform involves government action that deals with specific problems. However, the key challenge of policy reform is designing and implementing effective reform measures to tackle vital aspects of specific problems, and make sure that they result to improvements (Abonyi 2013:2).

Relatedly, James (2009:24) posits that like any market intervention, fiscal incentives are “justified if they correct market inefficiencies or generate positive externalities”. Notwithstanding the scarce evidence on their effectiveness, fiscal incentives are considerably appealing for politicians because “they create political influence over policy choices, provide a political gesture of action, and facilitate political and administrative corruption”. Such is supported by Bird (2008:10) who maintains that excessive use of tax incentives foments complicated administration, support evasion and produces corruption. He deems that they are likewise “hard to remove and tend to be enlarged at the initiative of taxpayers who lobby for more concessions or simply redefine existing concessions in unforeseen and presumably undesired ways”.

The government and other key actors in fiscal incentive reform initiative are in agreement that there is a need for such reform to generate the desired changes in

the fiscal incentives system. But such reform has difficulties in getting enacted into law. What could be the causes of the delays in its passage? One problem is the different views among of technical experts and economists, politicians and policymakers on how reforms should be designed. This can be gleaned in the various versions of the rationalization provisions being deliberated on in the legislature. Plus, there is also the legislative process involving several readings and debates in both chambers of the legislature to reckon with.

Eaton (2002:17) finds that legislators in developing countries, particularly in the case of the Philippines and Argentina, have a variety of opportunities to act on their preferences by intervening on how policies are adopted and executed. He notes that while chief executives played primary roles, legislators in developing countries has also an important role in the reform process. Hence, the legislator's role as policy actors should be incorporated in the study of economic policy reforms in developing countries.

Since the study will look into the repercussions of actions of different key actors on the prolonged process of the fiscal incentives rationalization, the inquiry will be guided by the indication that "in the process of public policymaking, problems are conceptualized and brought to government for solution; governmental institutions formulate alternatives and select policy solutions; and those solutions get implemented, evaluated, and revised" (Sabatier 2007:3).

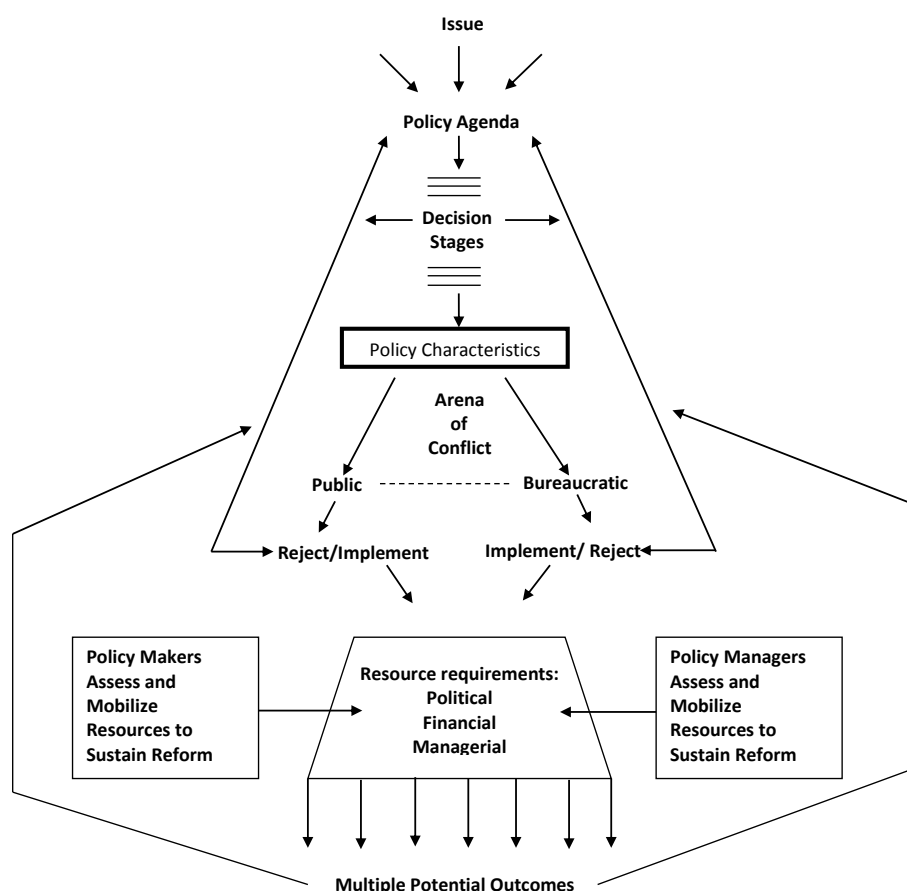
Duncan (2013:128) stressed that that a good understanding of the political economy factors are essential in the determination of the success of the reform as they influence the "five steps in the policy reform process: initiating reform, managing the complexity of policy issues, endorsing reform, implementing reform, and sustaining reform". Such understanding of stakeholder interests allows for the expectation of the problems likely to arise in each of the steps and support in formulating ways to overcome the opposition. The vital stages of the policy process ensue at different points in the institutional framework (e.g., the president's office, legislature and bureaucracy). As such, reforms will be affected accordingly and influenced by actors (with their agenda and power) having access to these points (Rossetti and Bossert 1999:8).

As the subject of the study involves a policy reform in fiscal incentives, which is taking more time than may be deemed necessary, the paper will use the Interactive Model (Figure 1) to look at the policy process from political economy perspective as a starting point. The framework for this model was developed by Grindle and Thomas (1990:1165). The said model has the central insight that the process of policy making is interactive, which means that "a reform initiative may be altered or reversed at any stage in its life cycle by the pressures and reactions of those who are against it". The interactive model regards policy reform as a process, where interested parties can wield pressure for change at many aspects.

Hence, “understanding the location, strength, and stakes involved in those attempts to promote, alter or reverse policy reform initiatives is central to understanding the outcomes” (Grindle and Thomas 1990:1166).

As seen from the diagram below, the FIR process cannot even hurdle the process beyond the point of decision stage and it keeps going back to the policy agenda point in the legislative process because it fails to get passed at the end of multiple Congresses during which the FIR bills were filed. The legislative process will be looked into to see its effect on the FIR effort. Based on the model, understanding the stance of various stakeholders on the proposed fiscal incentives reform is necessary to see through the reform process because of the impact of their actions and interactions with other stakeholders. Moreover, it is desirable to gauge somehow the attitudes that stakeholders are expected to adopt relative to the reform. This could be helpful in coming with up action plans to fast track the approval thereof. To be able to do this, a simple stakeholder analysis will be done based on the interviews conducted.

**Figure 1 - Interactive Model of Policy Implementation**



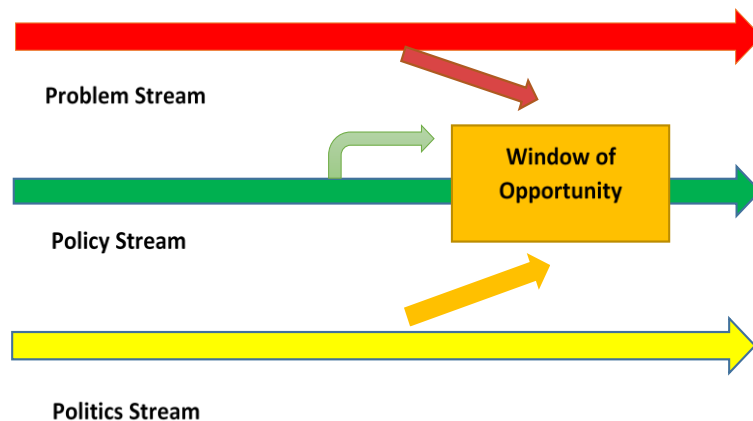
Source: Grindle & Thomas 1991:127

After looking at the FIR process from Interactive Model of policy reform viewpoint, we can proceed and use the same to supplement further analysis of the FIR policy puzzle through the Streams Metaphor (also known as Multiple Streams Model) developed by Kingdon (1984) as an adaptation of the Garbage Can theory. It depicts policymaking process as one going from agenda setting, alternative specification, to the decision agenda and, lastly, to the policy enactment. It is perceived that three (3) streams form the policy process: problems, policy, and politics (See Figure 2).

The problem stream is where problems are brought to government's attention. The policy stream consists of policy alternatives/options/solutions and proposals. While the politics stream make up public opinion, consensus, conflicts, politics and attitude of the public and campaign of interest groups. Each stream has its own development but at some point in time they come under a favorable momentum known as the so-called 'window of opportunity' or policy window. It is when there is a coupling of the streams that a policy change is likely to occur.

Multiple Streams will be used to explore why FIR is having a hard time getting passed. The application of the Streams Model will be taken from the point that it is perhaps the absence of the window of opportunity that can explain the FIR impasse.

**Figure 2 - Multiple Streams or Streams Metaphor**



Source: Birkland 2001:225



## **Chapter 3 Presentation and Analysis of Findings**

This Chapter will present the findings from the field work as well as the literature and documents review. As it is now, the complexity of the FIR process cannot be explicitly depicted by the linear model of policy process because of the interactions and positions taken by actors/ stakeholders within the policy process system. This Chapter attempts to explore and understand the challenges in the FIR reform policy using the Interactive model and the Multiple Streams or Streams Metaphor.

### **3.1 Overview of the Philippine Investment Incentives System and its Rationalization**

The Philippines has long been using incentives to achieve a number of policy concerns. Other than generating investments to promote growth and development, incentives have been used to promote employment or labor-intensive investments (additional deduction of labor expense) or to promote new technology (accelerated depreciation or tax- and duty-free importation of capital equipment). Incentives may also be used to promote countryside development (incentives to developers of and locators in special economic zones). Incentives may also be extended as an offset to the risks inherent in a given activity (crop insurance, mining, energy exploration). In general, such an approach has unwittingly led to the enactment of incentives legislation with far-reaching implications on government's revenue and expenditure program. Hence, the proliferation of fiscal incentives laws as to lead to the narrowing of the tax base.

As mentioned earlier, the investment incentive system is characterized by different incentive regimes provided under various laws and the multiplicity of IPAs which consequently compete with each other in attracting investments (See Annex C for the matrix on investment incentives laws, administering IPAs and fiscal incentives). Investment incentives may be availed of through registration with any of the 12 IPAs (Map 1) (See Annex D for the description of the IPAs). This situation has led to a complex system. For instance, the PEZA grants ITH and 5% gross income earned (GIE) after the ITH period; the BOI offers ITH but not the 5% tax on GIE; Subic offers 5% GIE but no ITH.

There is no single body to coordinate and monitor the IPAs. There is also the lack of organized monitoring schemes on incentive grants. The difference in the incentive packages offered by different IPAs have led to forum shopping, where investors choose the IPA which give provide the best incentives. Likewise, in the absence of a single law on the grant of investment incentives, legal issues have arisen when the fiscal incentives under the Bases Conversion Development Act (John Hay, Poro Point, Clark and Bataan Economic Zones) were nullified by the

Supreme Court in mid-2000<sup>4</sup> and this has caused instability in the investment regime in the country.

**Map 1 - IPAs in the Philippines**



The existing set of fiscal incentives offered by the Philippines is generally similar or comparable to those offered in selected Asian countries where full ITH or reduced income tax are also the preferred type of incentive (Table 1).

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<sup>4</sup> The situation was remedied with the issuance of RA Nos. 9399 and 9400 where a tax amnesty was granted and restored the fiscal privileges of the affected zones under the PEZA.

