Marcos committed to joining RCEP — Trade dep't

THE Department of Trade and Industry said the Marcos administration is committed to signing up for the Regional Comprehensive Economic Partnership (RCEP).

"President Ferdinand R. Marcos, Jr. is committed to ratify it (RCEP)," Trade Secretary Alfredo E. Pascual said in a radio interview on Wednesday.

Mr. Pascual said that the Philippines needs to join the RCEP, which foreign companies consider a must before investing in the Philippines.

"Those who want to invest in the Philippines... always ask when the Philippines is ratifying RCEP, because when they establish factories here for the export market, they would want to export to RCEP member countries," Mr. Pascual said.

"If the Philippines is not a member of RCEP, it will not be entitled to reduced tariffs (that make it) competitive in the export market," he added.

Touted as the world's largest free trade agreement, RCEP started taking effect in the various jurisdictions on Jan. 1. The participating countries include the 10 members of the Association of Southeast Asian Nations, Australia, China, Japan, South Korea, New Zealand.

The Philippines has yet to sign on to RCEP after the Senate failed to give its concurrence in the previous Congress due to concerns by some Senators over the absence of safeguards for agriculture.

According to Mr. Pascual, the agriculture industry enjoys adequate protections.

"There are critical agricultural items that will not be touched by RCEP. For other farm products, it would take years before lower tariffs take effect," Mr. Pascual said. — **Revin Mikhael D. Ochave**

Extended low tariffs for pork, rice seen needed, but farm lobby says traders cornering benefits

A PROPOSAL to extend lowered tariffs for pork, rice, corn, and coal will temper the effects of surging inflation, the Foundation for Economic Freedom (FEF) said.

Kristine F. Alcantara, FEF fellow, said during a hearing of the Tariff Commission (TC) on Wednesday that extending the effectivity of Executive Order (EO) No. 171 would help rein in food prices.

The FEF is seeking to extend EO 171 until the end of 2023, which the TC must agree to.

"The current inflation rate of the Philippines is at 7.7%. Considering that the main source of Philippine inflation is food, there is much more of a need to level or counteract the rising cost of prices by simply extending the modification of the tariff lines or at least postpone it for a bit," Ms. Alcantara said.

According to Ms. Alcantara, an extension would bolster food security and protect consumers.

"We wish that the TC would recommend the extension of the (reduced) tariffs as contained in EO 171 primarily because the reason for which order has been issued has not yet gone away... the effects of the Ukraine-Russia crisis are expected to extend until next year," Ms. Alcantara said.

"If there is still major disruption in the global supply chain, then we should also, like other countries, counteract this directly by helping our consumers," she added.

EO 171 is scheduled to expire on Dec. 31.

Signed in May, the EO lowered the tariff rates on pork within the minimum access volume quota to 15% from 30%, while pork imports beyond the quota are charged 25% instead of 40%.

Tariffs for in-quota rice imports were set at 35%, with those beyond the quota being charged 50%.

The EO also reduced the tariff rates of in-quota corn imports to 5% from 35% and those beyond the quota to 15% from 50%.

The order also imposed zero duties on coal imports, from 7% previously.

Jayson H. Cainglet, Samahang Industriya ng Agrikultura executive director, said the impact of reduced tariffs on farmers must be considered.

"By reducing tariff, you're reducing government revenue that would have benefited people. Let's give urgent attention to the agriculture sector...How can you reduce tariffs if the producers will be affected?" Mr. Cainglet said.

National Federation of Hog Farmers, Inc. President Chester Warren Y. Tan said an extension of the low-tariff regime will force the hog industry to withdraw from operations, affecting supply.

"We started to repopulate our hog population starting late last year (on the assumption that) EO 171 will end on Dec. 31. If there is another extension, (hog raisers) might (exit the industry). That is our worry. We don't want any extension," Mr. Tan said.

Federation of Free Farmers National Manager Raul Q. Montemayor said consumers and farmers are not benefiting from lower tariffs.

"Consumers are not benefiting... Farmers are suffering. It is only the importers and traders who are happy," Mr. Montemayor said. — **Revin Mikhael D. Ochave**

Petition to extend safeguard measures for cement rejected

THE Department of Trade and Industry (DTI) said it rejected a petition to extend safeguard measures on cement imports after a finding of no "serious injury" to the domestic cement industry from the expiry of the measures.

The DTI released on its website on Wednesday Department Administrative Order (DAO) No. 22-14 signed by Trade Secretary Alfredo E. Pascual on Oct. 24, which cited the recommendation of the Tariff Commission (TC) to not extend safeguard measures.

Republic Act No. 8800 or the Safeguard Measures Act authorizes safeguard measures to protect domestic industries from being "unduly harmed" by imports.

"The petition for extension of general safeguard measure on imports of ordinary Portland Cement Type 1 and Blended Cement Type 1P is hereby dismissed," according to the order.

The DTI said safeguard measures on imported cement expired on Oct. 22, after having been in force for three years.

The Cement Manufacturers Association of the Philippines, Inc. (CeMAP) had petitioned for the extension.

