ECCP ADVOCACY PAPERS 2019

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EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES

INFRASTRUCTURE AND TRANSPORTATION ADVOCACY PAPER 2019

ABOUT ECCP

The **European Chamber of Commerce of the Philippines** (ECCP) is a service-oriented organization whose main goal is to foster close economic ties and business relations between the Philippines and Europe. The ECCP does this by providing a wide range of consultancy services and by creating linkages between companies, organizations, and individuals with existing or potential business interests in Europe and the Philippines. It is also at the forefront of pro-business, pro-growth advocacy in the Philippines, representing European business interests for increased market access and trade facilitation, at the highest level of Philippine political discussions.

The ECCP sees itself as the stepping stone for Europeans into the Philippine market and for Filipinos into the European market.

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Positions expressed in the advocacy papers are the result of the activities of the Sector Committees working under the ECCP.

INFRASTRUCTURE AND TRANSPORTATION

ADVOCACY PAPER 2019

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METHODOLOGY

The 2019 edition of the ECCP Advocacy Papers features issues and recommendations formed after extensive discussions between members of the ECCP sector committees, dialogues and meetings with representatives from the Philippine Government, and other stakeholders. The ECCP has also taken into consideration the information gathered from organizing different events, participating in numerous hearings and committee meetings in both chambers of the Philippine Congress, as well as in private sector consultations held by several government agencies.

Further, the recommendations provided in each paper were primarily based on the discussions during the quarterly sector committee meetings. In close cooperation with the sector committee leaders and members, the ECCP Advocacy Team thoroughly analyzed every issue and advocacy recommendation to ensure that they are in line with European business interests and priorities. Once the Advocacy Team has finalized the first draft of each sector paper, it was then circulated to the Committee members and other stakeholders for consultation and subsequently, gathered inputs to be included in the final draft of the papers.

The assessment of the status of each recommendation included in 2018 Advocacy Papers were examined under the following criteria:

Completed/Substantial Progress: Recommended action has either been completed or there has been significant progress towards the realization of the recommendation.

Some Progress: Movement towards realizing the recommendation has been made, but substantial work still needs to be done to fully achieve and complete the proposed measure.

No Progress/Retrogression: Minimal progress or no movement towards attaining the recommended reforms were done, or the status of the issue has worsened and has evolved to an even bigger bottleneck for European businesses.

MESSAGE FROM ECCP PRESIDENT

2019 has truly been a year of opportunities for the European-Philippine business community. This year, we welcome the implementation of the landmark Ease of Doing Business Act as well as the 18th Congress, with its list of legislative economic priorities. We also acknowledge the enactment of laws on Universal Health Care, Tax Amnesty, Energy Efficiency and Conservation, amongst other measures. Steady macroeconomic fundamentals as well as the administration's plans and pronouncements concerning economic reforms also open opportunities for further trade and investments. Furthermore, the ECCP aims to build upon the achievements of the past years in making the Philippine business environment friendlier for European companies and ensuring that these businesses can make the most of these exciting developments.

To further build on such success, several matters need to be addressed in order to fully realize the potential of the European-Philippine economic ties and the Philippine economic growth. It becomes increasingly important for the Philippines to improve global market integration, enhance its competitiveness as a Foreign Direct Investment (FDI) destination, and accelerate infrastructure development in order to achieve much needed sustainable and inclusive growth.

It is in this context that we are pleased to present the 2019 ECCP Advocacy Papers. The ECCP Advocacy Papers include suggested reforms on priority sectors identified by the Chamber and its members. As an advocate of economic liberalization and sustainable economic growth, the ECCP stands ready to support the Philippines in making these much needed changes for the mutual benefit of Europe and the Philippines.