**Table 1 - Comparative Matrix of Fiscal Incentives in Selected Asian Countries, 2010**

Incentives	Philippines	China	India	Indonesia	South Korea	Malaysia	Singapore	Thailand	Vietnam
Income tax holidays/reductions	✓	✓	✓	✓	✓	✓	✓	✓	✓
Net operating loss carry-over	✓	✓	✓	✓	✓	✓	No data available	✓	✓
Tax/Duty exemption on imported capital equipment	✓	✓	✓	✓	✓	✓	✓	✓	-
Tax/duty exemption on raw materials	✓	-	✓	✓	✓	✓	✓	✓	✓
Accelerated depreciation	✓	✓	✓	✓	✓	✓	✓	✓	✓
Investment tax allowance	-	-	-	✓	-	✓	✓	-	-
Reinvestment allowance	-	✓	-	-	-	✓	-	-	✓

Source of Basic Data: Department of Finance as cited in Primer on Fiscal Incentives by the Senate Tax Study and Research Office (2013)

As earlier noted, some studies suggest that the effectiveness of incentives in attracting additional investments (beyond the level that would have taken place if no incentives were granted) is often questionable and that their revenue cost could be high. This is aggravated by the impact of redundancy of incentives based on studies conducted by economists. Medalla (2006:2) observes that the ITH, aside from being redundant, is perhaps the least cost-effective of the tax incentives since they make investments that are already attractive even more attractive and but cannot make unprofitable but socially desirable activities attractive to investors. Reside's study (2006:76), finds that about 90% of the fiscal incentives granted by the BOI are redundant with revenues foregone amounting to PhP 43.18 billion or around one percent (1%) of the gross domestic product (GDP) in 2004. The said study also notes that the efficacy of incentives is secondary only to other attraction attributes in the Philippines like educated labor force, vibrant regional domestic economy and good regional infrastructure.

The tax revenue implications of fiscal incentives continue to be a primary concern considering the government's fiscal deficit and the need to generate revenues to continue and sustain the government's economic and social programs.

As mentioned earlier, the Department of Finance (DOF) (2014) reveals that the government's revenue loss from the grant of ITH, reduced income tax rates and duty exemptions to at least P144 billion in 2011, representing a significant loss in revenues, i.e., 1.5% of GDP, 9.3% of government's expenditures or 10.6% of government revenues during the said year. Thus, it is reiterating its call for the

rationalization of fiscal incentives. The bill on fiscal incentives reform “coordinates and organizes the grant of incentives to different sectors that has been largely unfettered over the last few years”. It also cites that the International Monetary Fund supports the reform on the rationalization of the fiscal incentives structure per its Fiscal Affairs Department report in November 2013, viz.: “the need for the rationalization of tax incentives in the Philippines is widely recognized. Numerous IMF studies and reports established that the existing regime is very generous and unnecessarily complex.” (DOF 2014).

The rationalization of fiscal incentives is part of a package of fiscal reforms that has been endorsed to Congress to strengthen the tax structure and its administration aspects, raise crucial tax revenues and give the government sufficient fiscal space to support the country’s economic growth objectives.

The subject reform or rationalization of fiscal incentives in the Philippines has been ongoing for a considerable period of time first starting as part of the Comprehensive Tax Reform Package in 1994 and covering multiple Congresses (Tenth to Sixteenth), albeit without success.

## **3.2 FIR in the Agenda**

Over the years, FIR remains to be a declared priority of the government. FIR has always been a priority piece of legislative proposal as can be gathered from policy pronouncements in Philippine Development Plan, State of the Nation Addresses of Presidents, Budget Briefers, Priority Legislative Measures of the LEDAC and the Executive and the Congressional Budget and Planning Department.<sup>5</sup>

In the Fourth State of the Nation Address (SONA) of President Benigno S. Aquino III (2013) to the Congress of the Philippines, he called for the enactment of the fiscal incentives rationalization proposals, viz:

“I would also like to propose to Congress several laws that will help us sustain and improve on the reforms we have established... Let us likewise enact the Fiscal Incentives Rationalization Bill, so that the incentives we provide to businesses become even clearer and more accountable”.

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<sup>5</sup> FIR is also included in the list of business and economic reform measures endorsed for purposes of the Sixteenth Congress by six (6) business groups and seven (7) foreign chambers (Evardone 2013:11).

In 2001, then President Gloria Arroyo identified the “Rationalization of Fiscal Incentives or amendments to Executive Order 226 or the Omnibus Investments Code” as one of the economic priority bills laid down during her SONA of 2001. The justifications include government revenue implications and to rationalize incentives laws.

The Philippine Development Plan<sup>6</sup> (PDP) for 2011-2016 specifies the rationalization of fiscal incentives as a development strategy for the country:

“To complement the efforts to improve tax administration and to ensure that revenues are adequately protected, priority policy reforms need to be instituted, namely: the rationalization of the fiscal incentives system and the enactment of a fiscal responsibility law. The rationalization of fiscal incentives will save revenues for the government by doing away with redundant incentives (e.g., those directed at investments that would have taken place even with the absence of such incentives). At the same time, rationalization will allow the government to direct the incentive system at the export sector so that its full potential can be realized.”

From the Twelfth (2001-2004) to the Sixteenth (2013 to present) Congresses, the rationalization of fiscal incentives has been consistently included in the Common Legislative Agenda (CLA) by the both executive and legislative branches. It refers to the list of bills from Congress adopted certified as priority measures by the President. The CLA is formulated by the Legislative-Executive Development Advisory Council (LEDAC)<sup>7</sup>.

The Congressional Planning and Budget Department (CPBD) (2006:8) also considers FIR to be urgent such that during the 3rd Regular Session of the Thirteenth Congress, it was listed among the top twenty (20) legislation priority (House Bill (HB) No. 3295/Committee Report No. 98) to support macroeconomic stability.

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<sup>6</sup> Contains the socio-economic goals, policies as well as strategies for a particular six (6)-year period. Under the Plan, it is envisioned that revenue savings can be generated from the FIR (GOP 2011:47). The need to rationalize the fiscal incentives system is reiterated in the mid-plan update of the PDP.

<sup>7</sup> The LEDAC, created through RA No. 7640 on December 9, 1992, is a consultative and advisory body to the President on certain programs and policies essential to the realization of the goals of the national economy. Its members are the following: President, Vice President, Senate President, the Speaker of the HOR and sixteen (16) other members, mostly Cabinet members.

Needless to say, the rationalization of fiscal incentives is set high in the policy agenda of the government. Unfortunately, it cannot get way past the decision stages as can be seen in Figure 1 on page 14 and just going back the loop at the end of each congressional cycle.

### **3.3 Salient Features of the FIR Proposals**

The FIR proposals/bills differ clearly in terms of the incentive package and the government agency to take the lead in formulating and monitoring incentives policies. The various FIR bills involve varying packages of incentives and arrangement, viz.:

1. One governing law regulating the grant of incentives by all IPAs of the government (Consolidation of all investment incentives).
2. Merger between the BOI and PEZA with the resulting entity to be known as the Philippine Investment Promotion Administration (PIPA). The PIPA is tasked to be the new investment promotion agency. Other proposals retain the functions of all IPAs. In other instances, it is the BOI which will be retained.
3. Expansion of the proposed PIPA Board to include other government agencies.
4. Grant of the following incentives to export enterprises: (a) reduced income tax rate of 15%; (b) Net operating loss carry-over (c) accelerated depreciation; (d) duty exemption on imported equipment; (e) duty exemption on imported source documents by IT registered export enterprises; and (f) exemption from wharfage dues. In some instances, options are available depending on the nature of activities.
5. Retention/phase out/abolition of the ITH
6. Extension of the validity period of the Investment Priorities Plan<sup>8</sup> from one year to three years/abolition of the IPP
7. Provision of sunset clause on the duration of fiscal incentives (20/25 years)
8. Establishment of Trust Liability Account for value-added tax (VAT) and customs duties on importation of registered exporters shall be deposited in the TLA for the purpose of funding VAT and duty refund claims)

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<sup>8</sup> Listing of specific areas of investment that can qualify for BOI incentives under the Omnibus Investments Code.

9. Monitoring and reporting of fiscal incentives.
10. Repeal of a number of incentive laws.

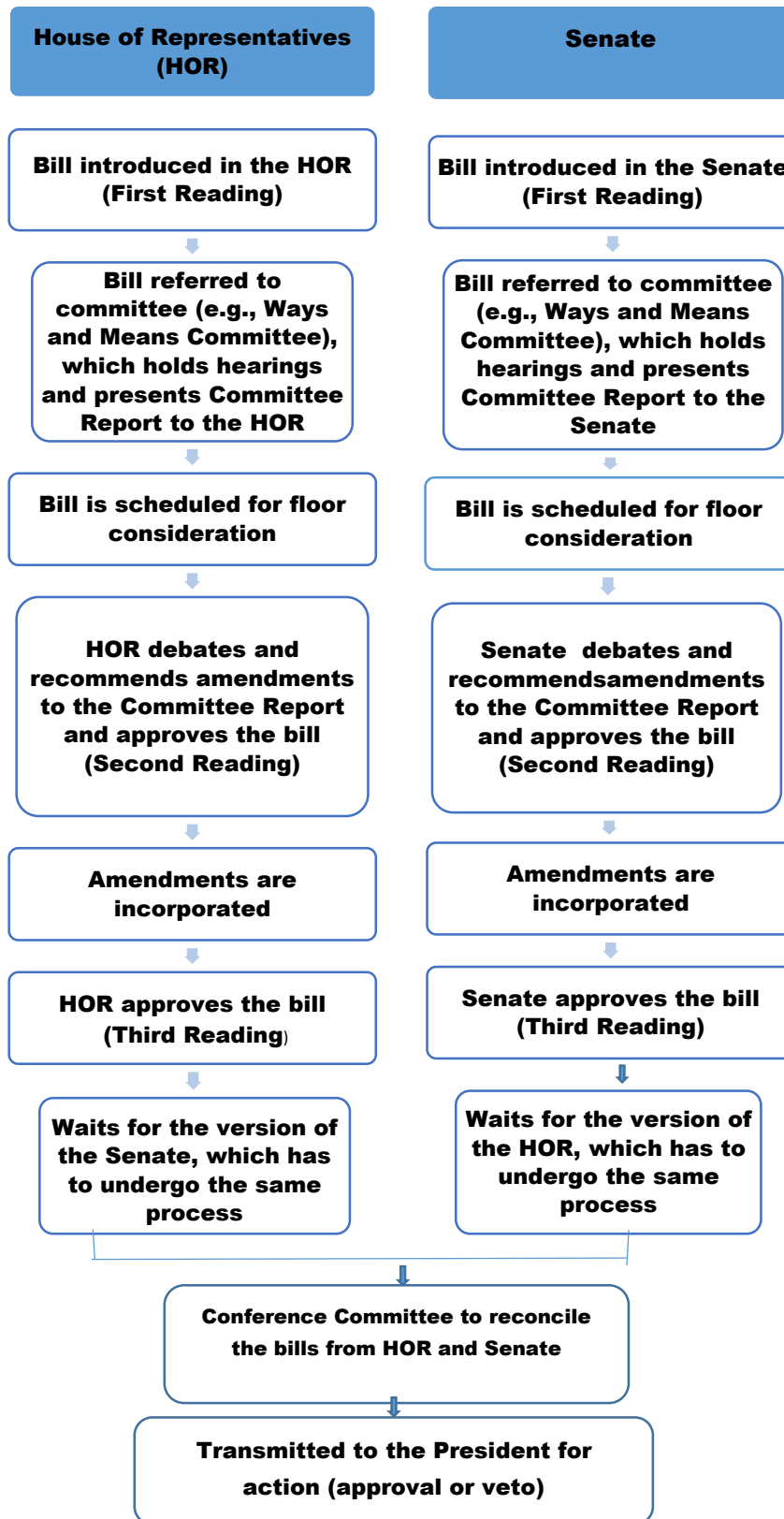
A change in the incentive and administration structure in IPAS necessarily causes resistance from them. They, together with the business sector, would logically oppose the clipping of any privilege available to investors. They prefer the current set up or the 'status quo'. Similarly, the choices involved in fiscal incentive policy reform such as the types of incentives to be offered, administering bodies and safeguards against abuses/leakages makes various actors or stakeholder compete to protect their interests.

