ECCP ADVOCACY PAPERS 2021

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EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES

INFRASTRUCTURE AND TRANSPORTATION ADVOCACY PAPER 2021

ABOUT ECCP

The **European Chamber of Commerce of the Philippines** (ECCP) is a service-oriented organization whose main goal is to foster close economic ties and business relations between the Philippines and Europe. The ECCP does this by providing a wide range of consultancy services and by creating linkages between companies, organizations, and individuals with existing or potential business interests in Europe and the Philippines. It is also at the forefront of pro-business, pro-growth advocacy in the Philippines, representing European business interests for increased market access and trade facilitation, at the highest level of Philippine political discussions.

The ECCP sees itself as the stepping stone for Europeans into the Philippine market and for Filipinos into the European market.

EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES
19th Floor, Philippine AXA Life Center Bldg.,
Sen. Gil Puyat Ave. cor. Tindalo Street,
Makati City, Metro Manila, Philippines, 1200

Positions expressed in the advocacy papers are the result of the activities of the Sector Committees working under the ECCP.

EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES

INFRASTRUCTURE AND TRANSPORTATION ADVOCACY PAPER 2021

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We would also like to acknowledge the support of our committee members.

METHODOLOGY

The 2021 edition of the ECCP Advocacy Papers features issues and recommendations formed after extensive discussions between members of the ECCP sector committees, dialogues and meetings with representatives from the Philippine Government, and other stakeholders. The ECCP has also taken into consideration the information gathered from organizing different events, participating in numerous hearings and committee meetings in both chambers of the Philippine Congress, as well as in private sector consultations held by several government agencies.

Further, the recommendations provided in each paper were primarily based on the discussions during the quarterly sector committee meetings. In close cooperation with the sector committee leaders and members, the ECCP Advocacy Team thoroughly analyzed every issue and advocacy recommendation to ensure that they are in line with European business interests and priorities. Once the Advocacy Team has finalized the first draft of each sector paper, it was then circulated to the Committee members and other stakeholders for consultation and subsequently, gathered inputs to be included in the final draft of the papers.

The assessment of the status of each recommendation included in *2019* Advocacy Papers were examined under the following criteria:

Completed/Substantial Progress: Recommended action has either been completed or there has been significant progress towards the realization of the recommendation.

Some Progress: Movement towards realizing the recommendation has been made, but substantial work still needs to be done to fully achieve and complete the proposed measure.

No Progress/Retrogression: Minimal progress or no movement towards attaining the recommended reforms were done, or the status of the issue has worsened and has evolved to an even bigger bottleneck for European businesses.

MESSAGE FROM THE ECCP PRESIDENT

On behalf of the European Chamber of Commerce of the Philippines (ECCP), I am pleased to present the 2021 ECCP Advocacy Papers. This year's edition features an overview of the current business regulatory landscape in the Philippines as well as industry-specific challenges of the 22 sector committees of the Chamber. More importantly, the paper puts forward constructive policy recommendations for strengthening European-Philippine economic relations and opening up a new decade of growth opportunities as the theme of this year's Summit suggests.

Indeed, the past year has been a period unlike any other with the ongoing health crisis testing the resilience of most organizations and redefining the way we do business. Our advocacy work has also stepped up in organizing virtual discussions and actively engaging key stakeholders including policymakers to raise awareness on issues that matter the most to our members as well as push for reforms that will support our community during this period of uncertainty.

Understandably, the past 20 months have seen a shift of policy priorities from the Philippine government by focusing more on pandemic response and providing social safety nets to the affected and vulnerable. Nevertheless, we have witnessed promising developments on the economic front that will help restore business confidence and boost the country's position as a competitive destination for trade and investments including those from Europe. Among these include the signing of the landmark Corporate Recovery and Tax Incentives for Enterprises Act, the Financial Institutions Strategic Transfer Act, and the inking of the world's largest trade bloc known as the Regional Comprehensive Economic Partnership, of which the Philippines is a party. In addition, the Philippines' improved ranking of 90th in 2020 from 124th in 2019 of the World Bank's Doing Business report demonstrates the global community's relative trust in the country's business environment.

We at the Chamber strive to make the most of these exciting developments in the years to come. The 2021 ECCP Advocacy Papers is our contribution to addressing some of the remaining challenges to helpfully realize the potential of our bilateral ties and economic prospects. I would like to thank our Committee leaders, member companies, and the team behind our flagship publication. Moreover, the European business community continues to stand at the forefront of these crucial issues, which when addressed, will further support our shared goals towards inclusive and sustainable recovery. As such, we remain committed to working with the Philippines in navigating this new decade of growth opportunities.

Mr. Lars Wittig
ECCP President

MESSAGE FROM THE EU AMBASSADOR

I congratulate the European Chamber of Commerce of the Philippines (ECCP) for the 2021 edition of their Advocacy Papers.

