

Council hoping EU FTA negotiations resume this year

EUROPEAN BUSINESSES want free trade agreement (FTA) discussions between the European Union (EU) and the Philippines to resume within the year, a business council official said.

"I hope they can announce the recommencement this year. I think it is very important. Europe is lagging behind other partners of Southeast Asia in terms of FTAs. We need to do more negotiations," European Union-ASEAN Business Council (EU-ABC) Executive Director Chris Humphrey said on the sidelines of a briefing in Makati City last week.

"I think FTA negotiations with the Philippines would progress more quickly and will stand a chance of being done relatively fast, which means probably in a three-year timeline," he added.

The last round of negotiations for the proposed FTA between the Philippines and EU was conducted in 2017. Discussions officially started in 2016.

According to Mr. Humphrey, an FTA is needed as the Philippines continues on its growth path, which could potentially make the country ineligible for the EU's Generalised Scheme of Preferences Plus (GSP+) trade scheme aimed at developing countries.

"As you do progress economically, the GSP+ will go to some point. You need the FTA in place to enable you to keep trading with Europe and get more investment from Europe. When the talks were running a few years ago, progress was being made," Mr. Humphrey said.

The GSP+, set to expire by the end of the year, offers zero tariffs on 6,274 products, equivalent to 66% of all EU tariff lines. The Philippines has been pushing for the renewal of its GSP+ eligibility.

The top Philippine GSP+ exports include crude coconut oil, vacuum cleaners, prepared or preserved tuna, and electro-thermic hair dressing apparatus.

Mr. Humphrey said industries that could benefit from an FTA include manufacturing and agriculture, while European businesses set to benefit include those in renewable energy and autos, including electric vehicles.

"The FTA will open up the Philippines to the world's largest economy, particularly for your agricultural products as well. You are suddenly going to have a market of 600 million plus people that you can access in Europe," he added.

— **Revin Mikhael D. Ochave**

IPEF seen deepening PHL integration with global supply chains

THE PHILIPPINES views the US-led Indo-Pacific Economic Framework for Prosperity (IPEF) as a means of deepening its integration with global supply chains, the Department of Trade and Industry (DTI) said.

"We are mainly interested in the areas of supply chain integration and strengthening crisis response," Trade Secretary Alfredo E. Pascual said during a meeting with the US-Asia-Pacific Economic Cooperation (APEC) Business Coalition.

The meeting took place on the sidelines of the APEC 2023 Ministers Responsible for Trade (MRT) Meeting in Detroit between May 25 and 26.

"Our participation in IPEF is significant as it is a mechanism that will offer tangible benefits which will further boost our economic recovery efforts such as more opportunities to cooperate on trade and investment," he added.

Launched by US President Joseph R. Biden, Jr. in May last year, IPEF seeks to boost the US' economic engagement in the Indo-Pacific region. Other IPEF participants include Australia, Brunei, Fiji, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, Singapore, Thailand, and Vietnam.

Mr. Pascual said the Philippines also stands to benefit from the reauthorization of the US Generalized System of Preferences (GSP), which he said will help attract more investment.

He called for the "immediate reauthorization" of the US GSP, which will "spur more investment, generate jobs, and promote skills development."

The GSP scheme, which expired in 2020, allows the duty-

free entry of Philippine products into the US.

The top Philippine exports under the GSP scheme include handbags, insulated electric conductors, new pneumatic rubber tires, and nonalcoholic beverages.

According to the DTI, the US was the Philippines' top export market and fifth-largest source of imports in 2022. Exports expanded 5% in 2022 while imports grew 15%.

In a separate statement, the DTI said that the Philippines and New Zealand will push for stronger cooperation on trade, renewable energy, agricultural development, workforce development, and upskilling following a meeting between Mr. Pascual and New Zealand Trade Minister Damien O'Connor during the APEC MRT meeting.

Mr. O'Connor also urged the Philippines to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership trade deal involving Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, and Vietnam. The trade deal was signed in March 2018.

Mr. Pascual said that the Philippines is also working on the ratification of the World Trade Organization's Fisheries Subsidies Agreement.

"The new rules will make a major contribution for ocean sustainability by prohibiting harmful fisheries subsidies. This will help prevent the depletion of fish stocks, and in the process benefit our small-scale fishers," Mr. Pascual said.