### **3.4 Philippine Legislative Process and the FIR Proposals**

Designing an appropriate and workable fiscal incentive reform is not an easy task. In the case of the Philippines, having such a reform successfully pass in the legislature proved to be difficult. Managing the whole process of fiscal incentive reform from inception to conclusion is far from simple because of the political nature of such reform. There are the complexities facing those who undertake this task, given the nature of the Philippines public policy process. Its political system is a representative democracy. The proposed changes in the fiscal incentives system require a new law. Legislators are elected to make policy decisions and enact laws. Generally, the bicameral legislative process in the Philippines tends to be slow because it is deliberative (Evardone 2013:3).

The legislative process will give us an idea on how policies requiring legislation proceed. To understand the FIR process, it is worthwhile to look at the legislative process, in general (Figure 3) since the same process is applicable to the FIR process. Under the presidential system of government, the Congress has the power to make laws. The procedures for introducing legislation and seeing it through committees are similar in the House of Representatives and the Senate.

Figure 3 - Flow Chart of the Philippine Legislative Process





The Philippine Congress is a bicameral body consisting of the Senate (Upper House) and the House of Representatives (Lower House). The Senate is comprised of 24 senators, individually serving a six-year term, and who are elected on nationwide basis. The HOR is composed of members who are either district or sectoral/party-list representatives. The Congress holds the power to pass laws on taxation and the national budget, among others. Half of the senators are replaced every six years but they can be elected for two consecutive terms. Members of the HOR end their term every three years but could be re-elected for three consecutive terms (Carino 2002:21-23).

The Executive branch may draft a bill and submit it as a priority bill to Congress as in the case of fiscal incentives rationalization<sup>9</sup>. Likewise, concerned groups may also make their specific bill and have it sponsored by a legislator. The legislature has the exclusive power to tax and tax reforms should originate from the HOR. This is so as the Constitution mandates that tax proposals should emanate from the HOR pursuant to its Section 24, Article VI<sup>10</sup>.

The bill is deemed approved at First Reading, after sponsorship and thereafter goes to the committee for public hearings, during which groups and individuals who may be affected by its passage make statements or shed light on its positive or negative repercussions on them. A technical working group (TWG) may also be constituted to assist the concerned committee review of the bill. Also, affected or relevant government and private sectors/agencies, together with subject matter experts, are asked for position papers and invited to attend committee and/or TWG hearings or meetings. It is then elevated to the floor for plenary discussion by the HOR and approved on Second Reading<sup>11</sup>.

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<sup>9</sup> According to the Senate, much of the needed legislation considered by Congress comes from the Executive Branch through the Common Legislative Agenda which contains the President's legislative program. Executive departments and agencies transmit drafts of proposed legislations to both chambers in order to carry out the President's program.

<sup>10</sup> "All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local applications, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments".

<sup>11</sup> Under the second reading, the author of the bill delivers the sponsorship speech. The bill is read in its entirety, debated and interpellated upon and amended, if needed. Voting by raising hand, viva voce, roll call or division of the house is held by the plenary.

The bill is then approved on third reading<sup>12</sup>, once all amendments on the floor have been integrated. It is then sent to the Senate where it undergoes the same process. The Senate considers the bill in the similar manner as if filed by its own member. Difference in the versions of the two chambers would necessitate the convening of a Bicameral Conference Committee with members from both chambers to reconcile or thresh out disagreements on any provisions of the bill and formulate a bill acceptable to them. It is then sent to the President for approval, veto or lapse into law (Carino 2002:21-23).

In reforming fiscal incentives, there has been a pattern of failure to enact the FIR bill starting from the Tenth Congress (1995-1998). The principle and scope of reforms continued to be contested by the stakeholders, particularly the DOF and DTI. These Departments support different version of the bills. And as such, there are always contentious issues on design of rationalization leading to a failure to enact the measure during each Congress.

During the Tenth Congress, then Assistant Majority Floor Leader Neptali Gonzales II already noted that for FIR to move forward, it is important to have a “meeting of the minds between officials of the DOF and DTI”. Congress has already proposed the measure but the problem is really between them (Business World 1998). After nineteen years, the said meeting of the minds has yet to happen by way of an administration or executive FIR bill.

This lack of consensus has continued due to competing priorities and the resultant turf issues led to delays and failure in the passage of FIR. This is apparent not only during legislative deliberations but also in statements made by the Executive. As an example, in 2001, then DTI Undersecretary and BOI Managing Head and now DTI Secretary Gregory Domingo, refuted that the PhP124 billion revenue loss due to incentives given to investors in 1999 as reported by the DOF, was attributable to BOI and PEZA fiscal perks and justified the grant of fiscal incentives (Baetiong 2001):

“While the BOI agrees with the rationalization of the incentive system, there is still a need for perks for certain industries where the country competes for foreign direct investments against its Asian neighbors. The continued provision of fiscal incentives could be considered a defensive move of the country since its competitor countries continue to make use of similar fiscal incentives.”

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<sup>12</sup> The bill is approved by affirmative vote of majority of the members present. After the incorporation of amendments, it will be transmitted to the Senate for its consideration. If disapproved, the bill will be transmitted to the Archives.

From the Tenth to Fifteenth Congresses (1995-2013), the HOR has managed to come up with a FIR bill approved on Third Reading. However, the submitted Committee Reports failed to reach approval of Senate. The furthest that the FIR bill has gone through in the Senate was during the Thirteenth Congress (2007-2009) when Committee Report No. 81 was filed for plenary discussion in the Senate. It was in substitution of HB No. 3295 (approved on Third Reading at the HOR) and in consideration of other Senate Bills (SBs) on FIR. Though it was sponsored on the floor, it did not succeed to go through the period of interpellation. During the Fourteenth and Fifteenth Congresses, proposals on FIR have undergone discussions only at Ways and Means Committee level (STSRO 2013:17-18) (See Annex E for the Status of House and Senate Bills from 2004 to present).

The interview with Director Pancho Belen of the HOR Committee on Ways and Means (CWM) revealed that all the approved bills on third reading were generally the version of the DTI. This was confirmed by CPBD Director-General Miral who expressed that the DOF practically did not participate in the deliberation in the crafting of the version approved in the Fifteenth Congress. As such, the recourse for the DOF is to make its case in the Senate.

For the current Congress, the following HBs have been filed: HB Nos. 130, 302, 1788 and 2765. It is worth noting that HB Nos. 302 and 1788 are similar to HB No. 4935 that was approved on third and final reading by the HOR during the Fifteenth Congress. At the Senate, the following Senate Bills were filed: SB Nos. 35, 987 and 2048. Once these bills do not make it as a law, then a new round of bills will be re-filed and make the round through the legislative mill. In the meantime, it would mean the status quo for the investment incentive regime.

The role of the bureaucracy in the policy process is denoted by the active participation of the DOF and DTI, as well as other government agencies (IPAs) in the FIR process. While politicians have the role of makers of policies, the bureaucracy acts as the enforcer or implementer thereof. The roles of policymaking and policy implementation derive from the separation of powers between the executive and legislative branches of government. Strictly speaking, this dichotomy may no longer hold true in view of the increasingly significant role assumed by the bureaucracy in policymaking (Poocharoen 2013: 334-336).

Bureaucrats can greatly influence policymaking as advocates of ideas. They can participate formally or informally and even be the sole actor, leader or policy entrepreneurs in the policymaking process. Bureaucrats can act as pressure groups and lobbyists because they have their own set of ideologies and preferences. This deviates from the traditional view where the bureaucracy is seen as politically neutral and acting as a buffer between the state and interest groups (Poocharoen 2013:337).

### 3.5 Stakeholder Analysis of the FIR Process

Stakeholder Analysis (SA) is defined as a “methodology used to facilitate institutional and policy reform processes by accounting for and often incorporating the needs of those who have a ‘stake’ or an interest in the reforms under consideration. With information on stakeholders, their interests, and their capacity to oppose reform, reform advocates can choose how to best accommodate them, thus assuring policies adopted are politically realistic and sustainable.” (World Bank 2014).

While SA began from the business sciences, it has developed into a field encompassing economics, political science, among others. It provides an awareness of the impact of reform on political and social forces and explain the divergent views on reform proposals and the likely power struggles among stakeholders and helps identify potential strategies for collaboration with divergent stakeholders (World Bank 2014).

Given the wide-reaching impact of investment incentives throughout the economy, it is but logical that many actors or players will be active in the policy reform process and if their interests are likely to be impacted, the more likely that they are going to be intensely or deeply involved. Actors can be active in the policymaking process given their capacities for influence and action.

However, the power and ability to influence are hardly evenly distributed. Some actors/groups are able to exert greater influence on policy reforms than others. In the FIR context, the extent of the power and interest is reflected in the power-interest matrix (Figure 4). A reform program must identify the influence that potential winners and losers can exert on a policy reform so that conflicting interests can be managed. This gains special significance because the FIR initiative has proven to be a complex and sensitive issue given the natural tension among the objectives and mandates of various stakeholders. A simple stakeholder analysis was undertaken to help us understand reform prospects as the stakeholders’ impact on the outcome of the said reform. The stakeholders were determined based on observations of actual participants in the FIR process (e.g. legislative hearings, TWG consultations) and as confirmed by the respondents.

**Table 2 – Stakeholders of the FIR Initiative**

Stakeholder	Role	Rationale for Engagement
Government Congress:		
Legislators	They are involved in the legislation on fiscal, monetary and financial affairs of the government.	The legislature is vital center of policymaking.
Congressional and Senate Research Agencies	They provide technical support to Legislators	They provide technical services to the lawmakers and the public for a more informed decision making
Executive Agencies		
Departments	They have the fiat on policy fiscal/investment policy formulation.	The concerns of the reforms will impact on the mandates of the concerned departments. Moreover, they are the proposers and implementers of FIR reform.
IPAs	They act as resource persons in public hearing and TWG meetings regarding FIR and provision of position papers on FIR proposals.	The FIR will impact on their operations and will affect their locators and the overall investment climate. They administer the grant of fiscal incentives.
Private Sector		
Civil Society Organizations/Non-Governmental Organizations	They provide advocacy for improved economic policies; provision of technical expertise and advice.	Strong links and alliances with legislators, government officials, academics and technocrats enable them to forge reforms
Business Associations / Chambers	They provide advocacy on improvement of investment climate; provision of policy briefs and research/ statements and position papers in connection with FIR.	They represent the business/investor sector which is affected by the reform initiatives.
International Agencies	They provide technical assistance and advisory services relative to FIR.	They are a good source of international best practices and resources.
Researchers/ Academics	They conduct of studies on FIR and provision of technical data and studies on FIR.	Research aids in making informed decisions and can influence public policy.

The various roles of policy actors in the FIR reform process and the rationale for their engagement can be seen in Table 2. The government stakeholders in FIR include the following: a) Legislature (legislators and the legislative research and advisory bodies; b) Executive Departments; c) IPAs. Those from the private sector include: business associations (BAs)/chambers; civil society organizations (CSOs), international agencies; and researchers/academics.

### 3.5.1 Legislators/Congressional Research Agencies

The legislature or Congress is one crucial arena within which FIR reform issues are debated. The legislators hold the power to make authoritative decision on policy proposals through alternative solutions or contents and influence on the timing of the reform through the process of deliberation. While they have their own position on the FIR proposals, they consult with the other stakeholders likely to be affected by the measures. These consultations are conducted through public hearings, technical working group meetings and the submission of position papers. The hearings, discussions and deliberations are conducted by the CWM together with other concerned committees like the Committee on Trade and Industry. In the interview, Senator Recto made it clear that the FIR seeks to end the indiscriminate dispensation of fiscal perks to investors, particularly the ITH, which in his opinion is the most redundant type of fiscal incentive<sup>13</sup>. Some sectors bats for the retention ITH because it is the most lucrative incentive for investors who are looking for new places of investments. He adds,

“However, as a legislator, I must listen to the opinion of all the stakeholders and one of their main points is that the removal of the ITH will make the Philippines less competitive than our neighboring countries in Southeast Asia. In support of their argument is the painful fact that our country is indeed lagging in terms of infrastructure.”

