‘Ambitious’ PEDP goals to be adjusted on weak global growth

By Justine Irish D. Tabile
Reporter

THE TARGETS set in the Philippine Export Development Plan (PEDP) may have to be tempered to reflect slower global economic growth, according to the Department of Trade and Industry.

Bianca Pearl R. Sykimte, director of the Export Marketing Bureau and executive director of the Export Development Council, said that the PEDP export targets will be subject to "recalibration."

"We will, but timing-wise, we are not yet able to explore the recalibration of targets. But we had discussions already, and we are only waiting for the timing," Ms. Sykimte told reporters on the sidelines of the Auto Parts and Vehicles Expo on Wednesday.

"We might temper them because when we were drafting the PEDP, at the time we were recovering from the pandemic, there was an upward trend," she said, adding that the need for them to be toned down became apparent with inflation, the geopolitical crisis, and slower global economic growth.

She said however that export targets set out in the Philippine Development Plan (PDP) remain achievable.

"We issued the PDP first, which is why its targets were more tempered. In fact, in terms of PDP targets, we are actually hitting them," she said.

"The PEDP is really intended to be more ambitious," she added. "But the scenario that we were expecting at the time we were drafting the PEDP was more favorable."

Last year, total exports of $103.6 billion missed the $126.8 billion goal laid down in the PEDP but surpassed the $100.9 billion set under the PDP.

The PEDP expects merchandise and services exports for 2024 to hit $143.4 billion, a much more aggressive estimate than the $107-billion export target under the PDP.

The Philippine Statistics Authority reported that exports of goods in the first quarter amounted to $17.98 billion, up 4.8% from a year earlier.

Ms. Sykimte said that although the semiconductor industry, which accounts for the majority of exports, is expected to recover this year, the performance of agricultural exports will hinge on international prices.

"Luckily for semiconductors, we're expecting an uptick this year. But of course, we also have a big agricultural resource base that is dependent on international prices," she said.

"For copper, international prices are decreasing, and for coconut, we're looking at what will be the trend for the year because these are the driving export figures for resource-based export products," she added.

VALERY KRYUKOV-UNSPLASH

Climate Investment Funds backs PHL's $500-million coal-to-RE transition plan

THE BOARD of the Climate Investment Funds (CIF) has endorsed a $500-million financing package that will support the Philippine transition from coal to renewable energy (RE).

The CIF said the package consists of $475 million in loans and $25 million in grants.

"This endorsement represents a major achievement in the Philippines' journey away from coal and towards a clean energy future," CIF Chief Executive Officer Tariye Gbadegesin said in a statement on Wednesday.

Ms. Gbadegesin said that the financing "will help ensure private sector buy-in, increased renewable energy development, and a just transition, for the benefit of the Filipino people and our planet."

CIF said overall funding for the transition is expected to exceed $2.3 billion, with contributions from the Asian Development Bank (ADB), the World Bank, and the public and private sectors.

CIF is one of the world's largest multilateral funds helping low- and middle-income countries adapt to and mitigate climate change.

"Together with the International Finance Corp. and the World Bank, we are committed to supporting the Philippines in achieving a just and inclusive energy transition that is a win for communities, the environment, and the economy," according to Scott Morris, ADB vice-president for East Asia, Southeast Asia, and the Pacific.

The $500-million CIF package is included in the Philippines' Accelerating Coal Transition (ACT) investment plan.

The plan calls for the early retirement or repurposing of Mindanao coal-fired power plants.

The Philippines plans to accelerate the retirement of up to 900 megawatts (MW) of existing coal generation capacity by 2027.

As of March, coal-fired power plants supplied 44.1% of the country's mix, with combined capacity of 12,556 MW.

Through the ACT investment plan, the Philippine government "will progress their Nationally Determined Contribution, having committed to a 75% reduction in (greenhouse gas) emissions by 2030," CIF said.

The funding will also support efforts to add 1,500 MW of renewable energy capacity by 2030, CIF said.

The Philippines aims to raise the share of renewable energy in the power mix to 35% by 2030 and 50% by 2040.

"The Philippine government's commitment to energy transition through the CIF ACT Investment plan is commendable," said Ndiame Diop, World Bank country director for Brunei, Malaysia, Philippines and Thailand.