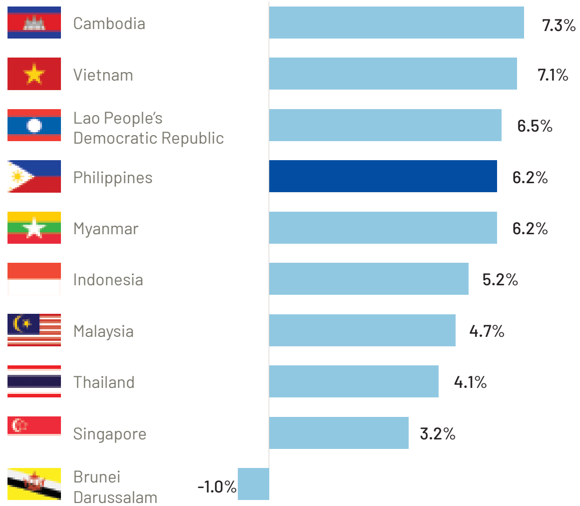
Mr. Nabil Francis
ECCP President

WHERE ARE WE NOW?

THE PHILIPPINES

The Philippines strives to maintain its robust economic performance amidst several challenges. Though the GDP posted a decelerated growth of 6.2% in 2018, it is still considered as one of the fastest-growing countries in the Association of Southeast Asian Nations (ASEAN). With a 10-year average annual GDP growth of 5.4%,[1] the Organisation for Economic Co-operation and Development (OECD) recognizes the Philippines as one of the countries, along with Vietnam, who are expected to lead the ASEAN-5 in terms of economic growth.[2]

GDP Growth Rate, 2018
(% per year)



Source: Asian Development Bank. *Asian Development Outlook 2019*

The GDP was mainly driven by manufacturing, trade and repair of motor vehicles, motorcycles, personal and household goods, and construction. Services accounted for the biggest share with 57.8%, followed by Industry with 34.1%, and Agriculture, Hunting, Forestry and Fishing (AHFF) with 8.1%.[3] The steady flow of remittances from Overseas Filipino Workers (OFWs), the ambitious *Build Build Build* Program, and resilience of the business and knowledge outsourcing industry are anticipated to keep the momentum going in the upcoming years.[4] The GDP Per Capita posted a decelerated growth of 0.5% from 2017, placing the Philippines 5th in rank amongst the ASEAN.[5]

1 World Economic Forum. (2018) *The Global Competitiveness Report*. Retrieved 15 September 2019 from www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf.

2 OECD. (2018) *Economic Outlook for Southeast Asia, China and India 2018: Fostering Growth Through Digitalisation*. Retrieved 14 September 2019 from dx.doi.org/9789264286184-en.

3 Philippine Statistics Authority. (2019). *Gross Domestic Product of the Philippines Highlights for 2018*. Accessed 14 September 2019 from psa.gov.ph/regional-accounts/grdp/highlights.

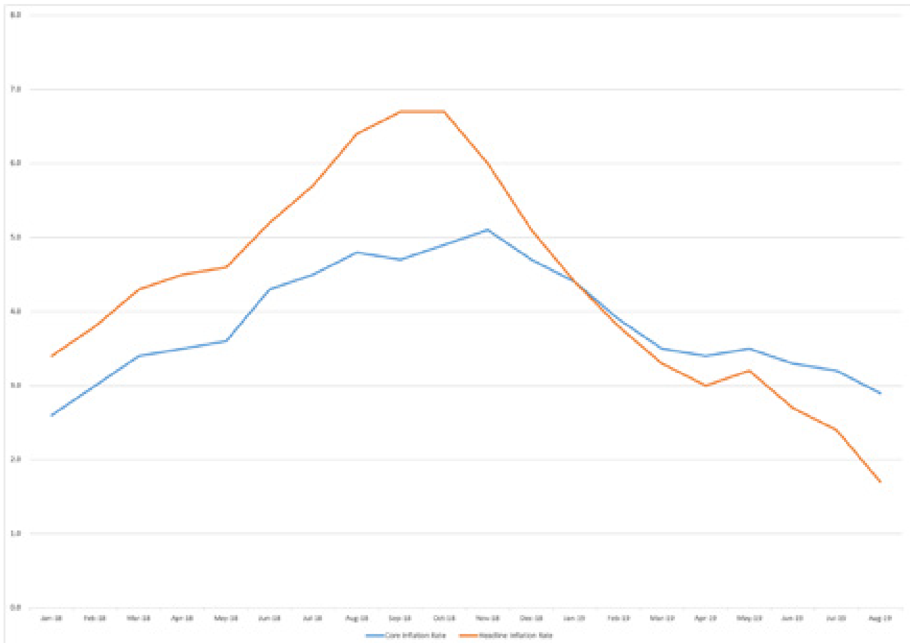
4 OECD. (2018) *Economic Outlook for Southeast Asia, China and India 2018: Fostering Growth Through Digitalisation*.

