Foreign chambers see potential for PHL as creative industry hub

REPUBLIC ACT NO. 11904 or the Philippine Creative Industries Development Act could help the Philippines become a top creative economy, the Joint Foreign Chambers (JFC) said on Monday.

In a statement, the members of the JFC said the new law will help grow the creative sector, which accounts for over 7% of gross domestic product.

"With the enactment of RA 11904, the Philippines is well-placed to reach its goal of becoming the leading creative economy in Southeast Asia by 2030," the JFC said.

The target is for the creative industries to lead Southeast Asia by size and value, according to the Creative Economy Roadmap issued by the Creative Economy Council of the Philippines.

"(The law) recognizes creative industries as a distinct sector in the traditional sense of an industry cluster and reaffirms the importance and natural competitive edge of Filipino creative talent," the JFC said.

The JFC expects the creation of the Creative Industry Development Council to be beneficial.

"By establishing a Philippine Creative Industry Development Council mandated to both formulate and implement the Philippine Creative Industries Development Plan, the country will be better equipped to reap the economic and employment benefits from the diverse creative talents of Filipinos organized under the nine creative industry 'domains' identified in the law," they said.

Trade Secretary Alfredo E. Pascual has said that his department seeks to elevate the creative economy and raise its global competitiveness.

"We are reclaiming our path to development. As the world approaches the Fourth Industrial Revolution, we are marching forward to the global stage and going above and beyond in support of the digitalization of creative industries," Mr. Pascual said.

Signatories to the statement include the American Chamber of Commerce of the Philippines; the Australian-New Zealand Chamber of Commerce of the Philippines; the Canadian Chamber of Commerce of the Philippines; the European Chamber of Commerce of the Philippines; the Japanese Chamber of Commerce and Industry of the Philippines, Inc.; the Korean Chamber of Commerce of the Philippines, Inc.; and the Philippine Association of Multinational Companies Regional Headquarters, Inc. — **Revin Mikhael D. Ochave**

Sugar industry wants SRA to distribute imports 50-50 between industrial users, consumer market

THE sugar industry said the government agency regulating the commodity needs to allocate sugar imports on a 50-50 basis between industrial users and consumers, in keeping with its mandate.

"Our suggestion is that (imports) should not be given to just selected industrial users. The mandate of the Sugar Regulatory Administration (SRA) is to regulate supply. At least 50% was to go to industrial users and 50% to domestic users or wet markets so that sugar prices won't rise this high," Luzon Federation of Sugar Producers, Inc. President Cornelio V. Toreja said during a Congress hearing on Monday.

The hearing was called in response to the unauthorized signing of Sugar Order (SO) No. 4, which the Palace has since clarified did not have the approval of President Ferdinand R. Marcos, Jr.

The incident has led to the resignation of Agriculture Undersecretary Leocadio S. Sebastian, who acknowledged last week that he signed the order on behalf of Mr. Marcos. On Monday, SRA board member and millers representative Roland B. Beltran, who also signed the order, resigned from the board, citing "health reasons."

SO No. 4 would have allowed the import of 300,000 metric tons (MT) of sugar.

"We agree there is a need to import refined sugar to address high domestic and stabilize supply. There is no need to import raw sugar. Imports should be open to accredited traders with track records and the use (of the imports) should not be confined to a specific sector," Mr. Toreja added.

Philippine Sugar Millers Association President Pablo L. Lobregat said that rising sugar prices would have been averted if a previous sugar order had been implemented on time.

"If SO No. 3 was able to be realized, I don't think we would have this rise in prices to astronomical heights. Therefore, SO No. 4 is compensating for the additional requirements given that the final figures of sugar (due to be produced and held in inventory) are not sufficient," he said.

SO No. 3 was issued in February and authorized the import of 200,000 MT of refined sugar. The import plan was delayed by two separate temporary restraining orders (TROs) filed against it.

According to SRA Administrator Hermenegildo R. Serafica, the TRO issued by the Regional Trial Court (RTC) of Sagay City has been dismissed, while the one filed with the RTC in Himamaylan City remains active.

Mr. Serafica added that not all shipments ordered under SO No. 3 have arrived.

As of Aug. 12, a total of 185,633.0 MT to be imported under SO No. 3 are covered by SRA clearances and actual arrivals are at 166,234.90 MT.