Aside from the legislators, other stakeholders from the legislature include the legislative advisory and research agencies such as the Senate Tax Study and Research Office and Congressional Budget and Planning Department. Through the provision of technical support and advice to legislators, the technical capabilities of these offices help shape public

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<sup>13</sup> His Senate Bill No. 987 proposes the abolition of ITH and its replacement by reduced income tax.

policies. Just like the researchers and academics, they may be considered as knowledge actors in the FIR initiatives through the studies they conduct.

### **3.5.2 Departments**

Other stakeholders to reckon with in the FIR reform are the concerned Departments whose mandates are impacted by the FIR. These are the DOF and DTI. The DOF is mainly concerned about formulation and administration of the country's fiscal policies and the generation and management of the financial resources of government. On the other hand, the DTI has for its mandate, trade and investments promotion. These two departments are co-equal. Hence, they exercise the same degree of power within the FIR reform arena.

### **3.5.3 Civil Society Organizations (CSOs)**

According to Hill (2005:27), the processes of government are increasingly involving other groups of public interests trying to influence legislative agendas. Once on board, such 'pressure groups' tend to "try to influence the policy process at any stage – negotiating the details of legislation, establishing links to influence the implementation process, monitoring policy outcomes and so on". This is true with the Philippines, where CSOs can act as pressure groups on the government to foster policies in their field of interest and involvement.

In the FIR process, the relevant CSOs are those involved in research and policy advocacy. Because these CSOs are engaged in knowledge production and dissemination, they have played a major role in policy development. They also give advice and directly influence decisions of the executive and the legislature (Abao 2011:4). CSOs are engaged in policy advocacy to encourage the government's commitment in the FIR reform. CSOs participate in policy making by lobbying, serving as resource persons and provision of position papers in public hearings and the conduct of studies to inform decision makers and creation of public awareness campaigns. They also produce studies relative to their advocacy issues and propose reforms. One active CSO in FIR deliberations is the Action of Economic Reforms, a respondent in this study.

### **3.5.4 Business Associations (BAs)/Chambers**

Businesses and investors participate in FIR reform initiatives through the business association or chamber (both foreign and local) representatives

who serve as resource persons in bill deliberations and TWG discussions and provision of position/discussion papers thereon. They also engage in economic policy advocacy. For example, there is 'The Arangkada Philippines Project' (TAPP) which implements the Joint Foreign Chambers<sup>14</sup> of the Philippines' recommendations to accelerate economic growth under the Partnership for Growth through the pursuance of enactment of business/economic legislative agenda, among others. The Makati Business Club engages in investment promotion, policy advocacy, among others. It publishes on a regular basis the Congress Watch Report and Congress Watch Tracker.

### **3.5.5 International Agencies**

A number of international organizations provide technical assistance on the matter of FIR [e.g., WB, IMF, United States Agency for International Development (USAID)]. Moreover, they are a good source of best practices in fiscal incentives reform. For instance the study on the redundancy of fiscal incentives was partly funded by the USAID. There also several studies on Philippine fiscal incentives system conducted under the auspices of the IMF-WB.

### **3.5.6 Researchers/Academics**

The importance of the role of researchers, including think tanks and the academics in fiscal incentives reform derives from their provision of studies and researches and other tools for an informed policy environment. The quality of policies depend to a large extent on them. They can introduce alternative proposals, as well as, enhance the debates. The studies conducted by these experts on fiscal incentives help the legislators and other policymakers in bill deliberations.

The power versus interest matrix normally determine stakeholders/players' interests and power that must be considered in addressing the problem or issue at hand. They draw attention to coalitions that need to be encouraged; what behaviour should be nurtured and whose 'buy in' should be sought or who should be 'co-opted'. Finally, they provide some information on how to

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<sup>14</sup> Around 2000 firms belong to the seven JFC chambers.

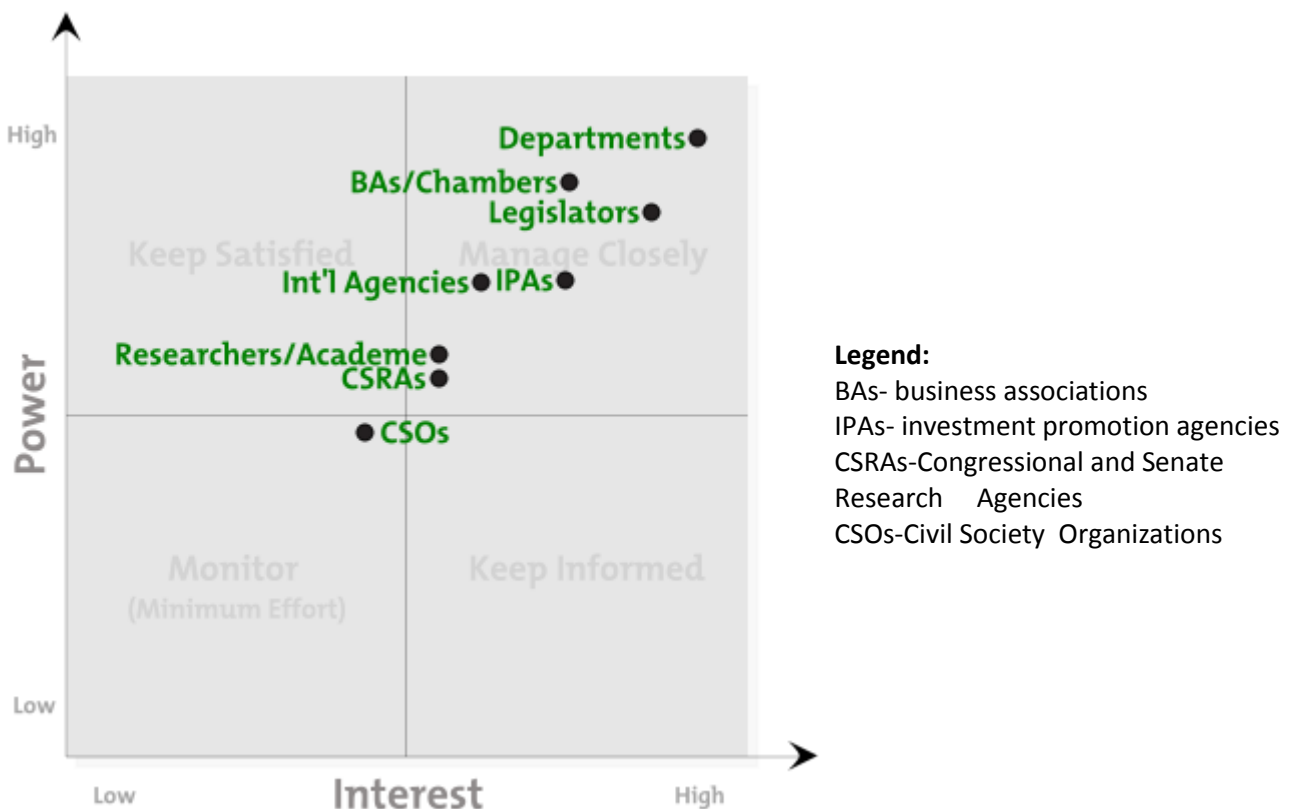


convince stakeholders to change their views.” (Bryson 2004:31). Stakeholder Analyses are also crucial in identifying problems that can and should be solved, mostly in cases where many are involved, affected, have some responsibility but no one is solely in charge (Bryson 2004:46). The policy reform process affecting investment incentives is expected to have a big number of players. This is so as it has substantial effects in the economy and if their interest are affected, they are more likely to be strongly involved.

### 3.6 Stakeholder Power and Interest

A power versus interest matrix to gauge the relative power and interest of actors/groups in the FIR initiative as perceived by the respondents themselves is shown in Figure 4. To assess the power and interest of identified stakeholders, they were rated from 1 to 3, where 3 = high, 2 = medium, and 1 = little power/interest (See Annex F for the details).

Figure 4 – FIR Power Interest Matrix



As may be gathered from the matrix, except for the CSOs/NGOs, all other stakeholders are in the high power, high interest quadrant. The most important stakeholders are those with high interests and high power and are positioned in this

quadrant. As such, they should be managed closely. This is so as they can influence the fate of a reform base on their influence and power. It shows that a struggle to push for one's position on FIR can definitely ensue. They have to be engaged in all significant steps in the policy process.

In the same matrix, the stakeholders with highest power and interest refer to the Departments and followed by the legislators. IPAs, international agencies, researchers/academics and CSRAs also occupy this grid. Their impact on FIR initiatives can also be explained by this characteristic and behavior of this particular group of stakeholders.

The legislators' high power and interest arise from their legislative mandate as elected lawmakers of the country. The CWM of both chambers deliberates and conducts public hearings on the FIR proposals before they are elevated to the plenary. At the Committee stage, changes on the make up of the proposal may already be introduced but amendments can still be made even at the bicameral committee level.

While in general, researchers and academics would not occupy the topmost right quadrant in the SH matrix because of the recommendatory or advisory nature of their studies, the high power and interest score given by the respondents to researchers/academics in FIR in this case, may have stemmed from the active participation of economists and academics, particularly of Reside and Medalla in the debates on fiscal incentives. Their studies have been described as the most rigorous and thorough analyses fiscal incentives in the country. The Reside study served as guide to discussions on investment incentives reform in the legislature (Morales-Alikpala 2010:12 and 15).

Based on the ratings, CSOs/NGOs are seen as having limited influence on policy debates and processes. They were rated as the lowest in terms of power and interest among the identified stakeholders. But its position is just a few notches short in high power (Figure 4). Thus, their capacity to influence a reform should not be underestimated. It is worth noting that based on the observation of Mr. Filomeno Sta. Ana III of AER, our respondent from the CSOs/NGOs group, the government is progressively listening to the views and depending on CSOs, referring to their role in the recent enactment of sin taxes law in 2012. His observation finds support in Booth's study (2014:x and 28), where the AER was mentioned for its CSO mobilization and multimedia campaign (focused on public health) for the passing of the sin tax law. The AER is the main development entrepreneurship team credited for the passage of the sin taxes law. The core group addressed coordination problems and made tactical decision on dividing the opposition and making alliances with the reform objective pulling the consensus magnet for the task.

## **Dissensus and Bureaucratic Turf Fighting**

None could better describe the continuing tension among stakeholders in the FIR initiative than the dissensus or lack of common position within the Executive Branch, particularly the DOF and DTI because of their competing mandate of attracting investment and protecting the revenue base. This study finds it to be the major obstacle in the enactment of the FIR proposal. And it is where the proposed rationalization got into difficulties. Complications and difficulties definitely emerge if the solution proposed by one actor represents a problem for the others. This is true in the case of different departments with different responsibilities. This will may be resolved by a negotiation or compromise of an acceptable combination of solutions. Unfortunately, for the longest time, the concerned agencies cannot come up with a common position on how to approach FIR. All of the respondents pointed to this as major bottleneck in the enactment of a FIR law.

Senator Ralph Recto, as a respondent in the study, accentuated that reform-oriented measures, such as the fiscal incentives bill can be polarizing and thus, are met with vigorous opposition. Based on his experience<sup>15</sup>, concessions may have to be made in order to increase the likelihood that all stakeholders are on the same page. Unfortunately, the stakeholders in this issue, including the legislators<sup>16</sup> who have taken their causes, still refuse to accept concessions on certain provisions found in different bills.

“It looks like the Executive Department has not been quick to firm up its version of the FIR because it has not been able to decide immediately on the details of the FIR, including the tax incentives and the agency to administer the system, among others”.

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<sup>15</sup> Senator Recto served as the Chairman of the Senate CWM of the Senate during the Twelfth (2001-2004) and Fifteenth (2010-2013) Congresses. He is a member of the CWM of the current Sixteenth Congress.

<sup>16</sup> From the Tenth to Sixteenth Congress, there are versions of bills which are said to be either DTI or DOF versions. That this is so was confirmed by SIRSRO Director-General Dascil during the interview. However, there are also bills which are stand alone or middle-ground bills (e.g. SB No. 987, HB No. 4369).

