

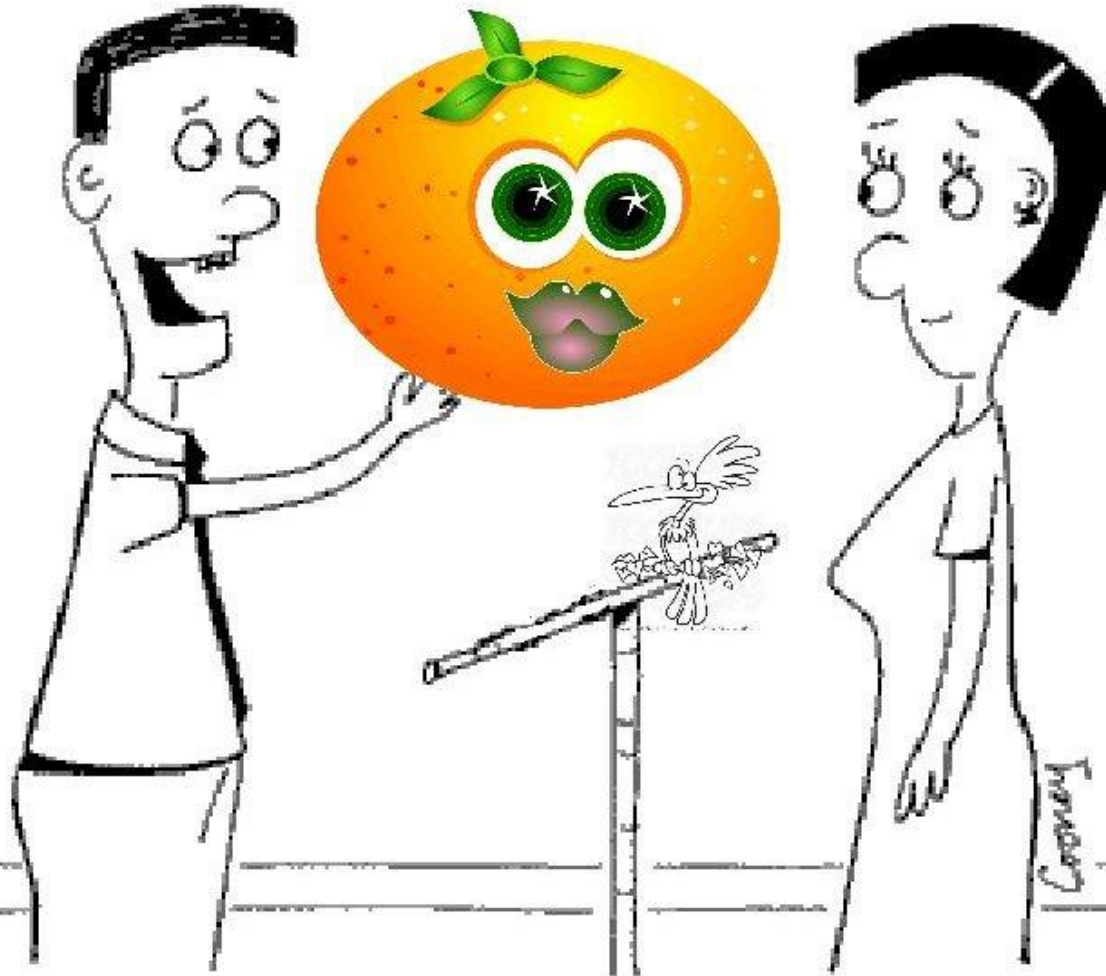
Choosing the Choice of Law, Finding the Forum, and Agreeing to Arbitrate: Problems and Issues in Cross-border Contracts and Service Level Agreements in the *Bangko Sentral ng Pilipinas*