5 Asian Development Bank. (n.d.) *Economic indicators for the Philippines*. Retrieved 16 September 2019 from adb.org/countries/philippines/economy.

The inflation rate for 2018 steadily rose throughout the year. The headline inflation rate increased from 2.9% in 2017 to 5.2% in 2018. Inflation peaked at 6.7% in the third quarter of 2018, and only decreased during the last two months of the said year. The drastic increase in prices was primarily attributed to the tight domestic supply, impact of natural calamities, and the rising global crude oil rates.[6]

The average core inflation rate reached 4.1% in 2018 – a 2.5% increase from 2017, that could be linked to the impact of fiscal expansion as well as the pass-through effect of a weaker peso.[7] The full year average inflation was brought up to 5.2%, which is above the National Government's announced target range for 2018.[8] However, as of August 2019, the headline inflation rate decelerated to 1.7%, the lowest rate achieved since October 2016 which was at 1.8%. The deceleration was brought about by the slower annual increase in prices of food and non-alcoholic beverages.[9]

Philippines: Inflation Rate, January 2018 – August 2019



Source: PSA and BSP

6 World Bank. (2019) *Philippines Economic Update April 2019: Safeguarding Stability, Investing in the Filipino*. Retrieved 16 September 2019 from documents.worldbank.org/curated/en/442801553879554971/pdf/Philippines-Economic-Update-Safeguarding-Stability-Investing-in-the-Filipino.pdf

7 Ibid.

8 Bangko Sentral ng Pilipinas. (2018) *Inflation Report Q4 2018*. Retrieved 15 September 2019 from bsp.gov.ph/downloads/Publications/2018/IR4qtr_2018.pdf.

9 Philippine Statistics Authority. (2019). *Summary Inflation Report Consumer Price Index (2012=100): August 2019*. Accessed 27 September 2019 from psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2012100-august-2019.

The country's credit rating over the past year proves itself to be stable according to Moody's Investor Service.[10] The table below shows ratings from various agencies throughout the year:

2018 Philippine Credit Ratings		
Date	Agency	Rating
26 April	S&P	BBB Positive
20 July	Moody's	Baa2 Stable
19 December	Fitch	BBB

Source: Standard and Poor's, Moody's, Fitch.

The demographics for 2018 puts the country's economy at a prime advantage. A population of 106.60 million,[11] with a median age of 23.7,[12] adds a young, dynamic and competitive workforce to the country's competitive advantages including its strategic business location in the region and a pursuit for developing infrastructure for global growth,[13] among others.

A 2018 Philippine Statistics Authority (PSA) Survey records the employment rate at 94.7%. Categorically, the Services sector had the biggest share with 56.6%, followed by the Agriculture sector with 24.3%, and the Industry sector with 19.1%.[14] This leaves the unemployment rate at 5.3% and the underemployment rate with 16.4%. Though the statistics on employment displayed a positive growth of approximately 0.3-0.4% from 2017, high levels of unemployment remain to be a recurring challenge for the Philippines.

For international rankings, the 2018 Global Competitiveness Report ranks the Philippines 56th out of 140 countries, with a score of 52.1.[15] The report highlighted the country's Macroeconomic Stability as its strongest pillar, ranking 43rd with a score of 90. However, Innovation Capability was noted as the country's weakest, ranking 67th with a score of 37.2.[16] As for the World Bank Doing Business 2018 Report, the Philippines was given an overall ranking of 113th out of 190 countries. The country's factor of Getting Electricity is ranked best at 31st, while Starting a Business is ranked the worst at 173rd.[17]

10 Moody's Investors Service. (2018) *Announcement: Moody's: Philippines' credit profile supported by strong growth and progress on reform*. Retrieved 16 September 2019 from moodys.com/research/Moodys-Philippines-credit-profile-supported-by-strong-growth-and-progress—PR_387103.