According to the DTI, it received the TC's formal investigation report on the safeguard measures on Oct. 5.

The TC had found no "significant overall impairment" of the domestic cement industry that resulted in serious injury during the review period of 2019-2021.

"There is no existence of an imminent threat of serious injury and significant overall impairment to the position of the domestic cement industry in the near future," the TC said.

The TC added that the domestic industry maintained market standing, improved capacity, stabilized manufacturing costs, and increased profitability.

"The production output of the petitioner representing the domestic industry constituted a major proportion of the total domestic production of ordinary Portland Cement Type 1 and Blended Cement Type 1P," the TC said.

The CeMAP has said that a non-extension "jeopardizes" the industry's efforts to maintain operations during the coronavirus disease 2019 (COVID-19) pandemic.

"The requested safeguard measure extension was necessary for adjustment plans to be completed in order for the industry to be ready for global competition," CeMAP Executive Director Cirilo M. Pestaño said earlier.

The safeguard measures on the two types of cement were imposed in 2019 after the DTI issued DAO 19-13.

The safeguard duties imposed on the imported cement started out at P250 per ton in the first year of implementation and falling to P200 per ton this year.

According to the TC's final report, Philippine Type 1 and Type 1P cement imports rose 11.2% to 5.896 million metric tons (MT) in 2020, and 16.2% to 6.850 million MT in 2021.

In the first half of 2022, Type 1 and Type 1P cement imports rose 7% to 3.5 million MT, compared to the three-year average of 3.27 million MT between 2019 and 2021. — **Revin Mikhael D. Ochave**

WB expects PHL climate mitigation efforts to be led by private sector

THE Philippine climate change mitigation effort will be borne largely by the private sector, the World Bank (WB) said in a report, adding that the absence of policies optimized for unlocking private investment could erode gross domestic product (GDP) by as much as 13.6% in the worst case.

"It is absolutely key that the incentives for the private sector be put in place so they can fully take action," Benoit Bosquet, regional director for Environment, Natural Resources and Blue Economy Global Practice at the World Bank, said on Wednesday at a virtual briefing presenting the World Bank Group's Country Climate and Development Report for the Philippines.

"The good news is that the Philippines does have many options to address climate change which could dramatically reduce the impacts," Mr. Bosquet added.

The World Bank's more moderate projections for GDP erosion range from a 3.2% average loss by 2030, and 5.7% in losses by 2040.

He added that the Philippines must address both extreme and slow-onset events and provide targeted support for the most vulnerable members of society.

Climate mitigation financing is a contentious issue in developing countries, which include some suffering from the worst effects of climate change. Developing countries have taken the position that the rich world did the most to disrupt the climate when it industrialized, and bears responsibility for funding the bulk of climate mitigation efforts.

The previous Philippine government has argued for "climate justice" from developed countries, estimating that the Philippines can internally fund only a fraction of its climate-mitigation bill.

"Climate change indeed poses major risk for the development of the Philippines. Policy inaction will impose substantial economic and human costs, especially for the poor," Mr. Bosquet said.

The report recommended that governments arrange incentives in such a way that make the benefits of climate action clear, while removing obstacles to allow the private sector to undertake climate projects.

"We can induce farmers to adopt practices that reduce water use and emissions while increasing productivity by ensuring these practices are more profitable than the status quo. We can induce the private sector to invest in renewable energy by ensuring that renewable energy plants are more profitable than fossil fuel plants," the report stated.

"Likewise, private sector investment in electric vehicles and energy-efficient and disaster-resilient buildings will depend on the profitability (of such projects)," it added.

"Adaptation is the key priority for the Philippines. Adaptation means reducing the risk and damage from extreme events, like typhoons. It also means reducing the risk from slow onset events like rising temperatures and we should not forget about that," Mr. Bosquet said.

"The good news is that adaptation actions can substantially reduce the impact of climate change on the economy. Economic losses could be reduced by two-thirds by mid-century," he added.

Typhoons have been estimated to dampen GDP by 1.2%, the World Bank said.

The report recommended avoiding new construction in vulnerable areas and increasing the energy efficiency of buildings to help urban residents deal with the effects of gradually increasing temperatures.

"Improving water storage will reduce the risk of damaging floods and droughts and, by increasing water availability, allow irrigation to be extended into rainfed areas, thus helping farmers in those areas adapt to higher temperatures," it added.

World Bank Regional Vice-President for East Asia and Pacific Manuela V. Ferro said that the power sector is a potential driver for mitigating climate change risk.

"The Philippines is one of those countries where there is a sweet spot between climate change mitigation action and lowering the price of electricity," she said.

"Investments in renewable energy... (that) bring costs down are very within hand. That's a sector we see tremendous potential to do more," she added.

Mr. Bosquet said the Philippines has the opportunity to decarbonize using solar and wind energy.

"An important aspect of this transition is that all these options reduce the current electricity generation costs. The Philippines has a high cost of electricity at the moment. Based on our analysis, we see that many of the investments that are already planned will do a great deal and the adaptation options are feasible and costly, but less costly than other countries we've analyzed," he added.