"The filed cases stymied the imported sugar. The elections also (resulted in) some delay, until finally it was noticed by everyone that (claims) there was enough sugar were not true. Look at what happened to the prices," Mr. Lobregat said.

"The SRA is supposed to make sure that the supply of sugar is balanced, protecting consumers from shortages and making sure it does not import too much sugar, which is detrimental to the producers. The SRA has been in contact with different players in the producer sector. We always try to find a balance of supply. This year has been a difficult year," he added.

Mr. Lobregat said that the issue with SO No. 4 is an administrative or inter-office miscommunication, and that the necessity of importing sugar remains.

"If there's a (deficiency in the) process between SRA, DA (the Department of Agriculture) and the President as secretary of DA, it has nothing to do with the supply or lack of sugar today. SO No. 4 was done in consultation with producers to ensure (sufficient) volumes for imported sugar to bring down prices to acceptable levels," he added.

Samahang Industriya ng Agrikultura Chairman Rosendo O. So said that the SRA should inspect warehouses to verify supply levels.

"The SRA should call on all groups, even the distribution pipeline, to determine whether there is a shortage or not. Wherever we go, we see sugar. We do not see a shortage," he said.

"We also found out that the production shortfall is just 100,000 MT. So why is the SRA (authorizing the import of) 300,000 MT?" he added.

United Sugar Producers Federation President Manuel R. Lamata said the adequacy of supply is not being reflected in rising prices.

"You go to the wet market or supermarket, there is sugar, but it is too expensive. Even us producers are complaining. Prices are higher than normal because of high fuel prices and fertilizer," he told BusinessWorld Live on Monday.

"I cannot blame the traders, that is their job. It's their business, it's trading. They buy low, they sell high. But it's a different conversation altogether on the manipulation on behalf of the government," he added.

Farmers' group Kilusang Magbubukid ng Pilipinas (KMP) said that an estimated 700,000 farm workers in sugarcane haciendas and 24,000 workers in sugar mills have been affected by the sugar crisis.

"In Negros, some 310,000 sugar farm workers and 18,000 sugar mill workers are affected by lack of work and livelihood due to the dead season between planting and harvest," known in the industry as "*tiempo muertos*," the KMP said in a statement.

"Year after year, sugar farm workers endure hunger and poverty during the dead season while unscrupulous officials cannot wait to rake in profits from sugar imports."

Former agrarian reform secretary and KMP member Rafael V. Mariano said that the Congress must investigate what is behind the sharp spike in sugar prices.

"We must know whether there is price manipulation in sugar or the steadily rising cost of sugar production, specifically fuel and fertilizer prices, are the leading factors behind the sugar price hike," he said.

"Congress should also conscientiously exercise its oversight capacity and determine that decades of liberalization and importation led to the decline and near-destruction of domestic agriculture. We need more legislation that will truly uplift the state of local agriculture and food producers, especially farmers," he added.

In his official YouTube channel, Mr. Marcos said that before issuing another sugar order, earlier imports must be consumed.

"We currently have previous imports in our inventory. Before we import, we need to finish this supply first. We do not want to resort to imports. However, if the current supply is not enough, we are forced to import," he said.

"If we do not import and the supply is not adequate, then prices will rise. We need to ascertain that whatever amount we import fits our needs, and not more," he added.

He brought up the possibility of 150,000 MT worth of imports by October.

"It's possible that by October, our local supply will be diminished. Maybe that is the time we import, but not a large volume, not as large as 300,000 MT. Around 150,000 MT seems enough for the entire year," he added.

Philippine Chamber of Commerce and Industry George T. Barcelon supported the revised import plan.

"This is a welcome development. The new harvest will be around the fourth quarter. That will be a reference (for determining whether) more imports are needed. Consumption is higher during the holiday season," he said in a Viber message.

Former Presidential Adviser for Entrepreneurship Jose Ma. A. Concepcion III said in a statement that Mr. Marcos is "correct in his plan" to import a limited amount of sugar and only if the domestic supply has been exhausted. — **Luisa Maria Jacinta C. Jocson**

Sweden offers help to improve EDSA Busway; DoTr not ruling out cable car proposals for NCR

THE Department of Transportation (DoTr) said on Monday that the Swedish government has offered to help expand the capacity of the EDSA Busway project, which suffers from long queues with demand currently overwhelming the available number of buses.