11 Asian Development Bank. (2018) *Philippines: By the Numbers*. Retrieved 16 September 2019 from data.adb.org/dashboard/philippines-numbers.

12 Central Intelligence Agency. (2018). *The World Factbook: Philippines*. Retrieved 15 September 2019 from cia.gov/library/publications/the-world-factbook/geos/rp.html.

13 Philippine Consulate General. (n.d.) *The Philippines possesses several competitive advantages*. Retrieved 18 September 2019 from vancouverpcg.org/trade-01.html.

14 Philippine Statistics Authority. (2018). *2018 Annual Labor and Employment Status*. Accessed 15 September 2019 from psa.gov.ph/content/2018-annual-labor-and-employment-status.

15 World Economic Forum. (2018) *The Global Competitiveness Report*.

16 Ibid.

17 World Bank. (2018). *Doing Business 2018: Reforming to Create Jobs*. Retrieved 16 September 2019 from doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2018-Full-Report.pdf.

With regard to Foreign Direct Investments (FDIs), the Bangko Sentral ng Pilipinas officially registered USD 9.8 Billion in net inflows for 2018, down by 4.4% from the USD 10.3 billion record from 2017.[18] Majority of equity capital placements were mainly channeled to manufacturing, financial and insurance activities, and real estate activities with Singapore, Hong Kong, and Japan as the top partners.[19] With the country's relations with the European Union, three member states ranked in the top ten with Netherlands, Luxembourg, and Germany placing 7th, 8th, and 10th, respectively.[20]

Total external trade amounted to USD 182.15 billion in 2018. The top three major trading partners for the year were People's Republic of China, Japan, and the United States of America.[21] The European Union (EU) immediately followed with a 9.6% share in total trade, valued at USD 17.49 billion. Germany ranked the highest as the Philippines' top trading partner in the EU, followed by the Netherlands, and France. Alternatively, the Philippines is the EU's 41st largest trading partner globally, accounting for only 0.4% of the EU's total trade.[22]

Indeed, the Philippines has made notable progress in recent years. However, much work still needs to be done in order to improve the country's global competitiveness. Substantial economic reforms, especially concerning the ease of doing business as well as the creation of a level playing field have yet to be realized to capitalize on the substantive gains of the Philippines. Furthermore, boosting the Philippine manufacturing sector, deepening the ASEAN integration, and enhancing trade facilitation are all imperative to take the Philippine economy to greater heights.

18 Bangko Sentral ng Pilipinas. (2019). *FDI Registers US$677 million in December 2018; Full-Year Reaches US$9.8 Billion in 2018.* Retrieved 14 September 2019 from bsp.gov.ph/publications/media.asp?id=4967&yr=2019.

19 Ibid.

20 Department of Trade and Industry. (2018) *NET FOREIGN DIRECT INVESTMENTS REPORT*. Retrieved 16 September 2019 from dti.gov.ph/resources/statistics/net-foreign-direct-investments-fdi#graph.

21 Philippine Statistics Authority. (2019). *Highlights of the 2018 Annual Report on International Merchandise Trade Statistics of the Philippines (Preliminary).* Accessed 15 September 2019 from psa.gov.ph/content/highlights-2018-annual-report-international-merchandise-trade-statistics-philippines.

22 European Commission. (2019). *Countries and Regions: The Philippines*. Retrieved 16 September 2019 from ec.europa.eu/trade/policy/countries-and-regions/countries/philippines/.

INFRASTRUCTURE AND TRANSPORTATION ADVOCACY PAPER 2019

INTRODUCTION

In recent years, infrastructure has taken centerstage with the current administration's ambitious Build Build Build Program. Undoubtedly, infrastructure plays an important role in the country's socio-economic development. Furthermore, greater connectivity of national transport infrastructure enhances logistical efficiency and supports the growth of investment, trade and commerce.