These papers offer useful food for thought and action at a crucial time.

At present, the global economy is poised to show its most robust post-recession recovery. In the EU, recovery is underway following a massive vaccination campaign and an ambitious recovery plan decided collectively by EU leaders in 2020. In the EU, today, more than 70% of adults are vaccinated, resulting in improved business and consumer confidence.

Vaccination is the way to pull through collectively from a health crisis of this proportion. It should not stop there. At present, the EU is first and most urgent priority is to speed up global vaccination to ensure that access to vaccines becomes equitable worldwide.

While the European Union has focused on tempering the spread of the virus and its impact on lives and the economy, the EU has remained crucial in the global effort to strengthen the multilateral trading system, fight protectionism and ensure that global trade remains unhampered.

This strategy has reaped fruits. It is anticipated that 19 EU Member States will revert to pre-pandemic growth levels in 2021 and the remainder will follow in 2022. In the last quarter, growth in the Euro area outpaced both the US and China.

Next Generation EU and the seven years multi-annual budget will invest in both short-term recovery and long-term prosperity. It will support innovative policies and will set Europe on a path to a sustainable resilient recovery. One-third of this €1800 billion budget will finance the European Green Deal, which will be the EU's lifeline out of the COVID 19 crisis. This Green Deal will transform the EU into a modern, resource-efficient competitive economy.

The EU and the Philippines have established a relationship characterized by a shared goal of peace and prosperity for our peoples. In terms of commercial relations, we have seen steady growth in the bilateral trade in goods between the EU and the Philippines over the last years. However, EU-PH trade today is far from its full potential. Likewise, the Philippines needs to attract a greater portion of EU investments in ASEAN.

Let us continue to work together to achieve a sustainable and resilient recovery for our economies. I welcome these advocacy papers as a useful contribution in our pursuit of creating a level playing field and opportunities for industries and sectors to be able to participate; provide more choices to our consumers, and promote a sustainable approach to trade.

H.E. Luc Véron
Ambassador
Delegation of the European Union to the Philippines

MESSAGE FROM THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES

My warmest greetings to the **European Chamber of Commerce of the Philippines (ECCP)** as it organizes the **2021 European-Philippine Business Summit**.

This event is an opportune time to explore and pursue various programs and strategies that will enable the business community to overcome the adverse effects of the COVID-19 pandemic on our economy.

The government is one with you in this goal as it has shown in its commitment to advance free trade and to restore confidence in the Philippine economy through our landmark Tax Reform Law and the ratification of the Regional Comprehensive Economic Partnership, of which the Philippines is a party.

I hope that you will remain steadfast in promoting and attracting trade and investments to the country, especially from Europe. Together, let us revitalize our industries and boost our productivity under the new normal.

May you have a successful summit.

Rodrigo Roa Duterte
President of The Republic of the Philippines

MESSAGE FROM THE DEPARTMENT OF TRADE AND INDUSTRY

The presence of the European Chamber of Commerce in the Philippines (ECCP) in the country is a testament to the relationship between our economies evident in the current levels of trade and investments. In 2020, Europe ranked as the Philippines' 5th trading partner, with total bilateral trade amounting to US$13.06 billion. And as we secure the collective development of both our nations, the Department of Trade and Industry (DTI) continues to rely on the steadfast efforts of ECCP in facilitating market access and in creating a level playing field for both European and Filipino companies

Together with the holding of the **2021 European-Philippine Business Summit (EPBS),** the launch of the **2021 ECCP Advocacy Papers** not only reflects the continued partnership of both nations that has flourished and strengthened throughout the years, but is also the fruit of the hard work and commitment of the men and women behind the successes of your organization.

Despite the challenges of the pandemic, the Philippines remains a conducive place to do business and is still considered an emerging economy for investment. This can be attributed to our strong economic fundamentals and is a result of landmark policies and programs of the Duterte administration to create an enabling business environment in the country.

Among these initiatives is the consistent pursuit of game-changing reforms such as the **Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act** and the **Financial Institutions Strategic Transfer (FIST) Act,** which are expected to bring in more investments and ensure the stability of our financial system to accelerate the country's quick and sustainable economic recovery. The Philippines is also part of the **Regional Comprehensive Economic Partnership (RCEP) Agreement,** which is intended to strengthen regional economic integration and increase economic resiliency through enhancing market access for goods, services, and investment. All of these, together with the review of other economic restrictions, have the common goal of attracting more investments that will create more jobs in the country.

As the Philippine economic situation continues to improve, this year's theme, **Amidst theCrisis: A New Decade of Growth Opportunities,** sets the tone for our continued partnership. We are counting on the private sector to harness the potential of our revitalization as we embark on pursuits that will ensure the inclusive and sustainable development of our nations. Ultimately, our goal is to make your investments in the country as profitable as possible, which will secure the development of our economies, provide better opportunities for employment, and empower our citizens to become productive members of society as we take on the greater effort of nation-building to create a better quality of life for all Filipinos.