Representative Romero “Miro” Quimbo, the current Chairman of the Ways and Means Committee of the House of Representatives, has confirmed this view<sup>17</sup>, viz.:

“The DOF and the DTI could not agree, based on their competing mandates. However, they are continuously meeting to settle their differences. During the last Congress, the House of Representatives passed the FIR, however, it was not approved in the Senate. I was told this was because the House version follows the proposal of the DTI, and the DOF lobbied against the version in the Senate. The CWM is trying to prevent the same situation by asking the two departments to agree first, to ensure that the consolidated measure will be endorsed by the both departments.”

The said observation is backed by Director-General Romulo Miral, Jr. of the CBPD and who pointed out that such an agreement is critical to the passage of a FIR law:

“The DOF and DTI would not seem to agree on how to carry out the FIR. There are many versions of the FIR and none of them is jointly supported by the DOF and DTI...Unless the DTI and DOF come up with a common position on FIR, the prospect of passing a law thereon is nil.”

In a similar vein, Assistant Secretary Ma. Lourdes Recente commented that while both the Executive and Legislative Branches recognize the need for reform:

“The fundamental differences in the mandates and understanding about tax incentives by the same institutions kept the reform from happening”.

Stated differently, an IPA-respondent opposed to the FIR likened it to:

“a continuing battle for the retention of incentives now being granted by IPAs to their investors on the one hand, versus the continuing effort of the Department of Finance to take away the mandated and lawful incentives from the IPAs, on the other hand.”

The respondents from the private sector did not see the situation differently. It is clear that agency problems/tensions can exist even between the executive agencies

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<sup>17</sup> The CWM of the HOR has requested the DOF and the DTI to settle their differences and consolidate their recommendations in a common bill before resuming hearing on FIR. A TWG on FIR was likewise created, which also awaits the DOF-DTI agreement.

responsible for attracting investment and the more generic business environment and the one in charge with revenue collection. It is understandable as it behooves the departments to protect their respective mandate. Executive/bureaucratic players also compete over desired solutions to policy problems which are shaped by their position in the government (Grindle and Thomas 1991:29)

In sum, all of the respondents points to the issue as the main bottleneck in the enactment of the FI. This is a case where policy elites<sup>18</sup>, can, wittingly or unwittingly, work against reforms. The lack of progress in the FIR reform highlights the need for consensus between the DOF and DTI. Based on the minutes of the 5<sup>th</sup> Committee meeting/hearing on August 12, 2014 on FIR, Senator Edgardo J. Angara, Jr. as Chairman of the Senate CWM gave the DOF and DTI as well as the IPAs one month to come up with their unified version of the FIR bill, in order to fast track the movement of FIR bills as a priority economic measure. He noted that their failure to come up with a consolidated version is delaying the progress of the bills (Senate CWM 2014).

### **On the Legislative Process**

On other factors affecting the passing of the FIR bill, such as the legislative cycle and the bi-cameral process, the respondents are well aware that such is a constitutional limitation and Congress has to work within it. The three-year legislative cycle somehow affects the expeditious enactment of the FIR because legislative bills have to be enacted within a regular cycle of three annual regular sessions in a particular Congress. Members of the HOR have to go through an election challenge every three years which coincides with the legislative cycle. One implication is that given the fairly short period of time within which to pass a complicated bill, time may not be enough. Moreover, such legislation is rendered rather impossible in the final three months before the election because Congress is adjourned by then. According to Representative Quimbo:

“Timeliness affects the movement of measures in the legislative mill. To elucidate, the non-passage of the FIR in both House by the Second Regular Session will most likely spell its demise, given the competing electoral priorities pushed during the Third Regular Session. In addition, since there are too many sectors and offices affected by the FIR, it takes longer than usual deliberative and legislative process. Thus, it must be elevated in the plenary ASAP, if it is to pass both Houses in time.”

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<sup>18</sup> Refers to those formally charged with making authoritative decisions in government (Grindle and Thomas 1991:19).

Under the legislative process, bills have to be refiled if not passed in a particular Congress. In other words, unless FIR is turned into a legislated and fleshed-out policy, it will just go the round-about in the legislative mill and continue to be refiled every time it does not reach the decision to be enacted. It may pointed out that while the legislative cycle can somehow limit the pace of passing a legislation, it is a reality that the policymakers have to reckon with. It would be interesting to note that there are also laws passed in a short period of time. The Exchange of Information on Tax Matters [Republic Act (RA) No. 10021] was enacted in a year after it was proposed. Likewise, the Data Privacy Act (RA No. 10174) was passed after three (3) years. However, there are also bills which are taking so long to be legislated like the Anti-trust/Competition and the National Land Use Policy bills have been pending for 21 and 20 years, respectively (Evardone 2013:5). Mr. John Forbes of the JFC, mentioned that the United States has a much shorter legislative cycle of two years but it still gets laws to be enacted. In other words, it may not be sufficient to look at legislative cycle in trying to understand the delays in the FIR enactment. The more crucial factors are the roles of stakeholders, their motivation and interaction with other actors which influence their behavior in the reform process.

### **Other Impasse Issues**

The interviews reveal a number of impasse issues which must be resolved. One points to the details of the proposed incentive packages. An IPA-respondent stressed that with the provisions mainly to take away the current incentive given by law to IPAs, they would rather hope that Congress will not pass the FIR bill as changing of investment and incentives policies is an anathema to investors. The Philippines stands to lose investments if the FIR bill becomes a law. He believes that the FIR:

“contradicts the very aim of the bill to make the Philippines more competitive in generating FDIs as its principal objective is only to reduce the incentives now being granted to investors of different IPAs. We oppose the FIR bill as presently and previously crafted.”

Based on the position papers submitted to the HOR CWM, most agencies agree on FIR in principle, but they have reservations on how it is to proceed which is a matter of the ‘devil is in the details’ issue. This simply shows that the formulation of the current bills filed in Congress is not yet acceptable to all concerned, hence the continuing dispute over FIR. The IPAs bat for the retention of their incentive giving authority as well as the current incentives or effectively, the status quo<sup>19</sup>.

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<sup>19</sup> Based on position of various agencies on FIR bills, per interview with a staff of the HOR CWM (August 27, 2014).

## Role of Stakeholders in Breaking the Impasse

As to the role that stakeholders can play to break the impasse and make the FIR enactment possible, the respondents suggested the following:

- Put pressure on the Executive to put its act together and come up with a common version of the FIR bill.
- Keep pushing the concerned NGAs to do their job and the CWM fast track shepherd it in the plenary and coordinate with Senate counterpart to ensure the passage of the measure.
- The Senate should make sure that it passes a FIR bill that is innovative and effective even without the Presidential certification.
- Discuss with stakeholders and come up with a compromise to make the reform happen.
- Continue with the advocacy for a genuine FIR.

### 3.7 FIR Initiatives in Streams and Implications for Policy

Under Kingdon's (1984:203-205) idea of 'primeval soup' or the policy process, three streams are present: problems, policies and politics. When the streams join, a window opens at a point where policy change happens. He also identifies the presence of 'policy entrepreneurs' (politicians or civil servants or pressure group leaders) who are always on the guard for possibilities of combining public concern about a problem and political interest and do something about it. The 'primeval soup'<sup>20</sup> aspect represents the policy process setting as always changing with shifting attention to issues as influenced by the political realities of the times.

The main ideas of Multiple Streams are present in the FIR initiative and can explain the direction and the time it is taking. The multiple sets of element or activities relative to FIR can be broken down as streams. Actors recognize problems, make proposals for the reform or on how to solve the problem and engage in political activities. Over the years, the streams have been flowing without joining to create a policy window or "window of opportunity" to reach a point where the FIR bill can be passed. The streams approach can be looked at as it applies to decision opportunities<sup>21</sup> and no longer in the agenda setting as the FIR is already high in the

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<sup>20</sup> The policy process is described as a 'primeval soup' in which ideas float around, combine, split, and rise or sink in popularity. (Kingdon 1984:131)

<sup>21</sup> According to Nikolaos Zahariadis, the "streams approach can also be applied to decision opportunities, and not simply to agenda setting opportunities because a decision to make new or change existing policy may be more likely when the streams come together." (as cited in '*An Introduction to Policy Process*' (Birkland 2001:224).

echelon of policy reform agenda of the government as shown earlier. As may be gleaned from the FIR narrative, the three streams can be presented as follows:

### **3.7.1 The Problem Stream**

The problem stream is characterized by the problems relative to the investment incentive regime earlier discussed, i.e., the presence of many IPAs and laws granting varying incentives, foregone revenues and redundant incentives, among others. The government has already recognized their existence and, thus, the need for its rationalization or reform. FIR has again been put on the decision agenda and is under active consideration by the Congress.

### **3.7.2 The Policy Stream**

There are also probable solutions to the problems as proposed under the bills now under consideration by Congress. These refer to the policy (also referred to as solution) stream. The different solutions/alternatives indicate competing ideas on how to address problems. Generally, the proposed solutions reflect the thinking of the concerned executive agencies the different bills are supporting. As to bills filed in the current Congress, there are different versions supporting or backing either the DOF or DTI positions as well as middle ground or stand-alone ones which also provide varying types of incentives and arrangement for its administration.

Again, it may not be amiss to say that the solutions/options through the provisions of FIR legislative bills have been under discussion for the last twenty years. Hence, the presence of the policy stream. Studies have been conducted by specialists to provide guidelines to and inform policymakers. Various policy specialists and entrepreneurs from and outside the government participate in the process (e.g. academics, congressional staff and researchers) and comprise this stream.

### **3.7.3 The Politics Stream**

The President has renewed the call for the rationalization of incentives and both the Speaker of the HOR and the Senate President committed support for the passing of the FIR law this Sixteenth Congress. In addition, there are CSOs and business groups supporting the initiative. These comprise the political stream which denotes the willingness and ability of politicians to rationalize the investment incentive system. FIR has been tried before



under four (4) consecutive administrations under Presidents Ramos, Estrada, Arroyo, and Aquino III but failed. Consideration of the FIR bills under the Aquino watch (i.e., during the Fifteenth Congress) did not even reach bicameral discussions. The furthest that the FIR could muster during his term was the approval in the third reading in 2011 and 2013 in the HOR. The Liberal Party (to which President Aquino belongs) enjoys a three fourths (3/4) majority that can easily swing in the votes for the administration's legislative agenda (Evardone 2013:14). The sponsorship by the legislators of different bills supportive of the position of the departments is also part of this stream. The legislators serve as the champions or sponsors of the various versions of the bills. Stretching the idea further, the differences between the DOF and DTI on how to proceed with the rationalization may be interpreted as forming two mini streams running parallel with each other and the bigger political stream. The joining together of the mini streams would increase the chance that the politics stream will be able to converge with the problem and/or policy streams. The DOF and DTI have been meeting regularly to come up with a consolidated version of the FIR bill.

#### **3.7.4 Policy Window or Window of Opportunity**

As already mentioned, policy change is highly probable when there is a window of opportunity or when advocates successfully connect or join two or more components of the policy process, i.e., the problem, solution or the political mood around the issue. Ideally, the window of opportunity or streams of events may come together when the collective interest of the actors or stakeholders indicate that cooperation would be in the best interest of all or when a coalition of interests has been forged. Not being able to do this often leads to policy gridlocks or stalemates and prolonged debates as happened in the FIR initiative. The presence of a policy window significantly increases the interest of policymakers and concerned parties in policy reform and can substantially enhance the reform's realization. Just as policy windows can be predictable or unpredictable, they also can be created. This is important because it means that the FIR initiative can be managed to bring forth policy windows to the reform.

Despite the pronouncement of reform leaders and the efforts through the years to rationalize investment incentives, its reform continues to be elusive. Kingdon's explanation of the three streams: problem, policies, and politics calls for a convergence of two or more streams for a successful reform, i.e., policy reform occurs when the streams join together. The streams are there, just waiting for a trigger point to converge.

Using the streams premise, the missing link in the FIR success is the opening of a policy window. There needs to be a policy window to open and the players to take action to make the reform possible. According to Kingdon, the chance for a policy to be adopted gets higher if all the streams are joined or coupled. The mere opening of the policy window, however, does not warrant that policy change will happen. The role of the so-called policy entrepreneurs becomes crucial here as they can facilitate the joining of the streams and assume the role of enablers of the linking of streams. It may be recalled that the election of President Aquino in 2010 was expected to create a confluence point in the political stream and finally have the FIR enacted but did not result into a success.