Building modern, efficient infrastructure is critical to the country's competitiveness, and is imperative to attracting more investments in the Philippines. Transport is also deemed to be a key sector in the economy, linking population and economic centers across the islands. The Philippines, as an archipelago, requires air, land and sea transport networks. Road networks are relied on to transport passengers and handle freight movement. Ports, together with airport, railways and roads, are vital to connect the main islands of Luzon, Visayas, and Mindanao.

Given the importance of infrastructure development, the Philippines has received expanded official development assistance (ODA) flows from several Asian economies. China committed USD 9 billion worth of aid and investments while Japan pledged USD 9 billion worth of investment and development aid package. Additionally, South Korea pledged up to USD 1 billion in official development assistance.[1]

While the Build Build Build program gives preference to ODA grants and loans, public-private partnership (PPP) program proves to offer significant advantages given the private sector's pool of funds, expertise and innovation. The use of PPPs provides alternative financing solutions to the Philippines' infrastructure needs and contributes to free up public resources that can be used in social services. The Golden Age of Infrastructure can be facilitated with the passage of legislation favorable to PPPs, encouraging the private sector to be the main engine for growth and development.

1 Department of Finance (1 July 2019). Game-Changing Reforms for Sustainable Development. Retrieved from https://www.dof.gov.ph/?wpdmdl=23885.

As of writing time, below are the major completed infrastructure projects:

Airport[2]:

- New Communications Navigation Surveillance/Air Traffic Management (CNS/ATM) Systems Development Project (January 2019)
- Night Rating of Regional Airports (June 2019)
- Ninoy Aquino International Airport Rapid Exit Taxiways (Dec 2018)
- Puerto Princesa Airport Development Project (Dec 2018)
- San Vicente (Palawan) Airport Project (Dec 2018)
- Mactan-Cebu International Airport Passenger Terminal Building Project (Dec 2018)
- New Bohol (Panglao) International Airport Project (Dec 2018)

Power[3]:

- Pagbilao Coal-Fired Thermal Power Plant – Unit 3(October 2018)
- Therma Visayas Inc. (April 2019)

Roads[4]:

- NLEX Harbor Link Segment 8.1 (Dec 2018)
- NLEX Harbor Link Segment 9 (Dec 2018)
- NAIA Expressway Phase II (Nov 2018)

Seaports[5]

- Cavite Barge Gateway Terminal (Nov 2018)
- Batangas International Port (May 2019)
- New Cagayan De Oro Passenger Terminal (July 2019)

Water[6]: Bulacan Water Supply Project (January 2019)

2 Arangkada Infrastructure Tracker: Airports (2019). Retrieved from http://www.investphilippines.info/arangkada/wp-content/uploads/2019/08/Airports-Infra-Tracker-List-as-of-13-August-2019.pdf

3 Arangkada Infrastructure Tracker: Power (2019). Retrieved from http://www.investphilippines.info/arangkada/wp-content/uploads/2019/06/Power-Infra-Tracker-List-as-of-24-June-2019.pdf

4 Arangkada Infrastructure Tracker: Roads (2019). Retrieved from http://www.investphilippines.info/arangkada/wp-content/uploads/2019/07/Rods-Infra-Tracker-List-as-of-24-July-2019.pdf

5 Arangkada Infrastructure Tracker: Seaports (2019). Retrieved from http://www.investphilippines.info/arangkada/wp-content/uploads/2019/07/Seaports-Infra-Tracker-List-as-of-15-July-2019.pdf

6 Arangkada Infrastructure Tracker: Water (2019). Retrieved from http://www.investphilippines.info/arangkada/wp-content/uploads/2019/06/Water-Infra-Tracker-List-as-of-23-April-2019-new.pdf

While infrastructure development has gained ground, much work still needs to be done to improve the status quo. In the first half of 2019, progress and public spending on infrastructure was unnecessarily slowed down by the 2019 national budget approval delay and the public works construction ban[7] during the election period. Furthermore, the 2018 Global Competitiveness Report shows that the Philippines ranked 92nd out of 140 economies in overall infrastructure and is 7th among its peers in the region. The Philippines unfortunately trails behind Singapore (1st), Malaysia (32nd), Brunei Darussalam (54th), Thailand (60th), Indonesia (71st), and Vietnam (75th).[8]

The Philippines could benefit from innovative technologies and solutions to address its infrastructure development needs. With the right leadership, policies and solutions, the Philippines can resolve the challenges in infrastructure and achieve higher economic growth.