"The World Bank looks forward to supporting the government's efforts to establish the enabling policy and regulatory environment and scale up investments for a just, sustainable energy transition," he added. — **Sheldeen Joy Talavera**

STEVANBAIRD-FLICKR

Negros sugarcane crop yields could fall due to Kanlaon ash

THE Sugar Regulatory Administration (SRA) said that the ash ejected during the Kanlaon Volcano eruption could affect sugarcane yields on Negros Island due to increase in the acidity of the soil.

"With the current results after the ash fall, if this is not washed out by rains, we will need soil rejuvenation in affected sugar lands to bring it back to the ideal state, and that is a long term (project)," SRA Administrator Pablo Luis S. Azcona said in a statement on Wednesday.

Tests in the area around the volcano yielded pH readings of 4.14 for the cane leaves and 5.06 for the soil. A pH reading of below 7 indicates acidity.

The reading of 6.48 pH last week, before the Monday eruption, "should have been ideal," he said.

Citing a report, the SRA said that the more immediate impact of volcanic ash is physical damage to the leaves, reducing their capacity for photosynthesis, as well as disruption of the chemical makeup of the soil, which can all lead to reduced yields.

"It is too early to tell whether the volcanic ash will cause so much damage on crops as it has been raining on the affected places and so hopefully the acidity will be diluted," Mr. Azcona said.

The SRA added that long-term effects on crops could include nutrient imbalance in the soil, compaction, erosion and chemical leaching.

"About 23,000 hectares in four sugar mill districts may have been affected by the volcanic eruption," it said.

The SRA's research and development arm had recommended the use of cover crops, irrigation by washing off plants and soil, and applying lime or organic matter to neutralize soil pH if ash fall continues.

The SRA had sampled cane fields in La Castellana, Moises Padilla, Pontevedra and La Carlota City, all in Negros Occidental. — **Adrian H. Halili**

BFAR: More LGUs to be enlisted in illegal fishing monitoring scheme

THE Bureau of Fisheries and Aquatic Resources (BFAR) on Wednesday said it hopes to enroll more municipalities in the use of its Illegal, Unreported, and Unregulated (IUU) fishing monitoring system.

"We have more than 900 coastal municipalities. Right now, *ang gumagamit ay nasa* 395 (current users are 395), so we are looking at expanding the number of local government units using (our system)," BFAR Chief Information Officer Nazario C. Briguera told reporters.

The IUU Fishing Index and Threat Assessment Tool (I-FIT) determines the vulnerability of communities to IUU fishing.

"The I-FIT data highlights a broader spectrum of the IUU fishing that is meant to serve as a benchmark in assessing the country's exposure to IUU fishing, which should serve as the criterion for monitoring progress," BFAR OIC Director Isidro M. Velayo, Jr. said.

Trade agreements, particularly with the European Union (EU), require the Philippines to observe international norms for labor rights, human rights, and illegal fishing, among others, making IUU monitoring a key component in keeping the Philippines eligible for trade privileges.

The BFAR also launched the Fisheries Sharing Hub on Investigation, Enforcement, Litigation, and Detection System (FishSHIELDS) which equips local enforcers digital tools to identify, prevent, and apprehend IUU fishing cases.

The monitoring system was developed in partnership with the US Agency for International Development.

Mr. Briguera said that the I-FIT platform will help diagnose the prevalence of IUU fishing in a particular area, while FishSHIELDS serves as the response system for illegal fishing reports.

"It does not need to be online; it can be offline. And then it will be received by fisheries personnel or law enforcers. From there, there will be coordination in the local government units (LGUs) for a real-time response," he added. — **Adrian H. Halili**

OPINION

Grasping the intangible: A transfer pricing perspective

TAXWISE OR OTHERWISE
ANGELIKA KRISTINA MONTEJO

As new technology continues to reshape the global business landscape, the intangible assets created by them play a crucial part in the operations of multinational enterprises. Compared to tangible assets such as human resources or property that can be seen or touched, intangibles refer to ideas, know-how, or rights that can be transferred or used despite having no physical characteristics. These intangibles contribute to value creation and growth of companies, and provide a competitive advantage to improve and maintain their market position.

However, the reliance on intangibles to conduct business and generate profit has also led to new challenges for tax systems that were originally anchored on legal ownership and physical location. The lack of physical presence has resulted in complexities in determining where the income is generated and where it should be taxed. With the ongoing developments in the international tax system, understanding the nature of intangibles and the relevant transfer pricing (TP) considerations are important for both multinational companies and tax authorities alike.