A unified executive version of the FIR bills could be a possible window of opportunity. This is why the leaders of the legislature have been asking the Executive Branch to come up with an administration bill so that action on the FIR can be expedited. According to Representative Quimbo, by asking for a common version, the CWM is trying to prevent an instance where the approved HOR version follows the DTI proposal and which led to the DOF lobbying against the version in the Senate as happened in the Fifteenth Congress. Incidentally, most of the respondents believe that a unified bill from the Executive Branch could break the impasse on the FIR initiative.

Reform measures can also be influenced by regional developments. The FIR law could also be a crucial legislation to prepare the country for the economic integration of the Association of Southeast Asian Nations (ASEAN) in 2015 under the ASEAN Economic Community (AEC). The AEC could serve as another possible policy window since the Philippines commits to harmonize investment policies necessary to achieve economic integration through the ASEAN Comprehensive Investment Agreement. The government can utilize the FIR initiative and expedite its enactment to also implement its commitment to the AEC.

Since the policy windows can be created, there are a number of possibilities for the streams to link up. The streams do not just converge by chance but rather from sustained and consistent action by advocates. In other words, conscious effort to make a reform possible should be undertaken. In this connection, it may be worthwhile to look at some of Sutton's (1999:31-32) checklist of what makes policies happen as when: "there are good links between and within agencies whereby lessons learned from practical experience can be shared and acted upon; events are timed in such a way that a person who is particularly interested in pushing forward an agenda is working at a time when a powerful political authority has reason to be interested in the same agenda; there are good connections

between interested parties such as aid organizations, the research community, and government (making a ‘network’) through which ideas are exchanged and thoughts clarified about possible policy directions; and there is a network of people around the ‘change agents’ who will respond to them and help them carry the process forward”, among others. Each case or combination of cases can serve as policy window to make a policy reform possible.

Raising awareness around the need for FIR can also create a policy window. As emphasized above, even the use of the President’s political capital in coming up with an administration bill in the midst of contention between the DOF and DTI, can break the impasse. Or even the emergence of a reform champion (individual or coalition). Timing is also significant. What is crucial is to take advantage of the policy window before it closes. Otherwise, it would just be a foregone opportunity and FIR will go back to square one on the policy reform process.

### **3.8 Management of the Reform Process as a Way Forward**

Because the FIR process has been a long and complex one and is still ongoing, the strategic management of the reform is imperative. While the strategic management should have been done earlier in the process, it is not insuperable and can still be done at this stage. Building up from the idea of policy windows, a reform strategy may be drawn to repackage the FIR initiative to help fast-track its passage into a law. It is always possible to shape the direction of the reform. This can be done by factoring into the effort the analysis or consideration of the political and economic environment where policy change happens as in the opening of the policy window discussed above. In other words, strategic management of reforms is possible by the consideration of the host of factors likely to be changed by policymakers’ action (Grindle and Thomas 1991:133). Given this realization and applying Kingdon’s streams concept, a reform strategy may be drawn up to facilitate the opening of a policy window to effect the passing of a FIR law.

The struggle for the restructuring of the sin tax is similar with the FIR in that it took it more than a decade before the law thereon was passed. The sin tax reform can veritably serve as a model for the FIR reform by following the networking strategy utilized for the passage of the sin tax law, restructuring the excise tax on tobacco and alcohol in 2012<sup>22</sup>. Moreover, lessons learned from such reform can serve a

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<sup>22</sup> Attempts to raise the taxes on alcohol and tobacco under the Ramos administration (1992-1998) did not succeed due to the strong tobacco lobby in Congress. The sin tax reform law enacted in 2012 plugged the loopholes in the old laws and yielded additional revenues of PhP 51 billion in 2013.

demonstration effect on the FIR. A strategic reform plan for FIR could produce the opening of a policy window to end the series of futile bids for its reform.

## Chapter 4 Conclusion

The realities of investment incentive reform in the Philippines capture the complexities of policymaking and/or reform process. After twenty (20) years of debate and discourse on how to rationalize the investment incentive system in the country, its reform remain elusive and continue to represent a challenge for policymakers. By looking at the FIR process from an interactive model perspective, we are able to determine the actors involved in FIR and the importance of their roles, power, interest and their interaction in bringing about or obstructing the reform. As such, FIR is expected to be met with support and opposition, understandably from the stakeholders or groups who stand to gain or lose from the reform. The stakeholders can shape and hinder reform. As to how they do it depends on the power and interest they have. This answers the main question on how competing forces in terms of actors, their power and influence, sustaining or blocking the rationalization of fiscal incentives? In other words, the undertaking is characterized by multiplicity of actors who can use powers at their disposal to support, redesign or impede FIR reforms.

On the impact of the policy reform process on the enactment of the FIR law, it may be noted that there are inherent limitations on the FIR reform process. The said process is bound by the rules of the Constitution. It is governed by the legislative process as FIR proposals have to be passed into a law within the legislative cycle of three (3) years. However, such a limitation should already be factored into the deliberation of the FIR bills. It should not be blamed as the cause of the delays in its passing into law because there are a number of laws which were enacted within the legislative cycle.

One major challenge confronting the FIR is the dissensus between the DOF and the DTI on the FIR design (details of incentives, administration, monitoring, etc.). This bureaucratic turf fighting is due to their competing mandates of protecting the tax revenue base and investment promotion, respectively. Needless to say, this turf conflict has led to FIR policy gridlock or impasse for a long time. However, these departments are in the process in finalizing the common executive version of the fiscal incentive bill in a bid to finally have it passed within this Congress. As said earlier, the leaders of the Senate and HOR have committed support to fast-track the enactment of the bill. If they will be able come up with the common version by the year-end, then it is highly probable that it could serve as policy window that will open or make the enactment of the FIR measure possible.

Another key challenge refers to the lack/absence of a policy window to make the incentive reform happen. By looking at the FIR process as streams, we are able to understand the challenges in fiscal incentives reform, i.e., what drives public policy reform such as the fiscal incentives problems which the government thinks has to be resolved, the presence of policy options or alternatives (various proposals/bills) and the current political mood (presidential support, congressional support, consensus) are vital determinants of the prospects of policy reform. However, the flowing of these three streams simultaneously is

not enough. They have to converge at the point of policy window. Based on the FIR experience, the streams may need to be steered to link up. Without this policy window, the reform cannot happen.

This brings us to the need for a deliberate effort to manage the FIR process so as to create policy windows if we really want to push through with it. Allowing the process to drag for twenty years is just too much in terms of time and actual as well as opportunity costs. As a way forward, the problems encountered in the reform effort must be addressed by managing the FIR initiative. Taking a cue from the successful sin tax reform, FIR reform can be repackaged by developing reform constituencies by building consensus and coalition across the concerned stakeholders - government (executive and legislative) and the private sector, particularly the CSOs towards the enactment of the FIR proposals.

## Annex A- Interview Guide

### **Rationalization of Fiscal Incentives in Investment Promotion in the Philippines: A Policy Reform Challenge**

Efforts to rationalize or reform the fiscal incentives system have been ongoing for twenty years, starting in 1994 when the policy to rationalize fiscal incentives was made part of the Comprehensive Tax Reform Package. But it was left out in the package of reforms enacted in 1997. Every Congress thereafter, fiscal incentive rationalization bills are refiled but to no avail. These bills have been classified as priority by both the executive and legislative branches of the government. However, despite its high position in the legislative agenda, enactment continue to elude FIR. In the last 15<sup>th</sup> Congress (2011-2013), the FIR bill was approved in the 3<sup>rd</sup> and final reading at the House of Representatives (HOR). Because it was not enacted, several FIR bills are again filed in the lower House and Senate for purposes of the Sixteenth Congress (2013-2016).

1. What is your experience with fiscal incentives rationalization (FIR)? How are you involved in the efforts, how long? What is your position on FIR?
2. While the need for FIR has been long recognized, what do you think are the primary reasons why its reform is taking so long to be enacted?
3. What are the tensions/bottlenecks in the FIR initiative? What are the competing priorities and friction among key actors? What are their effects on the legislation process?
4. What can you say about the legislative cycle and bicameral legislative process? How do they affect the FIR efforts?
5. Do you think the FIR bill is a “low hanging fruit” (considering that the Congressional version was approved on 3<sup>rd</sup> and final reading during the 15<sup>th</sup> Congress)? What are the remaining challenges to its enactment in the 16<sup>th</sup> Congress?
6. For 20 years, the government has been trying to reform FI. What strategies for legislative action can you suggest to expedite the enactment of the FIR bill?

#### Stakeholder Analysis

7. What role can you/your organization play to break the impasse and make the FIR enactment possible?
8. To assess the power and interest of various stakeholders in the legislation of FIR, please rate the following stakeholders between 1 and 3, where 3 = high, 2 = medium, and 1 = little power/interest.

Stakeholders	Score/Rating	
	Power	Interest
Government Sector		
Legislators (Congressmen and Senators)		
Other Government Agencies		
a. Departments (DTI, DOF)		
b. Investment Promotion Agencies(IPAs)		
c. Congressional and Senate Research Agencies ( STSRO, CPBD)		
Private Sector		
a. CSOs/NGOs		
b. Chambers/Business Associations		
International Agencies (IMF, WB, ADB)		
Researchers/Academics		
Others (please specify) _____		

9. Do you have further comments on the issues?



## Annex B

### Respondents' Profile

Agency/Group	Respondent	Designation
Government		
Legislators	Ralph Recto	Senator Ex-Chairman, CWM Member, CWM
	Romero Quimbo	Representative Chairman, HOR CWM
Congressional Budget and Planning Department	Romulo Miral, Jr.	Director-General
HOR Committee on Ways and Means	Pancho Belen	Director
Senate Tax Study and Research Office	Rodelio Dascil	Director-General
Senate Committee on Ways and Means	Erdie Ambrocio	Policy Head
Department of Finance	Ma. Lourdes Recente	Assistant Secretary Chief of Staff, Office of the Secretary
Philippine Economic Zone Authority	Elmer San Pascual	Director, Group Manager Promotions and Public Relations
Private Sector		
Action for Economic Reforms	Filomeno Sta. Ana III	Coordinator
Joint Foreign Chambers of the Philippines	John Forbes	Chairman, Legislative Committee, American Chamber of Commerce Senior Adviser, The Arangkada Philippines Project

## Annex C

### Investment Incentives Laws, Investment Promotion Agencies and Fiscal Incentives

Law	Investment Promotion Agency (IPA)	Freeport Zones/ Economic Zones	Fiscal Incentives
Presidential Decree 538 (1974)	Phividec Industrial Authority (PIA)	Phividec Industrial Estate (PIE)	<p>Exemption from tariff, custom duties and internal revenue taxes for imported raw materials, supplies, articles, equipment, machineries, spare parts, and wares of every description brought in PIE and utilized in the production, storing, packing, and shipment of goods meant for the foreign market</p> <p>Exemption from local taxes and licenses of the municipality, however, real property taxes shall be collected by the PIA</p> <p>Exemption from payment of wharfage dues if pier or wharf is constructed from importer's private funds</p>
EO 226 (1987)	Board of Investments (BOI)		<p>ITH</p> <p>Duty exempt importation of capital equipment (EO 70)</p> <p>Tax credit equivalent to the amount of duties and taxes paid on the raw materials used in the production of export products</p>