Congratulations and *mabuhay po kayo!*

Hon. Ramon Lopez
Secretary
Department of Trade And Industry

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Our warmest felicitations to the European Chamber of Commerce of the Philippines, ECCP President Lars Wittig, ECCP Vice Presidents Amal Makhloufi and Kavita Hans, distinguished officers and members, on the launching of the 2021 edition of ECCP Advocacy Papers.

They say that the darkest nights produce the brightest stars. We convene today at a time of great uncertainty brought about by a global pandemic. As Speaker of the House of Representatives of the Philippines, I would like to express my deep appreciation to the European Chamber of Commerce in the Philippines and the ECCP Advocacy Committees in producing the 2021 ECCP Advocacy Papers, covering the most significant areas in development policy, from agriculture, the environment and water, to education, health care, and human capital, and of recent import, defense and disaster response, and renewable and energy efficiency. These papers are vital inputs to policy formulation, can serve to enhance Philippine development road maps, and be our springboard for continued discussion and engagement between the ECCP and our government in forging sustainable means of collaboration.

On the part of the House of Representatives, we intend to move towards a more resilient, more inclusive, and more sustainable post-pandemic economy with reforms which seek the following: one, to liberalize foreign investments into the country; two, to promote greater competition in key industries; three, to enhance governance in key infrastructure agencies; and four, to remove restrictions on foreign equity, thereby making economic policies more attuned to the realities in both local and international landscapes.

The opportunity to build a better economy is before us and should indeed, be seized. Through cooperation and collaboration, let us together bring into fulfillment a decade of renewal and growth.

Thank you.

Lord Allan Jay Q. Velasco
House Speaker District Representative Marinduque

WHERE ARE WE NOW?

THE PHILIPPINES

The Philippines prides itself in its dynamic and robust economy, transforming into one of the region's top economic performers and attracting companies to invest and expand their operations. In the last decade, the country was able to sustain an average annual growth of 6.4% between 2010-2019 from an average of 4.5% between 2000-2009.[1] Among its neighboring countries in the Association of Southeast Asian Nations (ASEAN), the Philippines was ranked 4th in terms of Gross Domestic Product (GDP) growth rate with 6.1% in 2019 (Table 1).

Table 1. ASEAN GDP Year-on-Year Growth Rates, 2019 and 2020 (% per year)

Country	2019	2019 ranking	2020	2020 ranking
Brunei Darussalam	3.9	8th	1.2	3rd
Cambodia	7.1	1st	-3.1	6th
Indonesia	5.0	5th	-2.1	5th
Lao People's Dem. Rep.	4.7	6th	-0.5	4th
Malaysia	4.3	7th	-5.6	8th
Myanmar	6.8	3rd	3.3	1st
Philippines	**6.1**	**4th**	**-9.6**	**10th**
Singapore	1.3	10th	-5.4	7th
Thailand	2.3	9th	-6.1	9th
Vietnam	7.0	2nd	2.9	2nd

Asian Development Bank. *Asian Development Outlook 2021*[2]

However, the onset of the unprecedented COVID-19 pandemic has resulted in a drastic decline of economic activity around the world. In the Philippines, like in many other countries, the government had to implement huge fiscal support programs and impose strict quarantine measures to mitigate the spread of the virus, which in return restricted economic activity. Specifically in the Philippines, the recessionary impacts of the pandemic contracted the GDP growth rate by 9.6% for the year 2020 (Table 1). The Philippine Statistics Authority (PSA), which has been collecting annual data since 1947, records this decline as the first annual contraction since the Asian Financial Crisis seen in 1998. It also surpassed the prior record of 7.0% contraction in 1984.[3]

The annual preliminary figures from the PSA show that the unemployment rate rose to 10.3% in 2020, accounting for 4.5 million unemployed Filipinos in the labor force, which is significantly higher compared to the previous year's 5.1% rate. Likewise, the country's employment rate dropped from 94.9% in 2019 to 89.7% in 2020, with the Services sector accounting for 56.9% share, followed by the Agriculture sector with 24.8%, and the Industry sector with 18.3%.[4]

1 World Bank. (07 April 2021). Philippines: Overview. Retrieved from https://www.worldbank.org/en/country/philippines/overview
2 Asian Development Bank. (April 2021). Asian Development Outlook 2021. Retrieved from https://data.adb.org/dataset/gdp-growth-asia-and-pacific-asian-development-outlook
3 Nikkei Asia. (28 January 2021). Philippines GDP shrinks 9.5% in 2020, worst since 1947. Retrieved from https://asia.nikkei.com/Economy/Philippines-GDP-shrinks-9.5-in-2020-worst-since-1947
4 Philippine Statistics Authority. (08 March 2021). 2020 Annual Preliminary Estimates of Labor Force Survey. Retrieved from https://psa.gov.ph/content/2020-annual-preliminary-estimates-labor-force-survey-lfs

