DoTr awaiting NEDA approval to open Swiss challenge for Bohol airport

THE Department of Transportation (DoTr) may open the Swiss challenge for the New Bohol-Panglao International Airport next month and is still awaiting approval from the National Economic and Development Authority (NEDA) for the proposal to upgrade the airport.

"For the Bohol-Panglao airport, we are now in the process of finalizing our negotiations with the proponent. Maybe by next month it will be approved by NEDA and then right after that we'll open the Swiss challenge," Transportation Secretary Jaime J. Bautista said on the sidelines of an event last week.

The Aboitiz group, through its infrastructure arm — Aboitiz InfraCapital, Inc. — secured original proponent status for the operations and maintenance of the airport for 25 years.

In January, Mr. Bautista said companies wishing to match the proposal of Aboitiz InfraCapital to operate, maintain, and expand the New Bohol–Panglao International Airport may have their chance in the first quarter.

The Swiss challenge allows other companies to submit alternative proposals to a project, with the original proponent granted the right to match them.

Valued at P4.5 billion and structured as a public-private partnership, this project is expected to serve approximately 3.9 million passengers a year once completed, up from its current capacity of two million passengers.

Aboitiz InfraCapital, has also submitted proposals for the operations, maintenance, and development of Bicol International Airport in Southern Luzon and Laguindingan International Airport in Northern Mindanao. — **Ashley Erika O. Jose**

EU FTA negotiators expected to pursue procurement easing

By Justine Irish D. Tabile *Reporter*

THE European Union (EU) is expected to look into the opening up of government procurement and full market access to public utilities in negotiating the EU-Philippine free trade agreement (FTA), a business council official said.

Chris Humphrey, executive director of the EU-ASEAN Business Council (EU-ABC), told *BusinessWorld* that nevertheless, he does not expect "too many big hurdles" in negotiating for the FTA.

"We're not seeing too many big hurdles till we get this deal over (although) the EU will look for some opening up on things like government procurement and making sure that there is full market access in certain areas like public utilities," Mr. Humphrey said.

"But the Philippines has shown a willingness to move on these. So I'm not expecting a great deal of problems," he added.

Philipp Dupuis, EU Delegation to the Philippines Minister Counsellor and Head of the Economic and Trade Section, said that government procurement is the EU's standard approach to negotiations.

"In every negotiation, we cover government procurement. So it's not anything we would do specifically with the Philippines; we have it everywhere," Mr. Dupuis said in a chance interview.

"Because there's still restrictions for foreigners in the Philippines. (So) in principle, yes, this is something we will address. It's a matter of negotiation in the end, but it's something we will put on the table, yes," he added.

However, Mr. Humphrey said that these are not of concern within the EU community and added that the resumption of the negotiations points to an extremely high chance of being able to conclude a deal to each side's satisfaction.

"That automatically means a big alignment with the ambition for the scope of the FTA. I think the key difference here is that Europe, when it does FTAs, includes a number of non-core trade elements," he said.

"Unlike some other countries, which find them a bit harder to swallow in an FTA agreement, the Philippines has made it very clear that we can move on these issues and we can work with Europe on these issues," he added.

Because of the high level of alignment, Mr. Humphrey said that there is confidence that the deal can be done fairly quickly.

"And I suspect that the negotiators on both sides are telling each other to get this deal done before the end of President Ferdinand R. Marcos, Jr.'s term in office," he said.

"So we're probably looking at a three-year horizon to get this deal done. And that, in FTA negotiation terms, is actually very quick," he added.

Regarding a timeline for the negotiations, Mr. Dupuis said: "This is something that is impossible to answer; to be honest, you never know. It's a negotiation, so it will take time," he said.

"It's important to note that from the EU side, we always want to have a negotiation as quickly as possible, but never at the expense of the quality of the work," he added.

He added that the EU has been able to negotiate some FTAs in two years, while other FTAs took over five years to be concluded.

Meanwhile, Mr. Humphrey said that the EU-ABC will be bringing a business delegation to the Philippines next month aimed at letting European businesses get a better understanding of the policy direction in the Philippines.

The delegation will be 50-strong, including representatives from industries like information and communications technology, health, transportation, financial services, agriculture and food, and fast-moving consumer goods.

Future SRPs to specify unit cost in measure against 'shrinkflation'

THE Department of Trade and Industry (DTI) said that it will start to indicate unit cost in the suggested retail price (SRP) bulletin and launch an artificial-intelligence (AI)-powered price monitor application to guide consumers.

"Because the DTI wants to address consumer concerns with respect to shrinkflation, our strategy is to add a new feature to the SRP bulletin," Consumer Protection Group Assistant Secretary Amanda F. Nograles said Friday.

