

Nuclear policy expected to be issued soon, Energy dep't says

THE Department of Energy (DoE) said on Wednesday that it expects President Rodrigo R. Duterte to issue an executive order (EO) outlining a policy on nuclear energy soon.

"We heard from the Office of the President that the policy (on nuclear energy) will be approved soon, it's an EO. (The Nuclear Energy Program Inter-Agency Committee) is just looking into the framework of the policy," Energy Undersecretary Gerardo D. Erguiza said at a virtual briefing.

The nuclear policy is among the components of the Nuclear Energy Program, which will also require the drafting of a framework, legislation, compliance with international standards, and stakeholder consultation.

"We are in a good direction regarding our nuclear (energy prospects) and Russia is in the picture as one of the principal providers of nuclear power plants as they have good technology," Mr. Erguiza said.

He said the Russia-Ukraine conflict is not expected to affect plans for a Russian role in developing nuclear infrastructure here.

In 2017, the Philippines signed an agreement with the Russian State Atomic Energy Corp. to help develop facilities preparatory to building power plants.

"We don't see any problem with Russia on (energy) cooperation because it's cooperation in building the nuclear infrastructure. We

won't immediately build a power plant, but... we have to come up with many studies (on) safety, security, (fuel) management, and radiation," he said.

The DoE hopes to complete by April a feasibility study with Russia on nuclear energy.

The Philippines also has an agreement to collaborate with Korea Hydro & Nuclear Power Co., Ltd. to develop small modular reactors, and plans to start in two weeks a collaboration with the US to study modular technology as well.

Small modular reactors are fission reactors capable of producing up to 300 megawatts. — **Marielle C. Luceno**

DENR, water regulators ready contingency plans as Angat levels drop

THE Department of Environment and Natural Resources (DENR) said it is working on contingency measures for the dry season amid low water levels at Angat Dam, and is currently considering water use efficiency measures, cloud seeding, increasing reliance on treated water, and tapping deep wells.

The DENR and the National Water Resources Board (NWRB) are working on plans to ensure adequate supply for irrigation and domestic use in areas served by Angat, Metro Manila's main water source, the department said.

"The NWRB will be in the forefront of monitoring the water level of the Angat Dam and putting contingency measures in place. While we are experiencing low water levels in the Angat Dam, the NWRB has already (moved) to solve the looming problem," DENR Officer-in-Charge Secretary Jim O. Sampulna said in a statement.

Angat Dam in Norzagaray, Bulacan supplies 97% of Metro Manila's water requirements.

"The domestic water allocation of 48 cubic meters per second (cms) will be retained in March," NWRB Executive Director Sevilla D. David, Jr. said. "Having a sufficient water supply helps control the spread of coronavirus."

The DENR is also working with the National Irrigation Administration on the use of shallow tube wells to make irrigation more efficient.

"We are using what they call shallow tube wells to enable farmers to optimize water coming from creeks and canals," Mr. David said.

Cloud seeding will be conducted around the Angat Dam, Bustos Dam, and La Mesa Dam, between March 7 and April 10.

"This endeavor is in coordination with the Philippine Atmospheric, Geophysical and Astronomical Services Administration (PAGASA). We decided to conduct the cloud seeding operations this March due to the right weather conditions and after the *amihan* or northeast monsoon season," Mr. David said.

Water concessionaires Manila Water Company, Inc. and Maynilad Water Services, Inc. are also working on ways to maximize the water available to them.

"We continue to improve our system readiness through the operation of our line boosters, network pressure management, maximization of our distribution reservoirs and regular maintenance of our facilities to prevent any downtime," Manila Water said in a statement.

"While we work with the MWSS and NWRB on providing the needed supply, we also encourage consumers to use water responsibly so we can maximize the available supply and avoid wastage," Maynilad added in a separate statement. — **Luisa Maria Jacinta C. Jocsen**

PHL not following through on 'circular economy' measures

THE Philippines has ample legislation to facilitate a transition to a low-waste, circular economy, but has not managed to shepherd any of the measures to the implementation stage, the Asian Development Bank Institute said in a report.

The report, *Prospects for Transitioning from a Linear to Circular Economy in Developing Asia*, noted over 400 bills and resolutions filed in Congress over the last decade related to the circular economy. The proposals span waste management and plastics regulation.

"None of these measures have yet translated into a binding law or policy as of this writing," Gregorio Rafael P. Bueta, a lawyer and legal policy consultant, said in the February report.

He said that the growing urban population heralds a waste management crisis due in part to inadequate infrastructure.

Circular economy solutions, in which products are designed from inception to produce minimal waste, are gradually being considered in the Philippines.

But Mr. Bueta said that most proposals in the Philippines only address a few aspects of waste management,

which means they fall short of creating a broad integrated strategy.