The fisheries subsidies deal, sealed in June, banned subsidies that support illegal, unreported, and unregulated fishing. — **Revin Mikhael D. Ochave**

In fact, by sourcing the capacity through the MERALCO-GNPD PSA, MERALCO's average blended generation rate will be reduced by about PhP 0.2268 per kWh (as seen in the RATE IMPACT ANALYSIS above) resulting in savings to consumers of about PhP 854 million.

V. COMPLIANCE WITH DOCUMENTARY REQUIREMENTS

15. In support of this Joint Application with Motion for Confidential Treatment of Information, the Judicial Affidavit of ENGR. DAVIDJOHN A. ZUNIGA, Officer of MERALCO's Energy Resource Planning - Energy Sourcing Office is attached as ANNEX "E" and made an integral part hereof.

16. Likewise, in support of the instant Joint Application, the Applicants provide the following documents, which underwent the pre-filing conference and pre-filing marking of annexes with the Honorable Commission:

Description of Document	Annex
A. Applicants' Authority	
MERALCO's Secretary's Certificate	"A"
GNPD's Secretary Certificates	"B" and "B-1"
B. MERALCO's Documents	
MERALCO Letter-Request for COE-CSP dated 2 September 2022	"C"
DOE COE-CSP dated 29 November 2022	"C-1"
MERALCO-GNPD EPSA	"D"
Judicial Affidavit of Engr. Davidjohn A. Zuniga	"E"
MERALCO's Articles of Incorporation and By-Laws	"F"
MERALCO's Latest General Information Sheet ("GIS")	"G"
Verified Certification of True Copies of MERALCO's Articles of Incorporation, By-Laws, and	
GIS and of MERALCO's Ultimate Parent Company, all of its subsidiaries and affiliates	"G-1"
MERALCO's Demand Side Management Program	"H"
Write-up on the non-applicability of National Power Corporation Certification regarding whether or not Transition Supply Contract capacity and energy is expected to be available during the contractual period	"I"
Excerpt of MERALCO's Distribution Development Plan - Power Supply Procurement Plan (Supply and Demand Scenario);	"J"
• Average Daily Load Curve scenarios	"J-1"
• Details of Existing Suppliers	"J-2"
• Details of Power Supply Contract Utilization	"J-3"
• Details of SAIDI and SAIFI	"J-4"
• Estimation of the potential for a reduction in load supplied by MERALCO due to RCOA	"J-5"
• Write-up of no inconsistencies/differences from documents presented	"J-6"
C. GNPD's Documents	
SEC Certificate of Registration including the Articles of Partnership of GNPD	"K"
Verified Certification of the list of Board Directors and members of the Ultimate Parent Company, subsidiaries and all affiliates or Information Sheet of GNPD	"L"
Write up on the non-applicability of the following requirements to GNPD:	"M and Series"
• Shareholders' Agreement	
• Renewable Energy Service/Operating Contract and Certificate of Registration or Certification of Commerciality by an RE Developer and After Due Confirmation by the DOE	
• Distribution Wheeling Service Agreement	
• Water Permit from the National Water Resources Board	
• Copy of Related Agreements (i.e., Transmission Wheeling Contract, IPPA Agreement, EPC Contract, O&M Contract, Wholesale Aggregator Agreement, Project Feasibility Study, etc.)	
The Partnership Structure showing the Ultimate Parent Company, Subsidiaries, and all Affiliates of GNPD	"N"
Description of Document	
The Plant's Environmental Compliance Certificate issued by the Department of Environment and Natural Resources	"O"
Certificate of Compliance of GNPD	"P"
Executive Summary of the EPSA	"Q"
Verified certification that the GNPD Plant is ready to deliver power to address the emergency and that the rates being charged are no more than the latest rate approved by the ERC for the same or relevant technology in the area.	"R"
Transmission Service Agreement, or application for dedicated Point to Point Limited Transmission Facility to ERC, e.g., ERC Case No. of Point to Point, Decision of Commission of the point-to-point application.	"S"
Single-line Diagram Connection	"T"
Sources of Funds/Financial Plans (Confidential)*	"U"
Generation Rate and Derivation (Confidential)*	and Series*"
Financial model in soft copy containing derivation of rates (Confidential)*	
Cash Flow (Confidential)*	
Certification on Financing Arrangement (Confidential)*	"V" *
Explanation on the Fuel Procurement Process of GNPD (Confidential)*	"W" *
Technical and Economic Characteristics of the GNPD Plant	"X"
Latest Audited Financial Statements of GNPD	"Y"
Certification regarding the net heat rate of GNPD (Confidential)*	"Z" *
WESM Registration Certificate of GNPD	"AA"
Certification from the Department of Energy (DOE) regarding Philippine Development Plan (PDP) or Certificate of Endorsement (COE).	"BB"
Board of Investment (BOI) Certificate of Registration with attached Terms and Conditions.	"CC"