<b>Law</b>	<b>Investment Promotion Agency (IPA)</b>	<b>Freeport Zones/Economic Zones</b>	<b>Fiscal Incentives</b>
RA 7227 (1992), as amended by RA 9400 (2007)	Subic Bay Metropolitan Authority (SBMA)	Subic Bay Freeport Zone (SBFZ)	5% tax on GIE in lieu of all national and local taxes  Tax and duty-free importation of all raw materials, capital equipment, machineries and spare parts, including consumer goods
RA 7227 (1992), as amended by RA 9400 (2007)	Clark Development Corporation (CDC)	Clark Special Economic Zone (CSEZ)	5% tax on GIE in lieu of all national and local taxes  Tax and duty-free importation of all raw materials, capital equipment, machineries and spare parts, including consumer goods
RA 7227 (1992), as amended by RA 9400 (2007)	Poro Point Management Corporation (PPMC)	Poro Point Special Economic Zone (PPSEZ)	5% tax on GIE in lieu of all national and local taxes  Tax and duty-free importation of all raw materials, capital equipment, machineries and spare parts, including consumer goods
RA 7227 (1992), as amended by RA 9400 (2007)	John Hay Management Corporation <sup>23</sup>	John Hay Special Economic Zone (JHSEZ)	5% tax on GIE in lieu of all national and local taxes  Tax and duty-free importation of all raw materials, capital equipment, machineries and spare parts, including consumer goods
RA 7227 (1992), as amended by RA 9400 (2007)	Bataan Technological Park, Inc (BTPI)	Morong Special Economic Zone (MSEZ)	5% tax on GIE in lieu of all national and local taxes  Tax and duty-free importation of all raw materials, capital equipment, machineries and spare parts,

<sup>23</sup> PEZA administers the tax incentives in the zone pursuant to RA 9400

Law	Investment Promotion Agency (IPA)	Freeport Zones/ Economic Zones	Fiscal Incentives
			including consumer goods
RA 7916, as amended by RA 8748 (1995)	Philippine Economic Zone Authority (PEZA)	PEZA zones	<p>ITF</p> <p>5% tax on GIE in lieu of all local and national taxes</p> <p>Tax and duty free importation of raw materials, capital equipment, machineries and spare parts which are directly used in the registered activity</p>
RA 7922 (1995)	Cagayan Economic Zone Authority (CEZA)	Cagayan Freeport Zone	<p>ITF</p> <p>5% tax on GIE in lieu of all local and national taxes</p> <p>Tax and duty-free importation of raw materials, capital equipment, machineries and spare parts which are directly or indirectly used in the registered activity</p>
RA 7903 (1995)	Zamboanga City Special Economic Zone Authority (ZCSEZA)	Zamboanga City Freeport Zone	<p>ITF</p> <p>5% tax on GIE in all local and national taxes</p> <p>Tax and duty-free importation of raw materials, capital equipment, machineries and spare parts which are directly or indirectly used in the registered activity</p>

<b>Law</b>	<b>Investment Promotion Agency (IPA)</b>	<b>Freeport Zones/ Economic Zones</b>	<b>Fiscal Incentives</b>
RA 9490 (2007)	Aurora Pacific Economic Zone and Freeport Authority (APECO)	Aurora Pacific Economic Zone and Freeport zone (ASEZA)	<p>ITF</p> <p>5% tax on GIE</p> <p>Tax and duty exemptions on all importations</p>
RA 9728 (2009)	Authority of Freeport Area of Bataan (AFAB)	Freeport Area of Bataan (FAB)	<p>ITF</p> <p>5% tax on GIE in all local and national taxes</p> <p>Tax and duty exemptions on all importations</p>
RA 9593 (2009)	Tourism Infrastructure and Enterprise Zone Authority (TIEZA)	Tourism Enterprise Zones (TEZ)	<p>ITF</p> <p>5% tax on GIE in lieu of all other national and local taxes, license fees, imposts and assessments, except real estate taxes</p> <p>Tax and duty exemption on importations of capital investment and equipment</p>

## **Annex D - Philippine Investment Promotion Agencies**

### **A. Board of Investments (BOI)**

The BOI, an attached agency of Department of Trade and Industry, is the lead government agency responsible for the promotion of Investments in the Philippines.

Taking the lead in the promotion of investments, BOI assists Filipino and foreign investors to venture and prosper in desirable areas of economic activities. Investors are welcome to experience the potentials of the booming Philippine Industry sectors. Profitable business opportunities abound in the food processing, construction, metal products, telecommunications, power and infrastructure projects among others.

### **B. Philippine Economic Zone Authority (PEZA)**

PEZA is tasked to promote investments, extend assistance, register, grant incentives to and facilitate the business operations of investors in export-oriented manufacturing and service facilities inside selected areas throughout the country proclaimed by the President of the Philippines as PEZA Special Economic Zone.

### **C. Aurora Pacific Economic Zone and Freeport Authority (APEZFA)**

Facing the Pacific Ocean, the economic zone is dubbed as the “Gateway of the Pacific” for its strategic location. Its distinct advantage in transshipment and logistics makes it an excellent choice for business and investment.

### **D. Bases Conversion and Development Authority (BCDA)**

The BCDA was created under RA 7227 or “An Act Accelerating the Conversion of Military Reservations into other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefore and for Other Purposes”. It is also known as “The Bases Conversion and Development Act of 1992”, as amended by RA 9400.

### **E. Cagayan Economic Zone Authority (CEZA)**

The CEZA is a government owned and controlled corporation that was created by virtue of RA 7922, otherwise known as the “Cagayan Special Economic Zone Act of 1995”. It has been tasked to manage and supervise the development of the Cagayan Special Economic Zone and Freeport (CSEZFP).

#### **F. Subic Bay Metropolitan Authority (SBMA)**

The implementing arm of the Philippine Government in developing the Subic Bay Freeport and Special Economic Zone into a self-sustaining industrial, commercial, financial and investment center to generate among others, employment opportunities in and around the Zone in particular and the country in general.

#### **G. Zamboanga City Special Economic Zone Authority (ZCSEZA)**

A government-owned and controlled corporation being developed into a decentralized, self-reliant, and self-sustaining agro-industrial, commercial, financial, investment and tourist center and Freeport with suitable retirement and residential areas.

#### **H. Authority of the Freeport Area of Bataan (AFAB)**

AFAB located in Mariveles, Bataan and it is strategically located between the Manila Bay and the South China Sea. Its vision is to be the Freeport of choice in the country by 2020, by becoming a center of trade, innovation and sustainable development in Asia.

#### **I. Clark Development Corporation (CDC)**

A government agency tasked to manage the Clark Freeport and Clark Special Economic Zone – two contiguous areas in Pampanga and Tarlac that are considered as one of the fastest growing investment destinations in the Philippines today.

#### **J. PHIVIDEC Industrial Authority (PIA)**

A fully owned and controlled corporation of the Government of the Republic of the Philippines. It is mandated to identify and develop sites in the country as prospective industrial areas. PIA will equip these areas with the necessary infrastructures to encourage the inflow of domestic and foreign investments.

#### **K. Regional Board of Investments – ARMM**

The creation of the Autonomous Region in Muslim Mindanao (ARMM) brought about the existence of the Regional Board of Investments (RBOI) on May 17, 1991 by virtue of Executive Order No. 458 which devolves the powers and functions of the National BOI over investments within the region to the Autonomous Regional Government (ARG).

## **L. Tourism Infrastructure and Enterprise Zone Authority (TIEZA)**

An attached agency to the Department of Tourism mandated to designate, regulate and supervise the Tourism Enterprise Zones (TEZs), particularly of cultural, economic and environmental sustainable developments of TEZs to encourage investments.

Source: <http://investphilippines.gov.ph/incentives/>



**Annex E - Status of Bills on Fiscal Incentives Rationalization  
Thirteenth to Sixteenth Congress  
(2004-Present)**

<b>Thirteenth Congress ( 2004 – 2007)</b>	
<b>House of Representatives</b>	<b>Senate</b>
<p><b>HB No. 122</b> An Act Harmonizing and Rationalizing the Administration and Grant of Fiscal and Non-Fiscal Incentives, Repealing for This Purpose Executive Order No. 226, Otherwise Known As The Omnibus Investments Code Of 1987 Principal Author: Representative J. Salceda Status: Substituted by HB No. 3295</p>	<p><b>SB. No. 513</b> Restructuring Fiscal Incentives Under EO 226 Principal Author: Senator Villar</p>
<p><b>HB No. 271</b> An Act Harmonizing And Rationalizing The Administration And Grant Of Fiscal and Non-Fiscal Incentives, Repealing For This Purpose Executive Order No. 226, Otherwise Known As The Omnibus Investments Code Of 1987 Principal Author: Speaker J. De Venecia Status: Substituted By HB No. 3295</p>	<p><b>SB. No.798</b> Updating the Incentives Granted to Preferred Industries Principal Author: Senator M. Villar</p>
<p><b>HB No. 302</b> An Act Restructuring The Fiscal Incentives Under Executive Order No. 226, Otherwise Known As The Omnibus Investments Code Of 1987, As Amended, Amending Pertinent Articles Of The Code, Providing For Penalties In Violation Thereof, And For Other Purposes Principal Author: Representative J. Lapus</p>	<p><b>SB. No. 1104</b> Rationalizing the Grant of Fiscal Incentives Principal Author: Senator Drilon</p>
<p><b>HB No. 1599</b> The Investments and Incentives Code of the Philippines</p>	<p><b>SB. No. 1328</b> Rationalizing the Grant of Fiscal Incentives</p>

Principal Author: Representative J. Lapus	Principal Author: Senator R. Recto
<b>House of Representatives</b>	<b>Senate</b>
	<b>SB. No.1839</b> Fiscal Incentive System Rationalization and Withdrawing the Tax and Duty Exemption and Preferential Treatment Granted to Private Entities Under Special Laws With Certain Exceptions Mandating the Fiscal Incentive Review Board To Oversee The Administration Of All Fiscal Incentives and for Other Purposes Principal Author: Senators Drilon, Flavier, Pangilinan Status: Consolidated/Substituted in the Committee Report No. 81
	<b>SB No. 1910</b> Consolidated Investments and Incentives Code Principal Author: Senator Biazon
<b>HB No. 3295 (Committee Report No. 98)</b> Consolidated Investments and Incentives Act of the Philippines Principal Author: Representative J. Salceda, et. al. Status: In substitution of HB Nos. 122, 302, 271 and 1599; approved by the House on 3 <sup>rd</sup> Reading on January 18, 2005, transmitted to on January 20, 2005 and received by the Senate on January 21, 2005	<b>SB. No. 2411 (Committee Report No. 81)</b> Consolidated Investments and Incentives Code Principal Author: Senator M. Villar, et. al Status: In substitution of HB 3295, SB Nos. 513,798, 1104,1328, 1332, and 1839; 2 <sup>nd</sup> Reading, Special Order (September 11, 2006); sponsored on the floor but failed to go through the period of interpellation.
<b>Fourteenth Congress (2007 – 2010)</b>	
<b>HB No. 1757</b> The Consolidated Investments and Incentives Code of the Philippines Principal Author: Representative E. Javier	<b>SB No. 1640</b> Consolidated Investments and Incentives Code Principal Author: Senator Villar
<b>HB No. 2278</b> The Consolidated Investments Incentives Code of the Philippines	<b>SB No. 2375</b> Consolidated Investments and Incentives Code