"Transportation Secretary Jaime J. Bautista gratefully received the offer of Swedish Ambassador to the Philippines Annika Thunborg to allow the government of Sweden to explore how to improve the EDSA Busway project," the DoTr said in a statement.

"During a recent courtesy call at the DoTr Secretary's office, Ambassador Thunborg relayed the Swedish government's offer to help enhance the operational efficiency of the highly patronized EDSA Busway project, (which is currently offering) free rides to EDSA commuters until the end of the year," it added.

The department said improving the EDSA Busway to accommodate the demand when face-to-face classes resume this month is in line with Mr. Bautista's promise to raise the transport systems to global standards.

The EDSA Busway is a dedicated median bus lane service which is a joint initiative of the DoTr, Land Transportation Franchising Regulatory Board, Metro Manila Development Authority, and Department of Public Works and Highways.

In an appearance on *ANC Headstart*, Mr. Bautista said the department intends to "look for other possible bus stops" to improve the commuter experience.

"I had a meeting with the consortium that operates EDSA Carousel, and we asked them to have additional buses, especially during the start of the face-to-face classes on Aug. 22," he added.

CABLE CARS

Mr. Bautista also said the department remains open to having cable cars in the National Capital Region (NCR) as a means of reducing traffic.

"I am not discounting the possibility of this. We are open to all ideas, although it might be difficult to implement it," he said.

Last week, Senator Robinhood Ferdinand C. Padilla proposed the use of cable cars to decongest the roads.

"I would like to suggest it as it will be suitable for the Philippines, especially in Metro Manila, because of traffic," he told Senators at a plenary session on Tuesday.

Mr. Bautista said following the proposal, "I asked our undersecretary for road sector to look at it."

"We will conduct a study because for you to be able to implement a program, you need to have the important data," he added.

The DoTr in the previous administration had endorsed a project proposal to the National Economic and Development Authority to build a cable car transit system between the Light Rail Transit (LRT) Line 2's Santolan Station in Marikina City and Barangay Rosario in Pasig City.

The feasibility study for the Metro Manila urban cable car project was funded by the government of France.

The selected alignment spans 4.5 kilometers and mostly follows the Marikina River. It starts from LRT Line-2 Santolan Station and proceeds southward to Ortigas Avenue in Rosario, Pasig.

Four more sites for stations were identified between LRT-2 Santolan Station and Rosario: Quezon City's Libis and Eastwood and Pasig City's Santolan and Manggahan. — **Arjay L. Balinbin**

LGU borrowing proposals sharply lower at end of July

NEW BORROWING sought by local government units (LGUs) declined by 71.34% year on year to P20.8 billion in the seven months to July, the Bureau of Local Government Finance (BLGF) said.

According to preliminary data, the BLGF issued 113 certificates of net debt service ceiling and borrowing capacity to LGUs, against 273 issued a year earlier.

The document is a proxy for the borrowing intentions of local governments, whose capacity for taking on debt must be certified by the BLGF, an arm of the Department of Finance.

The certificates of net debt service ceiling and borrowing capacity were issued to 81 municipalities, 23 cities, four provinces, and five barangays.

LGUs' total borrowing capacity was P48.65 billion, down by 72.19% from a year earlier.

Cities applied to borrow P8.16 billion, followed by municipalities (P7.79 billion), provinces (P4.83 billion), and barangays (P24.65 million).

Cities also had the highest total borrowing capacity at P26.15 billion, followed by municipalities (P16.41 billion), provinces (P6.05 billion), and barangays (P37.24 million).

In July, the BLGF released two certifications to LGUs covering proposed loans worth P1.09 billion, against the P6.9 billion seen in the same month of 2021.

Aurora province was the leading availer of loans in July with P940 million. Pagadian City availed of P150 million. — **Diego Gabriel C. Robles**

OPINION

Appealing a decision: Remedies for taxpayers at the FDDA stage

LET'S TALK TAX
JESSON A. DORIA

As taxpayers may know, all field audit and other field operations of the Bureau of Internal Revenue (BIR) covered by Letters of Authority relative to the examination and verification of taxpayers' books of account, records, and other transactions, have been suspended until further notice, except for cases prescribing on or before Oct. 31, 2022, and for other situations described in BIR Revenue Memorandum Circular (RMC) 77-2022. The suspension remains in force at the time of this writing. However, as per the RMC, the service of assessment notices, warrants, and seizure notices should still be effected.