7 Philippine Information Agency (18 November 2018). Retrieved from https://pia.gov.ph/news/articles/1015536

8 World Economic Forum (2018). The Global Competitiveness Report 2018. http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

As of writing time, recent policy and legislative developments are as follows:

On promoting competition and investments in the construction industry

- Senate Bill No. 1008 has been filed to promote competition and investments in the construction industry, as well as create a level playing field for domestic and foreign contractors alike.

On the establishment of a fiscal regime for the mining industry

- Senate Bills No. 240 and 313 and House Bills No. 288, 560, 1667, and 2557 were filed as of writing time. These bills seek to establish a fiscal regime for the mining industry as well as promote responsible mining.

On Public-Private Partnerships

- In the 18th Congress, Senate Bill No. 15 and House Bill No. 77 were filed to institutionalize and strengthen Public-Private Partnerships.

On national budget

- The PHP 4.1-trillion national budget proposal for 2020 was approved, allowing for its timely submission to Congress and possibly its enactment by October 2019 as planned.[9]

On high shipping costs

- There is an ongoing initiative by several government agencies to release a Joint Administrative Order (JAO) to address port congestion and high shipping fees. House Bill No. 4316 was also filed in order to regulate the application of local charges (at origin and destination) imposed by international shipping lines, in line with existing laws on obligations and contracts as well as International Commercial Terminology (Incoterms).

9 Section 5, Article I, R.A. No. 4566, "An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes"

ADVOCACY RECOMMENDATIONS

1. PCAB licensing for fully foreign owned contractors

> **Amend Rule 3.1 of the IRR of R.A. 4566 to allow foreign contractors to be issued regular licenses under the same conditions as those posed to domestic players**

Licensing of contractors in the Philippines, both foreign and local, is governed by Republic Act No. 4566, as amended by Presidential Decree No. 1846, "*An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes*," otherwise known as the "Contractors' License Law". The Contractors' License Law provides that the Philippine Construction Accreditation Board ("PCAB") has the authority to issue, suspend and revoke the licenses of contractors.[10]

However, Rule 3.1 of the Implementing Rules and Regulations (IRR) of R.A. 4566 distinguishes between two types of licenses: regular and special. A regular license is issued to a domestic construction firm or a corporation with at least 60% Filipino equity. A special license may be issued to a joint venture, a consortium, a foreign contractor, or a project owner provided the licensee will engage only in the construction of a single, specific project/undertaking. This distinction is not found in the law.

In an attempt to demonstrate openness to foreign players, the PCAB issued Board Resolution No. 333, s. 2013 "Creating A Quadruple A Or "AAAA" Category Under the PCAB Regular License for Contractors with a Net Worth of At Least 1 Billion Pesos, and Allowing Foreign Contractors to be Licensed Under the said Category."[11] This allows foreign contractors to work on multiple construction projects provided they meet the minimum requirement of Net Worth of 1 Billion Pesos to qualify for AAAA license. This amount of minimum investment is quite high, especially if compared to the minimum stockholders' equity of only 90 Million Pesos for the AAA regular license category.

This discrimination between foreign and domestic contractors in the licensing process lacks legal basis. R.A. 4566 does not provide for any nationality criteria, but only for minimum requirements related to the technical capacity of the contractor. Additionally, Article 48 of the Omnibus Investments Code, as cited in the PCAB IRR, has since been amended and can no longer be used as basis for Rule 3.1. In fact, the Department of Justice has opined in 2011[12] that there is no law that prescribes the restrictions made to the regular licensing of foreign contractors as stipulated in the IRR of R.A. 4566.