"Through this, we will add a third column that will be the unit cost. We will now require the manufacturers to indicate the unit cost so that consumers can easily compare them," Ms. Nograles said. — **Justine Irish D. Tabile**

Tunneling works for key Davao bypass road seen completed this year

By Kyle Aristophere T. Atienza *Reporter*

TUNNELING works for a proposed 45.6-kilometer bypass road in Davao region is expected to be finished this year, keeping the overall project on track for completion by 2028, the public works department said.

"The 2.3-kilometer tunnel is almost done, (and may be ready) by the end of the year," Emil K. Sadain, senior undersecretary at the Department of Public Works and Highways, told *BusinessWorld* in Singapore.

"We call it a twin-tube tunnel. That's a mountain tunnel — the first long tunnel that we will have in the Philippines," he said.

Under the P70.82-billion project, the Philippines seeks to establish a bypass road through the mountains connecting Davao City via the tunnel and Panabo City in Davao del Norte.

The Davao City Bypass Construction Project includes six separate contracts, three of which are funded by the Japan International Cooperation Agency. The other three are financed by the government, Mr. Sadain said.

"We are progressively working towards full completion by 2028."

The project was initially implemented under the former administration and had faced several challenges including right-of-way issues, unforeseen ground conditions, excessive water ingress, and pandemic delays — which have all been addressed.

The Davao City Bypass Construction Project is among the 14 foreign-assisted infrastructure projects approved by the National Economic Development Authority Board that are under construction, with the 14 having a total cost of P237.742 billion.

Mr. Sadain said the detailed design for a similar project in the northern Luzon will begin this year, potentially making the proposed 23-kilometer Dalton Bypass Road the country's second tunnel road project.

"For the Dalton Bypass project, detailed design will start this year. And civil works could begin in the second half of next year," he said.

"We hope to achieve substantial completion towards 2028."

The project, which will bypass the Dalton Pass, which is the current route from Central Luzon into the Cagayan Valley. It seeks to connect the Tayabo district of San Jose, Nueva Ecija to Aritao, Nueva Vizcaya.

The proposed four-lane bypass road, which is also funded by JICA, involves the construction of 6.1 kilometers of twin tunnels and 10 bridges with a total length of 5.8 kilometers.

Meanwhile, Mr. Sadain said a bridge that seeks to connect Tangub City, Misamis Occidental with Tubod, Lanao del Norte, financed by South Korea, is set to be completed by August.

"By the end of July, it will be completed. So by August, we can do the inauguration. The President will inaugurate the project."

The 3.17-kilometer Panguil Bay Bridge Project is funded by a loan agreement between the Philippine government and the Korean Import-Export Bank (Korea Eximbank).

The bridge will allow travelers to shorten their route by directly crossing Panguil Bay, a long, thin inlet between the two provinces. The current route requires motorists to traverse the bay's southwestern shore.

The Marcos administraton's flagship infrastructure project list includes 185 projects worth P9.1 trillion.

OPINION

Achieving transfer pricing certainty

IN BRIEF:

- *Results from the 2024 International Tax and Transfer Pricing Survey highlighted the need for robust transfer pricing policies given new international tax risks.*
- *Among pressing concerns include effective tax rate stability, particularly with the implementation of the Base Erosion and Profit Shifting (BEPS) Pillar Two global minimum tax, changes in local and international tax policies, and technological advancements.*
- *To solidify their positions, tax and transfer pricing professionals should decrease risk by centering processes around standard data, concretize dispute resolution mechanisms, and engage with the C-Suite.*

SUITS THE C-SUITE
ANA KATRINA C. DE JESUS

Tax and transfer pricing professionals must recalibrate and adapt their strategies in response to the changing global tax and economic landscape.

Global tax reforms are leading to double taxation risks, which are significantly altering businesses' approaches to transfer pricing certainty and operational transfer pricing needs. Other key concerns include inflation, increased focus on enforcement by tax authorities, environmental, social, and governance (ESG) pressures, advancements in transfer pricing related technologies, such as generative artificial intelligence (GenAI) and transfer pricing dispute resolution tools, and changes in supply chain.

EY recently released the results of the 2024 International Tax and Transfer Pricing Survey, which sampled 1,000 senior tax and finance professionals from large companies in 47 jurisdictions across 19 industries. The survey, which was conducted by an independent provider, highlighted the increasing need for businesses to implement robust transfer pricing policies given new international tax risks.

This article will tackle the concerns, challenges, and considerations that were identified by surveyed tax and finance professionals.

THE ROLE OF TRANSFER PRICING

Historically, transfer pricing has followed a linear approach that comprises planning, implementation, compliance, and controversy. With the changing landscape, tax and transfer pricing professionals need to engage more strategically with the broader business, considering the rapid increase in double taxation risks and external pressures.

Tax audits are expected to increase and intensify, with transfer pricing identified as a top risk area. Tax authorities are now going beyond traditional, functional interviews by processing more details about taxpayers' global operations, including how tax obligations and business activities align in specific jurisdictions.