"A review of the proposals shows a piecemeal and ad hoc approach to addressing waste issues. This results in too many proposals that get stuck in the legislative mill," he said.

"Proposals also do not cover developing the recycling industry, or promoting a zero-waste, less consumeristic society that leads to a significant reduction in waste generated."

Proposals are also reactive to current events, which means legislators fail to pass and implement proposals after the news cycle ends.

"It is necessary to have a plan or roadmap for the journey toward a circular economy," Mr. Bueta said. "This can also begin with an assessment of the current policy landscape to see what current policies already support the circular economy; what the gaps are; and most importantly what resources are needed to make it happen."

The International Finance Corp. has said that the proportion of plastics that are recycled in the Philippines is about 30%. This means unrecycled materials that go to waste are valued at about \$1 billion a year. — **Jenina P. Ibañez**

IP application process moves entirely online with issuance of electronic patent certificates

THE Intellectual Property Office of the Philippines (IPOPHL) said it launched an electronic certificate of patent program, known as Patent eCert, on Feb. 28 to bring the intellectual property (IP) registration process online from end to end.

The IPOPHL said in a statement on Wednesday that starting March 1, Patent eCerts will be issued to all invention applications recommended for grant and utility model (UM), and industrial design (ID) applications recommended for registration, as provided under Bureau of Patents (BoP) Memorandum Circular 2022-001.

Meanwhile, all applications recommended for grant or registration before March 1 will receive the traditional paper certificate issued by IPOPHL.

"Such certification is vital for an inventor or business as proof of ownership when pursuing commercialization, enforcing rights over a patent, UM or ID and gaining a competitive edge. The timely receipt of

these certificates will ensure zero disruptions in schedule for various business or innovation-driven undertakings such as licensing, commercialization and patent mining, among others," the IPOPHL said.

"The timely issuance of eCerts will also allow the timely uploading of patent documents to the IPOPHL Patent Search and other search tools for the benefit of incoming patent filers or those surveying the patent landscape in search of a new innovation project," it added.

Upon securing BoP approval and the payment of the required fees, the Patent eCert will be sent to the applicants through IPOPHL eCorrespondence.

IPOPHL Director General Rowel S. Barba said each Patent eCert will have a quick response (QR) code that proves the validity of the document when scanned, and a link to the full text of the patent document linked with the Patent eCert. — **Revin Mikhael D. Ochave**

DTI urged to make more use of price control powers

GROUPS representing small farmers and laborers said the Department of Trade and Industry (DTI) needs to use its power to keep prices in check, as authorized by the Price Act, in order for their constituents to better afford basic goods.

The Kilusang Mambubukid ng Pilipinas (KMP) and Anakpawis Party-list noted that the government has the power to control prices if it chooses to.

"The government is not helpless. The DTI may recommend the imposition of mandated price ceiling on basic and prime commodities as stipulated in the Price Act of 1992," Anakpawis Chairman Rafael V. Mariano said in a statement on Wednesday.

"All the prices are rising. The government should do something about this," KMP added in a separate statement.

The KMP said the cost of food and basic goods has been steadily rising in recent weeks in tandem with the high price of fuel products.

Republic Act No. 7581 or the Price Act of 1992, gives the DTI to set price ceilings for basic goods via a table of suggested retail prices (SRPs) prescribing to retailers a maximum selling price for individual products frequently purchased by ordinary consumers. It can also cap prices during emergencies.

The DTI and the Department of Agriculture can also engage in the bulk purchase of goods and farm produce to ensure the availability of affordable options, he added.

According to data published by the DTI in January, 66% of the 216 price-controlled products, identified by their stock keeping units (SKUs) inventory code, followed the SRP while producers of 34% are seeking permission to raise prices, citing the increasing cost of raw materials and packaging.

"The increase in prices of around 86% of the SKUs (whose producers are seeking permission to raise prices) ranged from 1%-9%," the DTI said on its website.

The DTI said the price of *tamban*, a type of sardine which is a raw material for canners, has risen 27% while the cost of another such ingredient, mechanically-deboned meat, is up 25%-100% since the last price adjustment. — **Jaspearl Emerald G. Tan**

OPINION

Attracting foreign investment in the post-pandemic future

With the gradual easing of COVID-19 restrictions and the decline in cases, we see signs of a rebound for the Philippine economy. More businesses have reopened, and several others have recalibrated their operations to align with anticipated demand in the post-pandemic future.

One of the contributors to the country's burgeoning economic activity is the surge in foreign direct investment (FDI), which amounted to P133.47 billion in the fourth quarter of 2021, much higher than the year-earlier P36.49 billion. The result was driven by equity investments or capital infusions in manufacturing, the financial and insurance sectors, and real estate. This year, the Bangko Sentral ng Pilipinas projects that FDI could reach P425 billion on the back of expected improvements in the domestic and global investment climate.