Currently, unemployment rate for July 2021 is estimated at 6.9%, the lowest recorded rate since in April 2020. The country also recorded a significant increase in terms of employment rate at 93.1% for the same month.[5]

On the other hand, headline inflation rose further to 3.5% in December 2020, from 3.3% in November 2020, primarily due to the increase in the inflation of heavily-weighted food and non-alcoholic beverages at 4.8% during the month. Additionally, annual increments were higher in terms of health (2.6%); transport (8.3%); and restaurant and miscellaneous goods and services (2.5%).[6] The Bangko Sentral ng Pilipinas (BSP) posted a slight increase in the average headline inflation for 2020 at 2.6%, but remained well within the government's target range of 2-4% for the year.[7] Subsequently, the PSA recorded a 4.9% headline inflation rate for August 2021, from 4.0% of the previous month, which is the highest inflation recorded since January 2019. The uptrend was mainly brought about by the higher annual increment in the index of the heavily-weighted food and non-alcoholic beverages at 6.5% during the month, from 4.9% in July 2021.[8]

In the 2021 World Competitiveness Ranking compiled by the Institute for Management Development (IMD), the Philippines ranked 52nd out of 64 countries, slipping down seven spots from the previous ranking. Specifically, the report noted the country's rankings dropping in three of the factors with Economic Performance falling 13 places to 57th; Government Efficiency slipping three spots to 45th; and Business Efficiency dropping from 33rd to 37th. Meanwhile, the Infrastructure category retained its ranking at 59th.[9]

In terms of the country's Foreign Direct Investments (FDI), the BSP officially recorded USD 6.5 billion net inflows for 2020, which is a 24.6% contraction from the USD 8.7 billion net inflows in 2019. The contraction was primarily driven by the fluctuation of supply chains and business outlooks that had affected investor decisions. Majority of the equity capital placement came from Japan, the Netherlands, United States of America (USA) and Singapore wherein these capital were channeled to manufacturing, real estate and the financial and insurance industries.[10]

On the other hand, total FDI net inflows from January to June 2021 registered at USD 4.3 billion. Specifically, the top source country is Singapore with USD 519.88 million, followed by Japan with USD 259.85 million and USA with USD 69.87 million. Investments were channeled mainly to manufacturing, financial and insurance, and electricity, gas, steam, and air-conditioning industries.[11]

5 Philippine Statistics Authority. (07 September 2021). Unemployment Rate in July 2021 is Estimated at 6.9 percent. Retrieved from https://psa.gov.ph/content/unemployment-rate-july-2021-estimated-69-percent
6 Philippine Statistics Authority. (05 January 2021). Summary Inflation Report Consumer Price Index (2012=100): December 2020. Retrieved from https://psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2012100-december-2020
7 Bangko Sentral ng Pilipinas. (2020). BSP Inflation Rate Report. Retrieved from https://www.bsp.gov.ph/SitePages/MediaAndResearch/Inflation%20Report.aspx
8 Philippine Statistics Authority. (07 September 2021). Summary Inflation Report Consumer Price Index (2012=100): August 2021. Retrieved from https://psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2012100-august-2021
9 IMD World Competitiveness Center. (2021). World Competitiveness Ranking. Retrieved from https://www.imd.org/centers/world-competitiveness-center/rankings/world-competitiveness/
10 Bangko Sentral ng Pilipinas. (10 March 2021). FDI Registers US$509 Million Net Inflows in December 2020; Full-Year Level Reaches US$6.5 Billion. Retrieved from https://iro.ph/articledetails.php?articleid=3547&catid=4
11 Bangko Sentral ng Pilipinas. (10 September 2021). FDI Net Inflows Up by 60.4 Percent YoY in June 2021; H1 2021 Level Reaches US$4.3

At the European level, FDI net inflows registered at USD 38.42 million with Germany accounting for USD 29.02 million, followed by the United Kingdom (USD 4.52 million), Sweden (USD 3.88 million), France (USD 1.99 million), and Luxembourg (USD 1.66 million).[12]

The total external trade of the country in terms of goods was recorded at USD 155.03 billion in the year 2020, which is lower by 15.1% compared to the USD 182.52 billion recorded during 2019. Among the major trading partners are the People's Republic of China, Japan, and the USA.[13] The European Union (EU) followed as the fourth largest trading partner, accounting for 8.4% of the country's total trade in 2020. Meanwhile, as for the Philippines' bilateral trade with the EU member countries, Germany ranked as the top trading partner.[14] Likewise, in 2019, Germany ranked as the highest trading partner with a total trade of USD 5.55 billion or 31.5 percent of EU's total trade, followed by the Netherlands, France, the United Kingdom, and Italy.[15]