INTANGIBLES IN THE CONTEXT OF TP

Intangible assets are defined as things that are neither physical nor financial assets, capable of being owned or controlled for use in commercial activities, and whose use or transfer would be compensated had it occurred between independent parties in comparable circumstances.

This definition from the OECD TP Guidelines does not solely rely on accounting or legal interpretations, which means that the existence of intangibles for TP purposes is not merely determined by whether it is recorded in the balance sheet or has legal protection. For instance, intellectual property such as patents and trademarks can be registered while know-how and trade secrets are commonly not registered nor disclosed in the financial statements for confidentiality purposes. Both examples are nonetheless considered intangibles from a TP perspective.

PHILIPPINE TP RULES ON INTANGIBLES

The Bureau of Internal Revenue (BIR) recognizes that related party transactions involving intangible assets are of a special nature, as described in Revenue Audit Memorandum Order (RAMO) No. 1-2019, or the Philippine TP Audit Guidelines.

Under the RAMO, intangible assets may be classified as manufacturing or marketing intangibles. Manufacturing intangibles are generally created through research and development, and the developer aims to be remunerated for its expenditure and to seek profit through the sale of goods, license agreements, or service contracts. Marketing intangibles, on the other hand, are created through the functions of marketing, distribution and post-sale services. These typically include trademarks, customer lists, distribution channels, a unique name, symbol or picture with important promotional value for the products or services, etc.

Chapter VI of the RAMO further identified five steps in testing controlled transactions involving intangibles:

1) Identify the existence of every intangible asset that makes a contribution to the success of the product in the market;

2) Identify the value of intangible assets and determine which parties contributed to the formation of the intangible assets;

3) Study whether there has been a transfer of intangible assets in the transaction;

4) Determine the arm's length compensation for each intangible asset that is transferred; and

5) Determine the method that can be used in evaluating the arm's length nature of transfer of intangible assets.

OWNERSHIP, TRANSFER, AND EVALUATION OF INTANGIBLES

After identifying its existence, another important consideration in analyzing intangibles is its ownership. In order to determine how the costs and benefits from these intangibles can be divided among related parties, it is crucial to know who the legal and economic owners are. However, according to the OECD, legal ownership of intangibles by itself does not automatically mean a company has the right to ultimately to retain the returns. Instead, those entities that contribute to the development, enhancement, maintenance, protection and exploitation of the intangibles should receive a corresponding arm's length compensation.

A functional analysis is therefore essential to identify the economically significant activities and understand how the transferred intangibles interact with other functions, assets, and risks that comprise the business. Such analysis would also be able to explain whether or not there has been an actual transfer between parties.

The most common example of a transfer of an intangible is through licensing arrangements, wherein the company owning the rights over a technology or brand would license it to a related party and receive royalty payment in exchange. However, intangible asset transfers are not always as straightforward as they may seem, since multinational companies can restructure their operations depending on their needs. Sometimes, it may involve transfers of one or more intangibles that could not be separately evaluated.

Due to the special nature of intangibles, it may be difficult to determine the pricing at the time of the arrangement. This also raises challenging issues on comparability and on the selection of TP methods.

Intangibles mostly have unique characteristics which must be considered in conducting a comparability analysis, since the potential to generate future expected benefits could vary depending on the circumstances. Generally, any of the five OECD TP methods may be appropriate but it is most commonly useful to apply the Comparable Uncontrolled Price method and the Transactional Profit Split method. For instances when there are no reliable comparable transactions that can be identified, the use of valuation techniques may also be appropriate to estimate the arm's length price.

Selecting the most appropriate TP method heavily relies on a functional analysis to determine how the returns derived from and the costs related to intangibles can be allocated between parties. In evaluating the transfer price, careful consideration must be done to ensure compliance both in domestic and international jurisdictions in which the multinational entities operate. With the currently evolving tax environment tied to the complexity of intangibles, multinational groups may find it prudent to review their strategies as early as possible and align them with the principles and guidance laid out in the Philippine TP regulations and the OECD Guidelines. Likewise, it is recommended that companies adopt a proactive stance in preparing robust documentation and analyses that will best serve as defense in the event of tax and TP disputes.

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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