10 Section 5, Article I, R.A. No. 4566, "An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes"

11 Construction Industry Authority of the Philippines. PCAB Classification/ Categorization table. Retrieved from https://ciap.dti.gov.ph/content/philippine-contractors-accreditation-board

12 DOJ LML M-21I11-622 dated 21 September 2011

The licensing restrictions for foreign contractors are not conducive to fair market competition. According to the Philippine Competition Commission, foreign firms would have to pay twelve times more in application fees compared to local ones.[13] Such a nationality distinction limits the ability of foreign contractors to enter the market and compete with domestic competitors on the basis of a level playing field. The repercussions are not just felt by foreign contractors, but rather, they have detrimental effects on much needed infrastructure development and the wider Philippine economy.

The lifting of the restrictions on foreign contractors and the promotion of fair competition will only bring positive benefits to the economy. Furthermore, the Philippine Competition Commission estimates an additional PHP 210 billion worth of private construction activities, particularly in the residential condominiums, commercial, industrial, and institutional segments, should the construction sector be liberalized.[14]

We therefore recommend that PCAB reviews and amends Rule 3.1 of the IRR of R.A. 4566, to allow foreign contractors to be issued regular licenses under the same conditions as those posed to domestic players and therefore align the contractors' licensing process with the principles of fair competition and transparent market practices, consistent with R.A. 4566, the Foreign Investment Negative List and the policy of the State to rationalize investments.

The benefits for infrastructure development, employment generation and innovation, knowledge and technology transfers that increased competition in the infrastructure sector will create, will have a positive spillover effect to the wider economy and will be a significant step forward towards attracting more FDI in the infrastructure sector and conveying the message that the Philippines is open for business.

2. Imposition of additional mining excise taxes

The Philippine government has set its priorities and key action plans to help further the country's development in the next years. Through the 10-Point Socioeconomic Agenda, the current administration aims to, among others, further its macroeconomic policies, improve tax collection and implement tax reform policies, accelerate infrastructure spending, and improve social services. With this, a number of reforms and programs have been put in place.

In the 18th Congress, Senate Bill No. 240 proposes to establish a fiscal regime for the mining industry by imposing royalty rates on both metallic and non-metallic mining operations whether large scale or small scale. It also proposes to impose an additional government share which will be due when the basic government share (on all collected taxes, royalties, fees and related payments from mining contractors) is less than 50% of the mining company's net mining revenue.

While the measure aims to increase government share from the revenues of mining operations, the ECCP believes that the imposition of additional tax burden will be unnecessarily costly to the non-metallic industry which plays a big role in the government's flagship Build, Build, Build program.

13 Philippine Competition Commission (2017). Anti-Competitive Effects of Regulatory Restrictions: The Case of the Construction Sector (01-2017). Retrieved from http://phcc.gov.ph/wp-content/uploads/2017/03/PolicyNote_20170316.pdf

14 Ibid.

As of 2018, TRAIN 1 already increased the excise tax rate on all non-metallic minerals by 100%. In addition, non-metallic mining companies are already subject to a whole host of taxes from income tax, value added tax, local business taxes and various permit fees. The enabling legislation, the Philippine Mining Act, also requires mining companies to allot a minimum of 1.5% of their operating costs to fund and implement its Social Development and Management Program.

Moreover, Senate Bill No. 240 treats metallic and non-metallic mining equally, without distinction. However, it is important to note that metallic and non-metallic products, as well as the mining operations conducted to extract and/or produce them, are entirely different from each other in terms of the nature, use, importance and end-consumers of minerals produced. Hence, it necessitates a different tax treatment between the two.

It will significantly affect an important material of the Build, Build, Build program.

Generally, the raw materials are the final product itself since non-metallic mining involves the extraction of minerals that do not comprise of metals and no longer require further processing other than crushing or grinding to make them useful. Thus, it creates much less waste products and causes less disturbance to the environment.

Furthermore, these non-metallic mineral products are sold locally and are used in the manufacturing of various basic domestic products including cement which is used to create concrete, which is a highly significant commodity for both public and private infrastructure investments. Hence, this will contribute to rising inflation.

The proposed measure will also result in the inflation of local cement prices as the end products of non-metallic mining companies, specifically, cement manufacturers, are primarily sold in the Philippines.