According to the World Bank, most climate actions do not require legislative change but improved implementation of existing programs or changes to implementing rules and regulations.

"For example, strengthening financial sector regulators' capacity to integrate climate risks in monitoring and supervision requires developing regulations, guidelines, and standards but no new legislation," it added. — **Luisa Maria Jacinta C. Jocson**

OPINION

Keeping tax incentives intact

TAXWISE OR OTHERWISE
DELILA L. DAYAG

Registered business enterprises (RBEs) in the Information Technology - Business Process Management (IT-BPM) industry are swiftly signing up to transfer their registration to the Board of Investments (BoI) in order to continue offering work-from-home (WFH) arrangements to their workers without losing their incentives. A big thanks to our administrators for making this possible.

The BoI transfer is a welcome development for RBEs. Normally, transferring to another Investment Promotion Agency (IPA) entails the cancellation of the current registration and subsequent application for new registration with another IPA. However, deregistration is not a good option for RBEs that still have pending applications for Confirmation of Entitlement to Income Tax Holiday (ITH) which have not yet been decided upon by the IPA. Often, these applications take many years to approve due to issues like falling short of the committed investment in capital equipment or failure to substantiate ownership over the capital equipment invested in. In the absence of this confirmation, the related income from the project or activity registered prior to the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act would be subject to a 5% special Gross Income Tax instead of an ITH, in accordance with the RBE's Registration Agreement with the IPA.

Unlike the projects and activities registered prior to CREATE where the timeline for submission of compliance requirements such as for the ITH confirmation application was accorded more leniency, new projects and activities registered under CREATE require more strict monitoring from the IPAs as to compliance with the terms and conditions imposed for registration and availment of tax incentives. IPAs are given 90 to 180 days after the statutory deadline for filing the annual income tax return of RBEs to submit the compliance report to the Fiscal Incentives Review Board (FIRB).

Given the limited timeline, how should RBEs prepare for this to avoid cancellation, suspension or withdrawal of their tax incentives?

One important point is the compliance with the target performance matrix specified under the terms and conditions of the registration of a registered project of activity. During the registration stage, applicants are required to prepare a project brief or feasibility report that contains projected financial statements of the project to be registered. This document should be carefully crafted as this will be the basis of the IPA in setting out the conditions, particularly on the investment requirement and metrics, under the Registration Agreement.

The preparers of the project brief may look at this from the point of view of the IPA or FIRB auditors. As a guide, the investment commitment in machinery and equipment is expected to be reported as part of the machinery and equipment in the RBE's audited financial statements, and to be duly supported by invoices, entry permits and lists duly attested to by the IPA. Hence, the accounting policies on threshold amount for asset recognition, proper account classification of the project cost, and contracts to be entered into regarding the acquisition of equipment should be taken into consideration before finalizing the project brief. These preparations will help the company with issues like investment shortfalls, which will have to be justified with the IPA. If these were not considered beforehand, the RBE may conduct advance internal checks to compare the projected and actual performance and identify the reason for any variance.

Another point to consider is the requirement for transparency and all that are associated with it. RBEs should ensure the submission or implementation of the following:

1. Complete Annual Income Tax Incentives Report of the RBE's income-based tax incentives, VAT exemptions and zero rating, customs duty exemptions, deductions, credits or exclusions from the income tax base, and exemption from local taxes;

2. Complete annual benefits report which shall include data such as the approved and actual amount of investments; approved actual employment level and job creation, including information on the quality of jobs and hiring of foreign and local workers; approved and actual exports and imports; domestic purchases; profits and dividends payout; and all taxes paid, withheld and foregone;

3. Annual reports of beneficial ownership of the organization and related parties;

4. Installation of an adequate accounting system that will identify the investments, revenues, costs and profits or losses of each registered project or activity undertaken by the enterprise; and

5. Compliance with the e-receipting and e-sales requirement, conditioned upon the operationalization of the Bureau of Internal Revenue's (BIR) e-receipt system. This requires prior registration of a computerized accounting system with the BIR.

Further, before the start of the project or activity, including the procurement of materials, the RBE should ensure that its Registration Agreement with the IPA, Certificate of Entitlement to Tax Incentives, including its supplier's VAT Zero Rating Certificates, are in order. This is to ensure that the appropriate incentives are available before proceeding with any transaction that might be impacted.

Note that the signing of the Registration Agreement does not vest all the rights to the RBE in claiming incentives. Monitoring and timely compliance with the requirements under the terms and conditions of its registration are necessary.

Finally, an RBE should also be aware of certain clawback provisions in relation to its availment of incentives. This means that the RBE may be required to return the monetary value of benefits that it has previously enjoyed. For example, the sale, transfer or disposition of capital equipment within five years from the date of importation generally triggers the payment of duties and taxes based on the value of equipment. In addition, cancellation of registration with the IPA may give rise to the payment of duties and taxes or VAT on all equipment, fit-outs and assets to be retained or to be disposed of from the registered facility.

The more the investor knows its duties to the government and complies in a timely manner, the smoother the claiming of tax incentives will go.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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