Principal Author: Representative E. Javier	Principal Author: Senator L. Legarda
<b>HB No. 2530</b> The Investments and Incentives Code of the Philippines Principal Author: Representative J. Cua	<b>SB No. 3136</b> Rationalizing the Grant of Fiscal Incentives Principal Author: Senator P. Lacson
<b>HB No. 2712</b> The Consolidated Investments Incentives Code of the Philippines Principal Author: Representative T. Almario	
<b>House of Representatives</b>	<b>Senate</b>
HB No. 5241 - (Committee Report No. 1332) Date Approved on Third Reading: May 5, 2009 Principal Author: Representative E. Javier Bill Status: Approved by the House on 2009-05-05, transmitted to on 2009-05-07 and received by the Senate on 2009-05-07	
<b>Fifteenth Congress (2010 –2013)</b>	
<b>HB 938</b> Investments and Incentives Code of the Philippines Principal Author: Representative S.Yap	<b>SB No. 2142</b> Rationalizing the Grant of Fiscal Incentives Principal Author: Senator R. Recto
<b>HB 3162</b> An Act Rationalizing the Grant and Administration of Fiscal and Non-Fiscal Incentives, And For Other Purposes Principal Author: Representative G. Macapagal- Arroyo	<b>SB No. 2379</b> Rationalizing the Grant of Fiscal Incentives Principal Author: Senator M. Villar
<b>HB 4402</b> Act Creating the Investments and Incentives Code of the Philippines Principal Author: Representative A. Garcia	<b>SB No. 2755</b> Rationalizing the Grant of Fiscal Incentives Principal Author: Senator E. Angara Status: All FIR bills have undergone discussions at committee level

	but were not reported out for plenary debates
<b>HB 4152</b> The Consolidated Investments Incentives Code of the Philippines Principal Author: Speaker Belmonte	
<b>HB No. 4935- ( Committee Report No. 1261)</b> The Investments and Incentives Code of the Philippines Principal Author: Representative S. Yap, et. al. Status: Approved by the House on August 15, 2011, transmitted on August 18, and received by the Senate on August 18, 2011	
<b>House of Representatives</b>	<b>Senate</b>
<b>Sixteenth Congress (2013 – present)</b>	
<b>HB No. 130</b> An Act Instituting the Code for the Administration of Fiscal Incentives for the Promotion of Investments Principal Author: Representative M.A. Villar Status: Pending with the Committee on Ways and Means since July 23, 2013	<b>SB No. 35</b> The Investments and Incentives Code of the Philippines Principal Author: Senator C. Villar Status: Pending with the Committee on Ways and Means since July 23, 2013
<b>HB No. 302</b> The Investments and Incentives Code of the Philippines Principal Author: Representative S. Yap Status: Pending with the Committee on Ways and Means since July 23, 2013	<b>SB No. 987</b> The Investments and Incentives Code of the Philippines Principal Author: Senator R. Recto Status: Pending with the Committee on Ways and Means since August 14, 2013
<b>HB No. 1788</b> The Investments and Incentives Code of the Philippines	<b>SB No. 2048</b> An Act Rationalizing the Grant and Administration of Fiscal Incentives for the Promotion of Investments and Growth and for

<p>Principal Author: Representative R. Rodriguez  Status: Pending with the Committee on Ways and Means since July 31, 2013</p>	<p>Other Purposes  Principal Author: Senator L. Legarda  Status: Pending with the Committee on Ways and Means since January 21, 2014</p>
<p><b>HB No. 2765</b>  An Act Rationalizing the Grant and Administration of Fiscal Incentives for the Promotion of Investments and Growth and for Other Purposes  Principal Author: Representative G. L. Quisumbing  Bill Status: Pending with the Committee on Ways and Means since September 10, 2013</p>	
<p><b>HB No. 4369</b>  An Act Repealing the Incentive Provisions Of Industry and Sector Specific and Investments and Incentives Related Laws, and for Other Purposes  Principal Author: Representative G. Tambunting  Status: Pending with the Committee on Trade and Industry since May 14, 2014</p>	

## Annex F

### Power/Interest Rating of Stakeholders

Stakeholders	Score/Rating	
	Power	Interest
Government		
a. Legislators (Congressmen and Senators)	18	17
b. Departments (DTI, DOF)	19	19
c. Investment Promotion Agencies	15	15
d. Congressional and Senate Research Agencies	11	11
Private Sector		
a. CSOs/NGOs	8	9
b. Chambers/Business Associations	15	18
c. International Agencies	13	15
d. Researchers/Academe	11	12

## References

- Abao, C. (2011) 'Mapping and Analyzing Philippine Civil Society Organizations (CSOs)', in L. Yu Jose (ed.) *Civil Society Organizations in the Philippines: A Mapping and Strategic Assessment*, pp. 1-8. Quezon City: Civil Society Resource Institute (CSRI).
- Abonyi, G. (2013) 'A Framework for Political Economy of Policy Reform and Policy-Based Lending', in J. Aspin and R. Bolt (eds) *Managing Reforms for Development. Political Economy of Reforms and Policy-Based Lending Case Studies*, pp. 1-27. Mandaluyong City: Asian Development Bank.
- Aldaba, R. (2006) 'FDI Investment Incentive System and FDI Inflows: The Philippine Experience'. Makati City: Philippine Institute for Development Studies. (Discussion Paper Series 2006-20).
- Baetiong, M.C. (2001) 'Review Tax Efforts, Fiscal Incentives Together - BOI' *Business World*, Business. October 16, 2001, p. 1.
- Bernardo, R. and C. Tang (2013) 'Political Economy of the Reformed Value-Added Tax in the Philippines', in J. Aspin and R. Bolt (eds) *Managing Reforms for Development: Political Economy of Reforms and Policy-Based Lending Case Studies*, pp. 28-60. Mandaluyong City, Philippines: Asian Development Bank.
- Bird, R. (2003) 'Managing the Reform Process'. Toronto: University of Toronto.
- Birkland, T. (2001) *An Introduction to the Policy Process: Theories, Concepts, and Models of Public Policy Making*. New York: M. E. Sharpe, Inc.
- Booth, D. (2014) 'Aiding Institutional Reform in Developing Countries: Lessons from the Philippines on what Works, what Doesn't and Why'. San Francisco: The Asia Foundation.
- Botman, D., A. Klemm and R. Baqir (2008) 'Investment Incentives and Effective Tax Rates in the Philippines: A Comparison with Neighboring Countries'. Washington, D.C.: International Monetary Fund. (IMF Working Paper WP/08/207).
- Bryson, J. (2004) 'What to do when Stakeholders Matter: Stakeholder Identity and Analysis', *Public Management Review* 6(1): 22-53.
- Business World (1998) 'Two Tax Bills May Get Okay of Congress by Year's End. *Business World*, September 14 1998.
- Carino, L. (2002) 'Regulatory Governance in the Philippines: A Profile'. Manchester, UK: Centre on Regulation and Competition. (21-23).
- Daude, C., H. Gutierrez and A. Melguiso (2014) 'The Political Economy of Tax Incentives in the Dominican Republic: 'Doctoring the Ball''. OECD Development Center.

- Department of Finance (DOF) (Last updated 2014) 'Tax Expenditure Account of the Philippines Fiscal Year 2011' (a webpage of DOF). Accessed May 25 2014 <dof.gov.ph>.
- Diokno, B. (2010) 'Philippine Fiscal Behavior in Recent History', *The Philippine Review of Economics* XLII (1): 39-87.
- Dizon, T. (Last updated 1998) 'Tax Incentives – Necessity and Approaches'. Accessed May 2, 2014 <[www.bir.gov.ph](http://www.bir.gov.ph)>.
- Duncan, R. (2013) 'Assessing the Political Economy Factors Important for Economic Reform', in J. Aspin and R. Bolt (eds) *Managing Reforms for Development: Political Economy of Reforms and Policy-Based Lending Case Studies*, pp. 119-135. Mandaluyong City, Philippines: Asian Development Bank.
- Eaton, K. (2002) *Politicians and Economic Reform in New Democracies: Argentina and the Philippines in the 1990s*. Pennsylvania: The Pennsylvania State University Press.
- Evardone, A. (2013) 'Legislation Policy Brief No. 1'. Arangkada Philippines.
- Geurts, T. (2014) 'Public Policy Making: The 21st Century Perspective'. The Netherlands: Be Informed.
- Gregory, R. (1993) in M. Hill (ed.) *The Policy Process: A Reader*, pp. 212-230. Great Britain: Harvester Wheat Sheaf.
- Grindle, M. and J. Thomas (1991) *Public Choices and Policy Change: The Political Economy of Reform in Developing Countries*. Baltimore: John Hopkins University Press.
- Hill, M. (2005) *The Public Policy Process*. (Fourth edn) England: Pearson Education Limited.
- James, S. (2009) 'Incentives and Investments: Evidence and Policy Implications'. Investment Climate Advisory Services of the World Bank Group.
- Kingdon, J. (1984) *Agendas, Alternatives, and Public Policies*. (Second edn) New York: Longman.
- Klemm, A. (2009) 'Causes, Benefits, and Risks of Business Tax Incentives'. Washington, D.C.: International Monetary Fund.
- Medalla, F. (2006) 'On the Rationalization of Fiscal Incentives'. Manila: EPRA.
- Mintrom, M. and C. Williams (2013) 'The Policy-Making Process', in E.J. Araral, S. Fritzen, M. Howlett, M. Ramesh and X. Wu (eds) *Routledge Handbook of Public Policy*, pp. 4-16. New York: Routledge.
- Morales-Alikpala, C. (2010) 'Philippine Fiscal Incentives: A Note on Design, Administration and Context Towards Tax Justice Policy Research Paper'. Quezon City: Action for Economic Reforms (AER).



- Official Gazette (Last updated 2014) 'The Executive Branch of the Philippines'. Accessed November 5 2014 <<http://www.gov.ph/about/gov/exec/>>.
- Organisation for Economic Co-operation and Development (OECD) (Last updated 2014) 'Tax and Development: Draft Principles to Enhance Transparency and Governance of Tax Incentives for Investments in Developing Countries' (a webpage of OECD). Accessed September 14 2014 <<http://www.oecd.org/ctp/tax-global/transparency-and-governance-principles.pdf>>.
- Pant, M. and S. Das (2004) *FDI in South Asia: Do Incentives Work? A Survey of Literature*. Jaipur: CUTS Centre for International Trade, Economics and Environment.
- Poocharoen, O. (2013) 'Bureaucracy and the Policy Process', in E. Araral, S. Fritzen, M. Howlett, M. Ramesh and X. Wu (eds) *Routledge Handbook of Public Policy*, pp. 331-346. New York: Routledge.
- Reside, R. (2006) 'Towards Rational Fiscal Incentives'. Manila: EPRA. (Reside, Renato, Jr., E. 2006. "Towards Rational Fiscal Incentives (Good Investments or Wasted Gifts?), United States Agency for International Development.).
- Rossetti, A. and T. Bossert (1999) *Comparative Analysis of Policy Processes: Enhancing the Political Feasibility of Health Reform*. Connecticut: Data for Decision Making.
- Sabatier, P. (2007) 'The Need for Better Theory', in P. Sabatier (ed.) *Theories of the Policy Process*, (Second edn). Colorado: Westview Press.
- Senate Tax Study and Research Office (STSRO) (2013) 'Primer on Fiscal Incentives'. Pasay City: STSRO.
- Sutton, R. (1999) 'The Policy Process: An Overview'. London: Overseas Development Institute.
- Tanzi, V. and H. Zee (2001) 'Tax Policy for Developing Countries Economic Issues no. 27'. IMF.
- United Nations Conference on Trade and Development (UNCTAD) (2000) 'Tax Incentives and Foreign Direct Investment: A Global Survey'. Geneva: UNCTAD.
- World Bank (Last updated 2014) 'What is Stakeholder Analysis?' (a webpage of World Bank Group). Accessed October 10, 2014 <<http://www1.worldbank.org/publicsector/anticorrupt/PoliticalEconomy/PDFVersion.pdf>>.
- World Bank (2008) 'The Political Economy of Policy Reform: Issues and Implications for Policy Dialogue and Development Operations', No. 44288-GLB, pp. 1-90. Washington, DC: World Bank.

**House (HB) and Senate (SB) Bills on FIR filed in Sixteenth Congress (2013-present)**

HB No. 130 - An Act Instituting the Code for the Administration of Fiscal Incentives for the Promotion of Investments

HB No. 302 - The Investments and Incentives Code of the Philippines

HB No. 1788 - The Investments and Incentives Code of the Philippines

HB No. 2765 - An Act Rationalizing the Grant and Administration of Fiscal Incentives for the Promotion of Investments and Growth and for Other Purposes

HB No. 4369 - An Act Repealing the Incentive Provisions Of Industry and Sector Specific and Investments and Incentives Related Laws, and for Other Purposes

SB No. 35 -The Investments and Incentives Code of the Philippines

SB No. 987 - The Investments and Incentives Code of the Philippines

SB No. 2048 - An Act Rationalizing the Grant and Administration of Fiscal Incentives for the Promotion of Investments and Growth and for Other Purposes