Recommendations

While the foreign business community appreciates the government's efforts to accelerate the Build, Build, Build program and increase spending on social services and other development measures, we advocate against the move to impose the same tax treatment on non-metallic mining operations as that of metallic mining operations. Instead, there is a need to recognize that there should be a classification and difference in tax treatment based on substantial distinctions.

3. High shipping costs

Over the years, stakeholders of the Philippine logistics services sector have experienced high shipping costs, excessive and unnecessary fees, charges and surcharges imposed as origin and destination charges, among others. These charges imposed and collected at will by international shipping lines have negatively affected the economy as it increases the cost of importing raw and intermediate goods, escalates the prices paid by the domestic consumer, undermines the government's collection of correct taxes, among others. Unfortunately, such a scheme has adversely impacted the competitiveness of local industries and approximated to cost the Philippine economy about USD 2 billion to USD 5 billion per year.[15]

15 DTI Export Development Council. (2017). International Shipping Fees.

Recommendations

Given the aforementioned adverse effects, the ECCP advocates that the **local charges of shipping lines** that do business in Philippine ports must be transparently clarified and justified. Explanations should be made on the nature and basis of such charges. Industry players should also ensure that international norms and rules such as **International Commerce Terminology (Incoterms) are respected.**

In this regard, the ECCP welcomes the move of the current administration to release an Executive Order which will **clarify which Agency is primarily responsible for matters relating to shipping rates and port congestion.**[16] Further, the ECCP supports the passage of House Bill No. 4316. The said Bill seeks to regulate the application of local charges (at origin and destination) imposed by international shipping lines. It also aims to facilitate compliance with existing laws on obligations and contracts as well as International Commercial Terminology (Incoterms). The Chamber also seeks to continue working closely with other stakeholders on this matter and hopes for its inclusion in the technical working groups in order to contribute insights with its foreign business perspective.

In summary, the ECCP proposes the following: (1) the charges of the shipping lines must be transparently clarified and justified; (2) INCOterms must be observed and respected; (3) official clarification on the lead government agency responsible for matters relating to shipping rates and port congestion; and (4) the inclusion of the ECCP Infrastructure and Transportation Committee in the technical working group and other consultations for the aforementioned matter. At any rate, the ECCP stands ready to support the concerned government agencies in this worthwhile endeavor in the name of enhanced trade facilitation, competition and consumer welfare.

16 Philippine News Agency (2019). DTI pushes proposed EO bringing down shipping costs. Retrieved from https://www.pna.gov.ph/articles/1074997.

ASSESSMENT OF 2018 RECOMMENDATIONS

ADVOCACY	RECOMMENDATIONS	COMPLETED / SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS / RETROGRESSION
Slow process in approval of National Budget	Accelerate 2020 budget approval to fast track government infrastructure projects		The PHP 4.1-trillion national budget proposal for 2020 was approved, allowing for its timely submission to Congress and possibly its enactment by October 2019 as planned	
PCAB licensing for fully foreign owned contractors	Amend the IRR of PCAB to allow regular licenses to be issued to foreign contractors		Senate Bill No. 1008 has been filed to promote competition and investments in the construction industry, as well as create a level playing field for domestic and foreign contractors.	
Imposition of additional excise taxes on mining	Different tax treatment on non-metallic vs. metallic mining		Several bills have been filed in the 18th Congress on the said subject. However, it is highly recommended that a different tax treatment will be given to non-metallic mining vs. metallic mining operations	
Predatory charging practices in shipping lines	Appointment of a government body in charge of logistics		DTI, DOTr, and DOF are working together to release a Joint Administrative Order that seeks to address port congestion and high shipping cost. The JAO should also clarify the government agency in charge of logistics and will align with international logistics conventions. House Bill No. 4316 was also filed in order to regulate the application of local charges (at origin and destination) imposed by international shipping lines, in line with existing laws on obligations and contracts as well as International Commercial Terminology (Incoterms).	
	Abide by international conventions on logistics			
	Strengthen implementation of competition laws and tax regulations			

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