Over the past years, the Philippines was able to maintain its credit ranking at 'BBB' with a stable outlook from various agencies. However, the recent negative outlook from Fitch reflects the increasing risks to the credit profile from the impact of the pandemic and its aftermath.[16] The table below shows the latest ratings from various agencies:

Table 2. Philippine Credit Ratings

Date	Agency	Rating
July 2020	Moody's	Baa2 Stable
May 2021	Standard & Poor	BBB Positive
July 2021	Fitch	BBB Negative

Source: Moody's, Standard and Poor, Fitch

Without a doubt, the adverse impacts of the global crisis hampered the country's long-term notable gains. However, recent reports also show a promising growth forecast for the country as global recovery sustains its momentum. Particularly, the country posted a strong rebound in the second quarter of 2021 with a GDP growth of 11.8% compared to the -16.9% rate of the same period last year. Categorically, the main contributors are manufacturing (22.3%); construction (25.7%); and wholesale and retail trade; repair of motor vehicles and motorcycles (5.4%). Among the major economic sectors, Industry and Services posted positive growths of 20.8% and 9.6%, respectively.[17]GDP growth is also expected to increase at 4.5% in 2021 and 5.5% in 2022; while inflation rates are forecasted at 4.1% in 2021 and 3.5% in 2022.[18] However, the country continues to be vulnerable given the emergence of new variants of the virus and hiccups on the vaccine rollout. With this, substantial reforms on key economic policies, ease of doing business, investment on digital infrastructure, and strengthening the public health system have a pivotal role for the country to address the adverse impacts caused by the pandemic as well as boost economic recovery and competitiveness.

Billion. Retrieved from https://www.bsp.gov.ph/SitePages/MediaAndResearch/MediaDisp.aspx?ItemId=5926

12 Bangko Sentral ng Pilipinas. (n.d.) Net Foreign Investment Flows. Retrieved from https://www.bsp.gov.ph/statistics/external/Table%2010.pdf

13 Philippine Statistics Authority. (August 2021). 2020 Foreign Trade Statistics of the Philippines. Retrieved from https://psa.gov.ph/sites/default/files/2020%20FTS%20Publication_signed-compressed.pdf

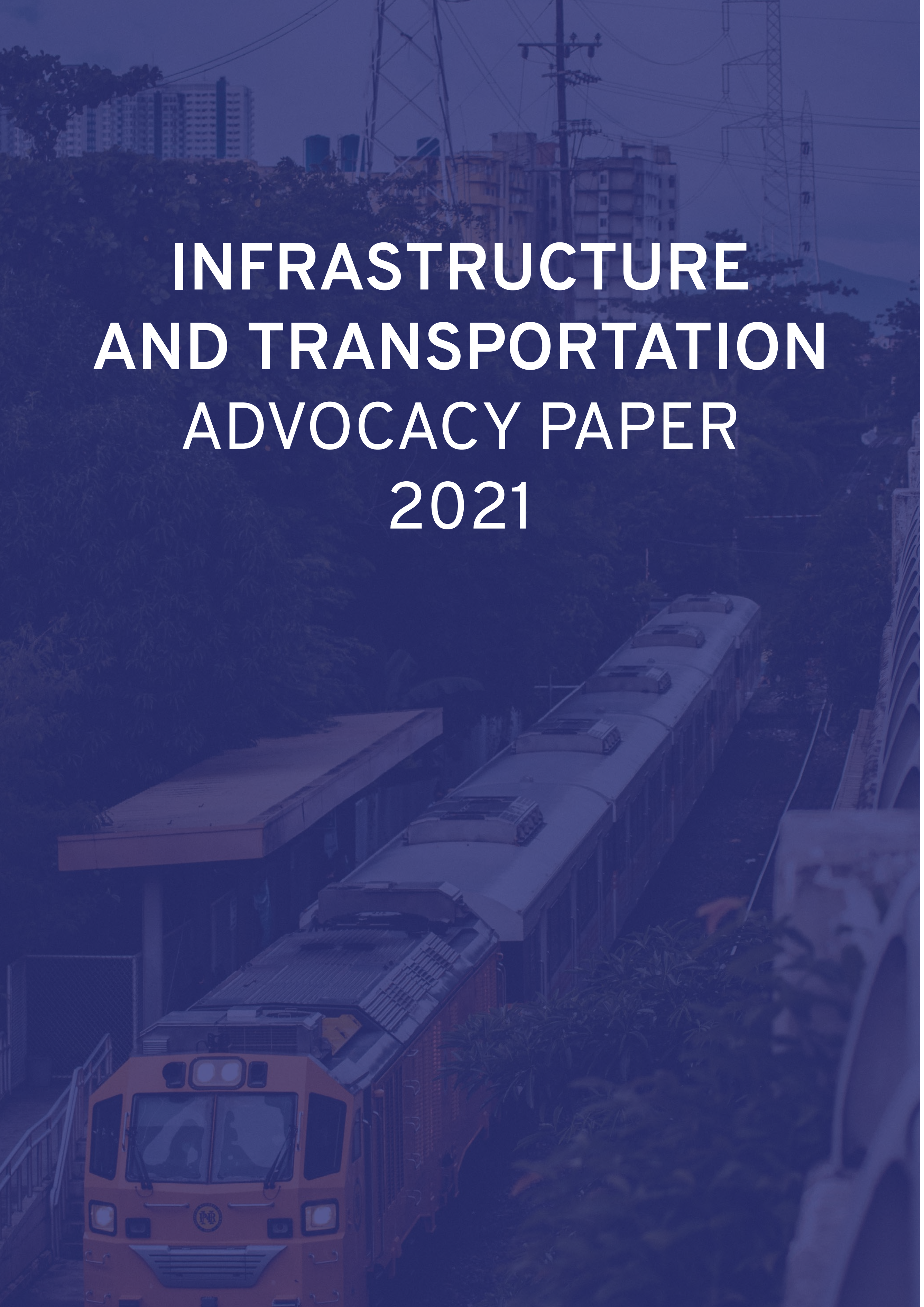
14 European Commission. (2021). Countries and Regions: The Philippines. Retrieved from https://ec.europa.eu/trade/policy/countries-and-regions/countries/philippines/