Presentation Paper in the *II Meeting of Service Hiring Managers*

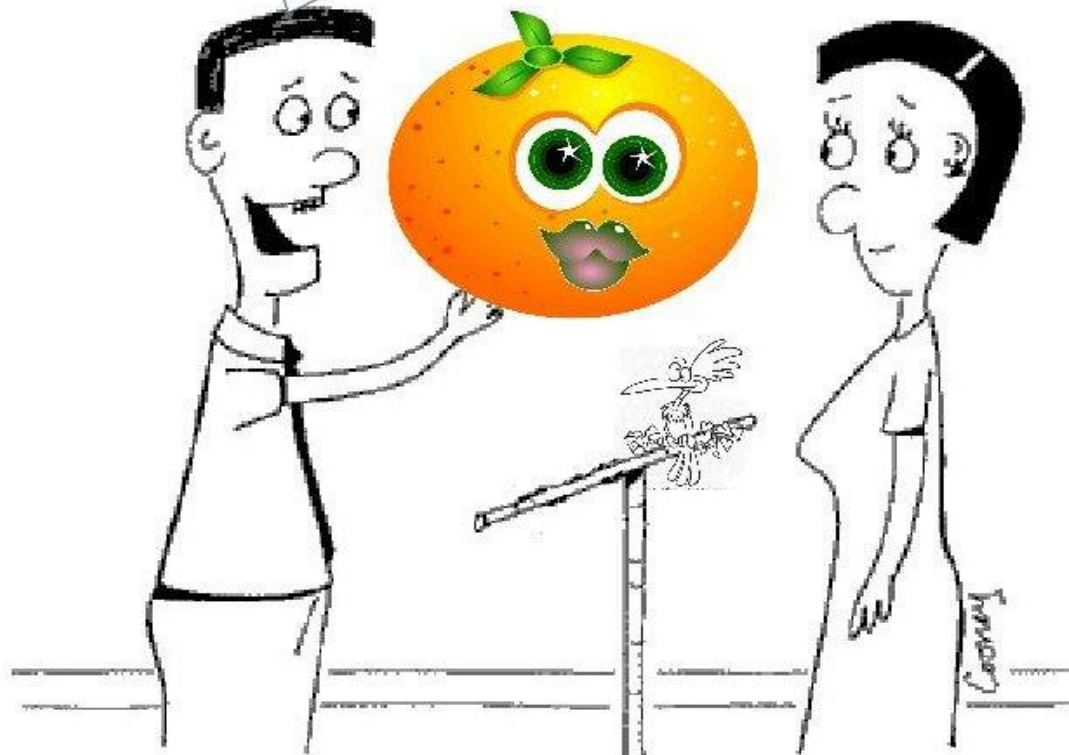
Banco de Espana, Madrid, Spain

Atty. Ana Theresa D. Buen
Director, Procurement Office
Bangko Sentral ng Pilipinas

Here is an orange.



I hereby give and convey to
you all and singular, my estate and interests,
rights, claim, title, claim and advantages of and
in, said orange, together and all rights with all its rind,
juice, pulp, and seeds, and advantages with full power to
bite, cut, freeze and otherwise eat, the same, or give the
same away with and without the pulp, juice, rind and seeds,
anything herein before or hereinafter or in any deed, or
deeds, Instruments of whatever nature or kind
whatsoever to the contrary in anywise
notwithstanding...



Terms of Agreement

Proper Use and Disposition of the Orange

1. The ORANGE is from the genus “citrus” with glossy ovate leaves, hard yellow wood, fragrant white flowers and fruits. It is a globose berry with yellowish to reddish-orange rind and sweet edible pulp;
2. The recipient’s license to the orange is limited to the applicable License Parameters set forth in the attached License Agreement, consisting of 1,000 pages, and the license shall be expressly conditioned upon the recipient’s continued compliance with the License Parameters. Additional usage rights in excess of any License are subject to payment of additional fees, as stated in the attached fee schedule consisting of 50 pages.
3. Incorporated in this agreement are terms and conditions contained in the giver’s website, links and posts containing