The data accessed by tax authorities in this evolving tax controversy landscape can be utilized by GenAI and related technologies, allowing them to conduct the audit and process data more effectively. Public regulatory filings, social media profiles, news articles and intellectual property registrations are some sources of information that tax authorities can analyze to evaluate risks and challenge a taxpayer's position.

In the Philippines, the Bureau of Internal Revenue (BIR) identified the creation of a Transfer Pricing Office as a priority program for 2024. The new office will be expected to monitor compliance with transfer pricing documentation requirements, including the preparation and maintenance of local files, master files, and country-by-country reports (CbCR). These will be done pursuant to the minimum standards of the BEPS Action Plans as basis for strategic decision making and managing tax compliance risks. Consequently, the BIR will be keeping a keen eye on cross-border transactions to ensure fair and accurate allocation of costs and profits.

STANDARDIZING DATA TO MANAGE TAX CONTROVERSY

Traditional transfer pricing operations are labor-intensive, especially those focused on compliance. Reconciliations and adjustments should ensure that intercompany pricing policy continuously occurs throughout the year, and not just by the end. Gathering the required data for fact-finding, such as financials, taxes, and supply chain information for open years, becomes a challenge when sourced from multiple systems and jurisdictions. This is particularly evident in tax audit cases because taxpayers are expected to respond within a limited period.

Increased technology adoption can enable traditional operations and compliance functions in this changing landscape. Taxpayers must plan ahead to harness the power of data, systems, and technology. Investing in data strategy system improvement and advanced operational transfer pricing technology or partnering with a service provider who has built these capabilities can facilitate transfer pricing certainty.

Likewise, tax and transfer pricing professionals may resort to GenAI tools to align the group's transfer pricing policies while identifying and addressing tax risks. This will revolutionize how professionals prepare, analyze, and present data to ensure that their positions are clear, defensible, and easily understood. With the rollout of Pillar Two and disclosure of CbCR in a number of tax jurisdictions, businesses must standardize their internal data to efficiently manage tax authority controversy and Pillar Two calculations.

The Philippines has recently accepted the invitation from the Organization for Economic Co-operation and Development (OECD) to join the Inclusive Framework on BEPS, but the country has yet to see local adoption of the Pillar Two rules. To be proactive, tax and transfer pricing professionals should start standardizing their internal transfer pricing data.

TRANSFER PRICING CERTAINTY THROUGH DISPUTE RESOLUTION PROGRAMS

Transfer pricing certainty can be realized through various factors, such as increasing interest in advance pricing agreements (APA), mutual agreement procedures, and other dispute resolution programs by tax administrations. In some tax jurisdictions, the International Compliance Assurance Program (ICAP) is considered a pre-filing and dispute resolution mechanism. Moreover, the ICAP coordinates between a multinational enterprise (MNE) group and multiple tax administrations through the effective use of transfer pricing documentation, including the MNE group's CbCR to improve multilateral tax certainty.

In the Philippines, there have been discussions on the upcoming release of the APA Guidelines to fortify transfer pricing implementation. APA is a mechanism where the tax authority and the taxpayer would agree in advance on the appropriate set of criteria (e.g. transfer pricing method, comparables and appropriate adjustments) to ascertain the transfer prices of controlled transactions over a fixed period of time. Tax and transfer pricing professionals foresee that unilateral APAs will be useful to manage transfer pricing related controversy.

HOW CAN PROFESSIONALS PREPARE FOR THE NEW REALITY?

Tax and transfer pricing professionals highlight escalating concerns regarding double taxation and broader tax and legislative changes, emphasizing the emergence of a new era where businesses are seeking more certainty in their transfer pricing positions.

Some measures that companies can take include: focusing on transfer pricing certainty, mapping out future and current dispute resolution mechanisms, centralize processes around standard data to decrease risk, prepare for increasing application of data to define the company's transfer pricing approach. These measures, naturally, will require the cooperation and support of the company's C-level executives.

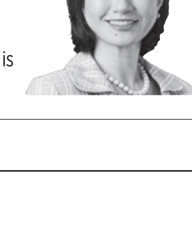
REALIZING TRANSFER PRICING CERTAINTY

Tax and Finance departments should prioritize transfer pricing certainty through standardized data, modified processes, and technology adoption to facilitate dispute resolution. Tax and transfer pricing professionals should collaborate more closely with the C-suite in making business decisions to enhance certainty from the outset of any business changes and to effectively navigate the evolving regulatory environment.

Internally, tax and transfer pricing policies should align with the organization's broader public image. Externally, pre-filing and dispute resolution programs should be considered.

Preparation is also key. Taxpayers that invest in modern transfer pricing approaches will be adequately equipped to engage with tax authorities in future controversies and better support their positions. Finally, tax and transfer pricing professionals must recalibrate and adapt their strategies in response to the changing global tax and economic landscape.

This article is for general information only and is not a substitute for professional advice where the facts and circumstances warrant. The views and opinion expressed above are those of the author and do not necessarily represent the views of SGV & Co.



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