15 Philippine Statistics Authority. (28 April 2020). Highlights of the 2019 Annual Report on International Merchandise Trade Statistics of the Philippines. Retrieved from https://psa.gov.ph/content/highlights-2019-annual-report-international-merchandise-trade-statistics-philippines

16 FitchRatings. (12 July 2021). Fitch Revises Philippines' Outlook to Negative; Affirms at 'BBB'. Retrieved from https://www.fitchratings.com/research/sovereigns/fitch-revises-philippines-outlook-to-negative-affirms-at-bbb-12-07-2021

17 Philippine Statistics Authority. (10 August 2021). GDP posted double digit growth of 11.8 percent in the second quarter of 2021, the highest since fourth quarter of 1988. Retrieved from https://psa.gov.ph/national-accounts

18 Asian Development Bank. (n.d.). Economic indicators for the Philippines. Retrieved from https://www.adb.org/countries/philippines/economy



INFRASTRUCTURE AND TRANSPORTATION ADVOCACY PAPER 2021

INTRODUCTION

Infrastructure development plays a crucial role in a country's socio-economic development. Not only does it increase the country's competitiveness, but it also enhances the efficiency of production, transportation, health system, and communication. The rapid global increase of population, urbanization, and the recent outbreak of the COVID-19 pandemic have further highlighted the need to focus on improving the quality of its infrastructure and increasing accessibility to these structures.

In the Philippines, infrastructure development has been identified as one of the key priorities of the current administration. In 2017, the administration launched its ambitious infrastructure campaign entitled, "Build Build Build" program. This contains thousands of projects to be rolled out all over the country with the aim of ushering in a "golden age of infrastructure"[1]. In 2019, the administration's flagship Build, Build, Build program had a budget allocation of PHP 816.2 billion or 4.2% of the GDP[2], and was further increased to PHP 972.5 billion or 4.6% of the country's GDP in 2020 despite the adverse effect of the pandemic on the economy.[3]

For this year, the government is allocating PHP 1,323.1 billion or 29.4% of the FY 2021 national budget for the economic services sector where the program falls under making it the second-largest recipient of budget allocation.[4] According to the National Economic and Development Authority (NEDA), the budget earmarked for the program will not only focus on building physical infrastructure but would also include a wide range of infrastructure projects such as **digital infrastructure** which is critical in order to adapt to the new normal amidst the lingering pandemic.[5]

In terms of government disbursement, infrastructure spending totaled PHP 869.5 billion or 4.8% of the GDP in 2020 which is lower than the reported figure of PHP 1 trillion in 2019 but is still significantly higher than the average infrastructure disbursement from 2011-2016 at 3% of the country's GDP despite the challenges posed by the pandemic.[6] For this year, as of end-February 2021, the government reported a 14% year-on-year increase in government disbursement on infrastructure at PHP 107.4 billion.[7] According to the Department of Finance, the increase in infrastructure spending is mostly attributed to the payments for the completion of the Department of Public Works and Highways (DPWH) infrastructure projects (i.e., road widening and flood mitigation projects) and the Department of Agriculture's farm-to-market roads.