CONTRACT

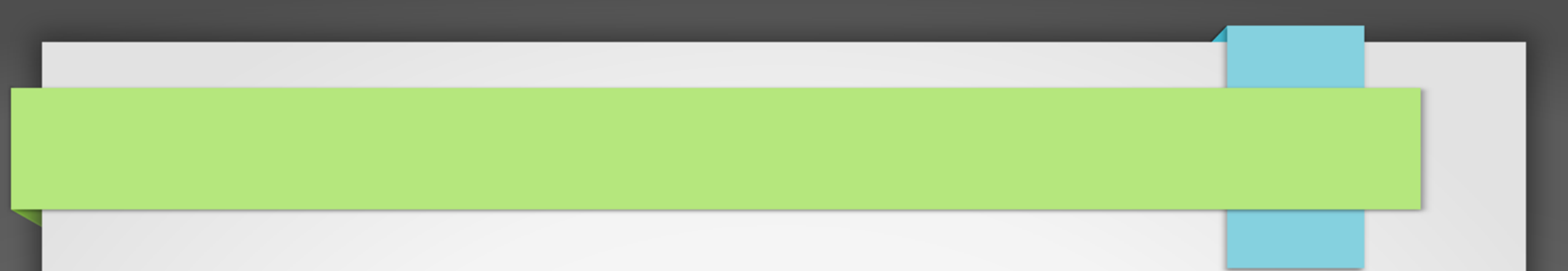


CONTRACT

containing legal rights and
obligations of both parties



technical requirements
of the procurement



technical requirements
of the procurement

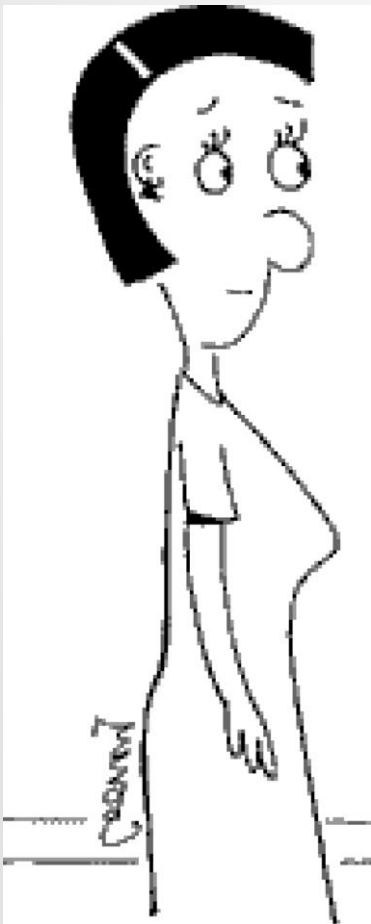
SLA



CONTRACT

+

SLA



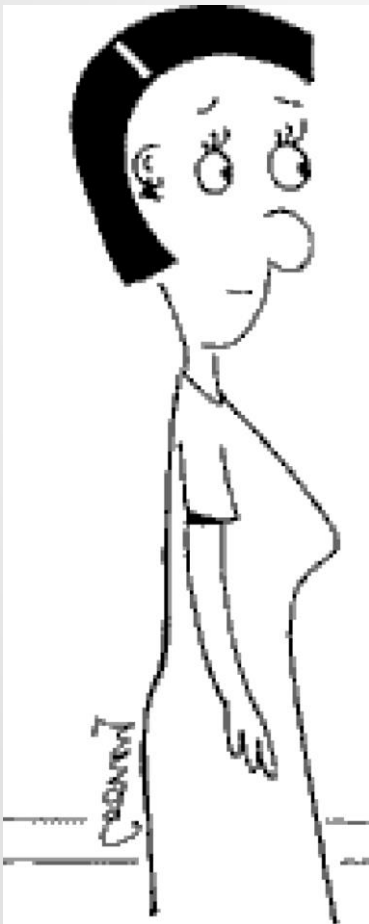
CONTRACTS?
SLA?

CONTRACTS
AND
SLA?!