*Subject of the Motion for Confidential Treatment of Information

ALLEGATIONS IN SUPPORT OF THE MOTION FOR CONFIDENTIAL TREATMENT OF INFORMATION

17. GNPD respectfully highlights that its own documentary evidence, Annexes "U" and series, "V", "W" and "Z" contain numbers, methodology, and calculations such as debt or equity ratio, capital costs, weighted average cost of capital, and fuel cost that provide valuable information and insight on how GNPD arrives at its power generation rate and/or on GNPD's trading in the WESM.

18. GNPD therefore submit respectfully submits (*sic*) that Annexes "U" and series, "V", "W" and "Z" falls within the bounds of proprietary "trade secrets", which are entitled to protection under the Constitution, statutes, and rules and regulations of this Honorable Commission.

19. Under Rule 4 of the Revised ERC Rules of Practice and Procedure (the "Revised ERC Rules"), the Honorable Commission may, upon request of a party and determination of the existence of conditions, which would warrant such remedy, treat certain information submitted to it as confidential. Pursuant to such provision, GNPD respectfully prays for the issuance of a protective order declaring Annexes "U" and series, "V", "W" and "Z" as confidential information, since GNPD intends to present them as evidence in the instant Application.

20. The data contained in Annexes "U" and series, "V", "W" and "Z" constitute "trade secrets" of GNPD; thus, GNPD has actual and valuable proprietary interest to protect with respect to such information. If the information contained in these documents are unduly disclosed, it will seriously prejudice the competitiveness of GNPD.

21. The Supreme Court, in the case of *Air Philippines Corporation vs. Penniswell, Inc.* (540 SCRA 215 [2007]), had the opportunity to discuss the definition of "trade secrets" and the great extent to which the same are protected under our laws. In other instances, the Supreme Court has held that the confidential nature of trade secrets protects such from disclosure even in the face of the right of inspection given to stockholders or the constitutional right to information. (*Philpotts vs. Philippine Manufacturing Company*, 40 Phil. 471 [1919]; *Garcia vs. Board of Investments*, G.R. 88637 [1989]).

22. In the *Decision* in ERC Case No. 2015-111 RC dated 30 May 2017 entitled *In the Matter of the Application for Approval of the Power Supply Agreement Between Nueva Ecija II Electric Cooperative, Inc.-Area 2 (NEECO II - Area 2) and PNOC Renewables Corporation (PNOC RC)*, the Honorable Commission categorically stated that formulas and pricing structures of a generation company must be treated as confidential and may not be publicly disclosed, to wit:

In the case of PNOC RC, the documents sought to be protected from disclosure contains formula and pricing structures used in arriving at their proposed tariff. In fact, all three (3) documents were used by the Commission in evaluating the reasonableness of the proposed rate. **In the electric power industry w(h)ere prices is[sic] a major**

consideration in selecting one's supplier, it is apparent that the assumptions used in arriving at one's proposed tariff is considered a competitive leverage by one player against its competitors.

Thus, the Commission resolves to treat the said documents confidential and may not be publicly disclosed. [Emphasis supplied.]

23. Thus, the Honorable Commission has recognized the importance of maintaining pricing structures as confidential in order to ensure the competitiveness of the generation sector. Information, which falls within the definition of a trade secret as defined by jurisprudence, is clearly information that merits the confidential treatment provided for under Rule 4 of the Revised ERC Rules. Annexes "U" and series, "V", "W" and "Z" should therefore be entitled to the protection of confidential information provided under Rule 4 of the Revised ERC Rules.

24. Accordingly, one (1) copy of each of the foregoing confidential documents is placed in a sealed envelope, with the envelope and each page of the document stamped with the word "Confidential."

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Commission:

- Issue an Order TREATING Annexes "U" and series, "V", "W" and "Z" and all other information contained therein as CONFIDENTIAL, directing their non-disclosure to persons other than officers and staff of this Honorable Commission, continuously protecting the said information from public disclosure by maintaining the same separate and apart from the records of the case, and ensuring that these are not divulged to unauthorized persons, and that the same will be returned to Applicant GNPD, as applicable, pursuant to Rule 4 of the Revised ERC Rules; and
- After hearing on the merits, render a Decision APPROVING the MERALCO-GNPD EPSA and the terms and conditions thereunder, including the price.