In May 2021, NEDA Board released an updated report of Infrastructure Flagship Projects (IFPs) composed of 112 infrastructure projects from the different sectors as well as the projects' respective funding sources with the following breakdown:

1 De Vera, B. (2019). Review of 'Build, Build, Build' to yield expanded, more comprehensive list. Retrieved from https://ppp.gov.ph/in_the_news/review-of-build-build-build-to-yield-expanded-more-comprehensive-list/
2 Ibid,
3 Malindog-Uy, A. (2020). "Build Build Build" Program Amid a Pandemic. Retrieved from https://theaseanpost.com/article/build-build-build-program-amid-pandemic
4 Department of Budget and Management. (n.d.). PRRD signs the P4.506 Trillion National Budget for FY 2021. Retrieved from https://www.dbm.gov.ph/index.PHP /secretary-s-corner/press-releases/list-of-press-releases/1778-prrd-signs-the-p4-506-trillion-national-budget-for-fy-2021
5 Philippine News Agency. (2021). 'Build, Build, Build' delivers, sets up infra for future. Retrieved from https://www.pna.gov.ph/articles/1144279#:~:text=The%20%E2%80%9CBuild%2C%20Build%2C%20Build%E2%80%9D%20program%20is%20the%20Duterte,implemented%20all%20over%20the%20country.&text=From%20the%20previous%20iterations%20of,flagship%20projects%20have%20been%20completed.
6 Ibid.
7 De Vera, B. (2021). DOF: PPP projects to lead spending in next 2 years. Retrieved from https://ppp.gov.ph/in_the_news/dof-ppp-projects-to-lead-spending-in-next-2-years/

Summary of IFPs per Sector
as of 12 May 2021

Sector	Project Count	Project Cost (in PHP billion)
Transport and Mobility	76	4,273.37
Urban Development	12	156.38
Water Resources	10	84.89
ICT	8	106.03
Health	4	46.44
Power and Energy	2	20.05
Total	**112**	**4,687.16**

Source: National Economic and Development Authority

Summary of IFPs by Funding Source/Mode of Implementation

Funding Source/Mode of Implementation	Project Count	Project Cost (in PHP billion)
ODA	54	2,612.04
PPP (Unsolicited)	20	1,504.81
GAA	25	186.24
STOA/PPP	5	148.43
PPP	3	95.80
ODA/PPP	1	64.92
GAA/PPP	1	26.62
GAA/ODA	1	28.27
Private	2	20.05
Total	**112**	**4,687.16**

Source: National Economic and Development Authority

Out of the projects listed in the revised IFPs, four have already been completed, 12 are expected to be completed in 2021 and 17 in 2022, while the remaining 79 projects are to be completed from 2023 and beyond. The 4 completed projects are (i) LRT 2 East Extension (PHP 9,759.31 million); (ii) Metro Manila Skyway Stage 3 (PHP 65,390.00 million); (iii) Metro Manila Logistics Network: BGC-Ortigas Center Link Road Project (PHP 5,723.90 million); and (iv) Metro Manila Logistics Network: China Grant Bridges (PHP 5947.10 million)[8].

In a briefing held last 18 June 2021, the cabinet secretaries provided an update on the number of projects under the flagship program that have been completed and how many are still undergoing construction. The report contains updates on airport projects, seaport projects, flood mitigation structures, roads, and bridges as follows[9]:

Completed		Ongoing	
Airport Projects	212	Airport Projects	102
Seaport Projects	446	Seaport Projects	117
Flood Mitigation Structures	10,376	Railways	1,090.30 kilometers
		Flood Mitigation Structures	2,587
Road	26,494 kilometers	Road	2,515 kilometers
Bridges	5,555	Bridges	1,020

Source: Philippine News Agency

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

- Following the conduct of joint committee meetings and hearings, Senate Bill No. (SBN) 1008 was recommended by the Committee on Trade, Commerce and Entrepreneurship to be substituted by SBN-2247 on 31 May 2021, and was thereby dealt with accordingly on 1 June 2021[10]. Filed by Senator Win Gatchalian in September 2019, SBN-1008 seeks to amend Republic Act No. 4566 to promote competition and investments in the construction industry by creating a level playing field for domestic and foreign contractors alike. As of writing, substitute bill SBN-2247 is pending second reading.
- On public-private partnerships, SBN-15 and House Bill No. (HBN) 77 were filed in the 18th Congress to further strengthen and institutionalize Public-Private Partnerships in aid to the country's infrastructure development. On 1 March 2021, SBN-15 was substituted by SBN-2074 as recommended by the Committees on Public Works, Economic Affairs, Ways and Means, and Finance[11], and is pending second reading (special order) as of writing. Meanwhile, HBN-77 has been pending with the Committee on Public Works and Highways since July 23, 2019.
- Last April 2021, President Duterte signed Executive Order (EO) No. 130 of 2021 which amends Section 4 of Executive Order No. 79 of 2012, or the Grant of Mineral Agreements Pending New Legislation. With this, the government can enter into new mineral mining agreements subject to compliance with the Philippine Mining Act of 1995 and other applicable laws, rules, and regulations. This is a welcome development as it can enable the mining industry to further support various government projects, such as the Build, Build, Build Program, by providing raw materials for the construction and development of other industries; and the Balik Probinsya, Bagong Pag-asa Program, by generating more employment opportunities in remote, rural areas where there are mining activities thereby spurring countryside development.