STANDARD CONTRACT CLAUSES

Insolvency and Bankruptcy, Force Majeure, Confidentiality, Intellectual Property and Data Protection, Publicity, Waiver, Termination for Breach, Terms of Payment, Notices, Assignment and Subcontracting, Health and Safety, Third Party Rights, Third Party Liabilities, Severance, Agency, Environment, Conflicts of Interest, Fraud and Competition Law, Discrimination, Transfer of Undertakings, Protection of Employment

- **Choice of Law**
- **Forum Selection**
- **Dispute Resolution**

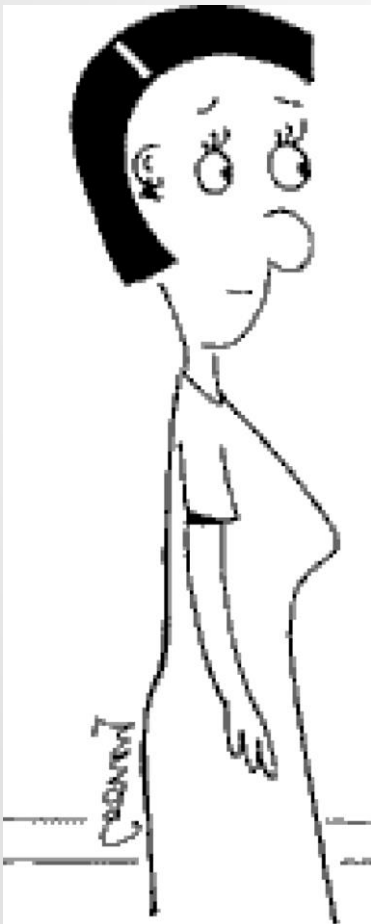


CHOICE OF LAW



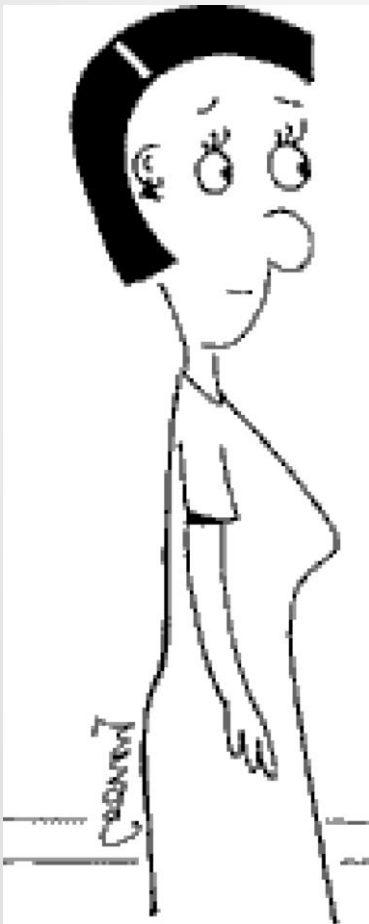
- Governing law
- State laws vary from state to state
- Buyer's or seller's state laws?

FINDING THE FORUM



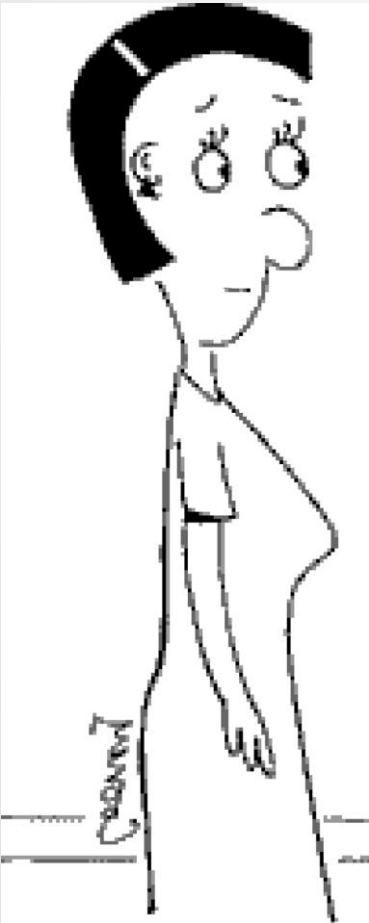
- Venue or place where the case or dispute will be filed and heard
- Forum selection:
 - Buyer's country
 - Seller's country
 - A nominated neutral

DISPUTE RESOLUTION



- Mode or method of settling dispute
- Litigation
- Alternative dispute resolution
 - Arbitration
 - Negotiation
 - Mediation