To this end, it is worth highlighting some key considerations for foreign investors seeking to start or expand their businesses in the Philippines.

REGULATORY ENVIRONMENT

Foreign investors setting up shop in the Philippines will generally be governed by the provisions of the Foreign Investments Act (FIA) of 1991. The FIA restricts foreign ownership in specified industries or sectors covered by existing laws or identified under the Foreign Investments Negative List. There is also a minimum capital requirement based on the type of entity or industry a foreign investor plans to enter. Thus, it is

important to know if foreign participation restrictions apply and the required minimum capitalization, among other requirements, when entering the Philippine market, or any market for that matter.

BUSINESS STRUCTURES

Another important consideration for a foreign investor is the type of business structure that best serves its business needs. Most foreign investors that establish a presence here set up a domestic corporation or a branch office if they plan to undertake full business operations because the other types of business structures (i.e., representative office and ROHQ) have limitations on allowable activity.

Between establishing a domestic corporation and a branch, a branch is often regarded as more tax-efficient, as it is taxed on Philippine-sourced income only. It may also provide flexibility in operations and consistency in the legal processes and transactions with its parent or head office.

TAXATION

From business inception to closure, foreign investors have to deal with direct and indirect taxes. Currently, the Philippines' regular corporate income tax (RCIT) rate is at 25% for large enterprises and 20% for small and medium enterprises. The rates were reduced after the signing of the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act last year to counter the effects of the pandemic on the economy. Aside

from RCIT, there are temporary reductions in certain tax rates, which include, among others, the minimum corporate income tax (MCIT) rate from 2% to 1% and percentage tax from 3% to 1%, both running until June 30, 2023 only.

The Value-Added Tax (VAT) rate is 12% for the sale of goods, property, and services in the Philippines, except for certain transactions subject to zero percent VAT or VAT-exempt, as provided for in the Tax Code.

Withholding tax on certain domestic and foreign income payments is also imposed depending on the nature of the transaction and place of performance of the service.

INCENTIVES

The Philippines provides fiscal incentives, such as tax relief and preferential tax treatment, to companies whose activities fall within the government's Investment Priorities Plan. If qualified, a foreign investor may register its business with an Investment Promotion Agency (IPA). Currently, the Philippines has about 19 IPAs tasked with positioning the country as a prime destination for investment. The Board of Investments and the Philippine Economic Zone Authority are the two IPAs that receive the most registration applications. Under the law, approval of incentives is within the authority of the IPAs, unless the proposed project or activity exceeds an investment capital threshold of P1 billion. In this case, the Fiscal Incentives Review Board (FIRB) will be the approving entity for the application.

With the enactment of CREATE, the fiscal incentives granted to IPA-registered enterprises have been rationalized. CREATE instituted an incentive system based on industry and location tiers. Essentially, longer incentives will be given to activities in more advanced sectors and less developed areas, with periods of up to 17 years. The first four to seven years could be granted an income tax holiday, while the remaining five to 10 years could see operations enjoying either an enhanced deduction or a 5% special corporate income tax (for export enterprises only) on gross income earned, depending on the option taken by the IPA-registered enterprise.

As of this writing, the FIRB has yet to release the latest Strategic Investment Priority Plan, which will determine the priority industries, projects, and activities to be granted fiscal incentives under CREATE.

EASE OF DOING BUSINESS LAW

In 2018, the Ease of Doing Business and Efficient Government Service Delivery Act (Republic Act 11032), was signed into law, with the intention of improving the country's global competitiveness ranking.

Its key reforms include: (1) faster processing of business permits and licenses; (2) standard turnaround time for government transactions depending on the complexity of the task; (3) automated business registration processes to minimize graft and corruption; (4) establishment of a citizen's charter detailing the requirements for each type of transaction, the person responsible, lead time, fees, and procedures

for filing; and (5) accountability of agency heads and other officials.

In 2020, the Philippines moved 29 notches higher in rank from 2019 in the Global Competitiveness Index, with expected improvements in the following years as more initiatives are instituted by the Anti-Red Tape Authority (ARTA), the lead implementing agency. While there may still be a number of things to streamline in the current set-up, the improvement in the ease of doing business, so far, is evident especially during the pandemic. Sustaining this and introducing more efficiencies would accord the Philippines a competitive advantage and further transform it into a sweet spot for foreign investment.

As the country moves forward to economic recovery, nurturing a healthy business and regulatory environment sets the stage for enticing foreign investment, which is much needed to propel our economic growth after the pandemic.

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