Other reliefs, just and equitable under the circumstances, are likewise prayed for.

Finding the said *Joint Application* to be sufficient in form and with the required fees having been paid, the Commission hereby sets the same for determination of compliance with the jurisdictional requirements, expository presentation, Pre-trial Conference, and presentation of evidence on the following dates and online platforms for the conduct thereof, pursuant to Resolution No. 09, Series of 2020⁵ and Resolution No. 01, Series of 2021⁶ (ERC Revised Rules of Practice and Procedure):

Date	Platform	Activity
09 June 2023 (Friday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams or Zoom Applications	Determination of compliance with jurisdictional requirements and Expository Presentation
16 June 2023 (Friday) at two o'clock in the afternoon (2:00 P.M)	Microsoft Teams or Zoom Applications	Pre-trial Conference and Presentation of Evidence

Any interested stakeholder may submit its comments and/or clarifications **at least one (1) calendar day** prior to the scheduled initial virtual hearing, via electronic mail (e-mail) at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph. The Commission shall give priority to the stakeholders who have duly submitted their respective comments and/or clarifications, to discuss the same and propound questions during the course of the expository presentation.

Moreover, any persons who have an interest in the subject matter of the instant case may become a party by filing with the Commission via e-mail at doCKET@erc.ph, and copy furnishing the Legal Service through legal@erc.ph, a verified Petition to Intervene **at least five (5) calendar days** prior to the date of the initial virtual hearing. The verified Petition to Intervene must follow the requirements under Rule 9 of the ERC Revised Rules of Practice and Procedure, indicate therein the docket number and title of the case, and state the following:

- The petitioner's name, mailing address, and e-mail address;
- The nature of petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues involved in the proceeding; and
- A statement of the relief desired.

Likewise, all other persons who may want their views known to the Commission with respect to the subject matter of the case may file through e-mail at doCKET@erc.ph, and copy furnish the Legal Service through legal@erc.ph, their Opposition or Comment thereon **at least five (5) calendar days** prior to the initial virtual hearing. Rule 9 of the ERC Revised Rules of Practice and Procedure shall govern. No particular form of Opposition or Comment is required, but the document, letter, or writing should contain the following:

- The name, mailing address, and e-mail address of such person;
- A concise statement of the Opposition or Comment; and
- The grounds relied upon.

All interested parties filing their Petition to Intervene, Opposition or Comment are required to submit the hard copies thereof through personal service, registered mail or ordinary mail/private courier, **within five (5) working days** from the date that the same were electronically submitted, as reflected in the acknowledgment receipt e-mail sent by the Commission.

Any of the persons mentioned in the preceding paragraphs may access the copy of the *Joint Application* on the Commission's official website at www.erc.gov.ph.

Finally, all interested persons may be allowed to join the scheduled virtual hearings by providing the Commission, thru legal.virtualhearings@erc.ph, their respective e-mail addresses and indicating therein the case number of the instant *Joint Application*. The Commission will send the access link/s to the aforementioned hearing platform within five (5) working days prior to the scheduled hearings.

WITNESS, the Honorable Commissioners **ALEXIS M. LUMBATAN**, **CATHERINE P. MACEDA**, **FLORESINDA G. BALDO-DIGAL**, and **MARKO ROMEO L. FUENTES**, Energy Regulatory Commission, this 27th day of April 2023 in Pasig City.

Monalisa C. Dimalanta
MONALISA C. DIMALANTA
Chairperson and CEO

LS:VMA/LSP/MCCG



¹ Series of 2018 entitled "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market."
² Series of 2021 entitled "Amending Certain Provisions of and Supplementing Department Circular No. DC2018-02-0003 on the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market."
³ Attached as ANNEX "C"
⁴ Attached as ANNEX "C-1"
⁵ A Resolution Adopting the Guidelines Governing Electronic Applications, Filings and Virtual Hearings Before the Energy Regulatory Commission.
⁶ A Resolution Adopting the Revised Rules of Practice and Procedure of the Energy Regulatory Commission.



NOTICE OF EXTRAJUDICIAL SETTLEMENT
Notice is hereby given that the estates of Mercedes R. Mendoza, who died intestate on February 19, 2023; has been settled under an Extrajudicial Settlement of Estate executed by her heir on April 20, 2023 as per Doc. No. 318 ; Page No. 64 ; Book No. 526 ; Series of 2023 in the Notarial Registry of Atty. Rosalinda Adriano-Montenegro, Notary Public of Quezon City, Metro Manila.