DISPUTE RESOLUTION



- Procurement Law in the Philippines
 - Requires arbitration in the Philippines applying the model law adapted by UNCITRAL

SUMMARY



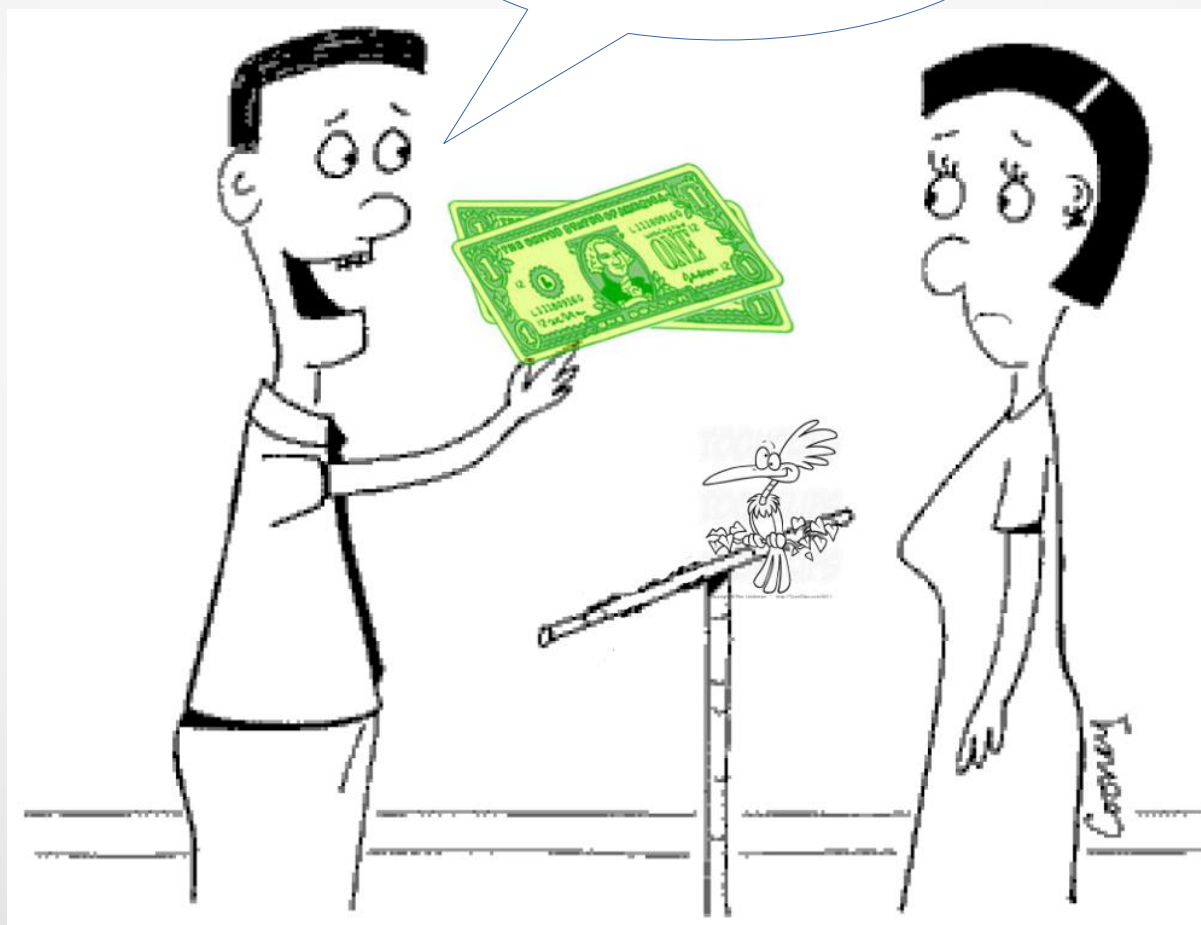
- Get the most reasonable and practicable terms for both parties
- Arrive at a mutually beneficial contractual relationship with clear and unambiguous



Another story ...



Here's your
\$2 back.





Maraming
salamat po!