Before matters reach the point of serving assessment notices, taxpayers normally opt to resolve tax assessments. A prudent taxpayer cooperates and submits the necessary reconciliations, explanations, and documents to resolve the deficiencies or discrepancies initially identified by the BIR. However, when the purported findings of the BIR are not resolved at the early stages, these may reach the Final Decision on Disputed Assessment (FDDA) stage.

The FDDA pertains to the final decision of the Commissioner of Internal Revenue (CIR) or his duly authorized representative on the protest to the Final Assessment Notice (FAN). An FDDA may serve as the final step of the process for taxpayers should they choose to end the assessment by paying the amount demanded. On the other hand, in case of disagreement, the taxpayer may also go the route of requesting reconsideration from the CIR (if the FDDA was previously rendered by the Regional Director) or filing a petition for review before the Court of Tax Appeals (CTA).

It is worth noting that, if the FDDA was rendered by a Regional Director (not yet by the BIR Commissioner), a taxpayer may choose to contest the FDDA either administratively (by exhausting the administrative remedy first) or judicially (the FDDA issued by a Regional Director may be elevated to the CTA within 30 days from receipt of the decision).

If the taxpayer chooses the administrative remedy, he may elevate his protest through a request for reconsideration to the BIR Commissioner within 30 days from receipt of the Regional Director's decision. If the protest through a request for reconsideration is denied in whole or in part by the BIR Commissioner, a judicial remedy is available in the form of an appeal to the CTA within 30 days from the date of receipt of the FDDA issued by the BIR Commissioner.

However, there could be instances when the BIR issues preliminary collection letters and even final notice before seizure, and/or a warrant of distraint and/or levy after the issuance of the FDDA by the Regional Director and pending the final decision of the BIR Commissioner. There may be confusion as to whether these notices are enforceable against taxpayers and whether these notices constitute the BIR's decision as appealable to the CTA.

In a recent Supreme Court (SC) case, G.R. No. 231238, dated June 20, 2022, the Court clarified the reckoning point of the 30-day period to file an appeal on the disputed assessment with the CTA if the taxpayer chooses to wait for the decision of the BIR Commissioner.

In the above SC case, when a taxpayer chooses to wait for the final decision of the BIR Commissioner, any issuance of a preliminary collection letter, final notice before seizure, and/or warrant of distraint and/or levy pending such final decision should not be the reckoning point of the 30-day period to file for an appeal with the CTA. Otherwise, the issuance of a preliminary collection letter, final notice before seizure, and/or warrant of distraint and/or levy will deprive the taxpayer of the remedy of waiting for the final decision of the BIR Commissioner on the appeal. Moreover, the preliminary collection letter, final notice before seizure, and/or warrant of distraint and/or levy are all considered tentative pending the decision of the BIR Commissioner on the appeal. Consequently, the taxpayer may file an appeal with the CTA within 30 days from the receipt of the BIR Commissioner's decision.

Meanwhile, there may also be an instance where the protest is not acted upon by the Regional Director. In this case, the taxpayer may wait for the lapse of the 180-day period, counted from the date of filing of the protest (if the previously filed protest is in the nature of a request for reconsideration); or from date of submission by the taxpayer of the required documents within 60 days from the date of filing of the protest (if the previously filed protest is in the nature of a request for reinvestigation); then file an appeal to the CTA within 30 days from the lapse of the 180-day period. At any rate, if the taxpayer was not able to elevate the case to the CTA upon the lapse of the 180-day period, the lapse is not the end of the road for taxpayers, who can still await the FDDA.

While the BIR field audit, except for certain instances as per RMC 77-2022, may be suspended for now, we can look forward to its resumption in the coming months or so. In the meantime, taxpayers should be prudent in keeping abreast of tax updates and remaining well-informed about the available remedies in case of an unfavorable decision down the road.

Let's Talk Tax is a weekly newspaper column of P&A Grant Thornton that aims to keep the public informed of various developments in taxation. This article is not intended to be a substitute for competent professional advice.

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