8 National Economic and Development Authority. (2021). Revised List of Infrastructure Flagship Projects (IFPs) as of May 12, 2021. Retrieved from https://www.neda.gov.ph/wp-content/uploads/2021/06/Revised-Infrastructure-Flagship-Projects-as-of-12-May-2021.pdf

9 Philippine News Agency. (2021). 'Build, Build, Build' delivers, sets up infra for future. Retrieved from https://www.pna.gov.ph/articles/1144279#:~:text=The%20%E2%80%9CBuild%2C%20Build%2C%20Build%E2%80%9D%20program%20is%20the%20Duterte,implemented%20all%20over%20the%20country.&text=From%20the%20previous%20 iterations%20of,flagship%20projects%20have%20been%20completed.

10 Philippine Senate. (2021). Committee Report No. 269. Retrieved from http://legacy.senate.gov.ph/lisdata/3516032015!.pdf

11 Philippine Senate. (2021). Committee Report No. 187. Retrieved from http://legacy.senate.gov.ph/lisdata/3459031403!.pdf

- In late August 2021, the Department of Budget and Management (DBM) submitted its proposed P5.024-trillion 2022 national budget to Congress. This then commenced the legislative process of assessment, debate, and amendment of the 2022 General Appropriations Act. The House aims to pass its version of the 2022 national budget[12] by the end of September 2021 or before Congress suspends session for the filing of certificates of candidacy for the 2022 elections.

Top 10 Departments/Sectors with Biggest Proposed Budget

Departments that will receive the highest allocation

Education Sector (DepEd, SUCs, and CHED)	P773.6 billion
DPWH	P686.1 billion
DILG	P250.4 billion
DOH	P242.0 billion
DND	P222.0 billion
DSWD	P191.4 billion
DOTr	P151.3 billion
DA and NIA	P103.5 billion
DOLE	P44.9 billion

ADVOCACY RECOMMENDATIONS

Timely passage of the 2022 national budget and allocation of budget for digital infrastructure

The ECCP respectfully urges Congress to pass the 2022 budget in a timely manner. This is especially crucial at a time when the current COVID-19 pandemic exacerbates the economic and social challenges faced by the country prior to the pandemic. The Chamber wishes to prevent the adverse economic repercussions that the country experienced in 2019 as a result of the delayed passage of 2019 national budget. To recall, the budget impasse stalled new and ongoing infrastructure projects as the same amount of funds allocated for the previous year were during this period. According to the estimates the country's socio-economic planning arm, a reenacted budget until April 2019 could slow GDP growth by 6.1% to 6.3%[13], which was slightly more conservative than the trimmed forecasts of multilateral agencies. As such, the ECCP urgently calls on the timely passage of the said 2022 budget. We also urge the next Administration to build on the momentum and ensure continuity of these infrastructure projects while maintaining legal stability in terms of contract enforcement.

The ECCP Infrastructure Committee also welcomes the positive developments on the allocation of funds for other infrastructures, such as **digital infrastructure**. This will support the overall direction of businesses to **develop smart infrastructure and establish new operational efficiencies** to achieve business value while meeting sustainability goals. Furthermore, the COVID-19 crisis recovery enjoins us to build back better. This can be done by **placing great importance and urgency in green infrastructure**, and creating an enabling regulatory environment that facilitates green and innovative investment. We also emphasize the importance of collaboration and alignment with government bodies such as Department of Trade and Industry-Bureau of Philippine Standards (DTI-BPS) and Department of Public Works and Highways (DPWH) in materials prescription.

12 Philippine News Agency (2021). No reenacted budget in 2022: House Speaker. Retrieved from https://www.pna.gov.ph/articles/1151714.
13 Philippine National Agency (March 2019). NEDA estimates impact of reenacted budget. Retrieved from https://www.pna.gov.ph/articles/1064430.

Amendments to the Price Act

In 2017, through various public pronouncements, the Department of Trade and Industry (DTI) announced its intention to deregulate the process of obtaining approvals for adjustments of suggested retail price (SRP) for basic necessities and prime commodities (BNPC) in line with the administration's campaign to facilitate ease of doing business and streamline the bureaucracy. At that time, the SRPs of BNPC were set by manufacturers but subject to evaluation and approval as to their reasonableness by the DTI. Any intent to adjust SRPs required approval from the agency which took two to three months to hurdle. The industry was encouraged by statements made that DTI was fully supportive of letting market forces decide and that setting of the SRP should be a company decision – subject to monitoring by the DTI. The agency even came up with a draft Department Administrative Order (DAO) to capture its proposed revisions.

Since then, however, the previous cumbersome process of providing notification of SRPs on BNPC and requesting price adjustments remains in place. Even more concerning – the process now takes longer than two to three months and in some instances, manufacturers are asked to delay their price adjustments (despite submitting substantiation documents) for six months to a year. Given the current procedures in the DTI, any bill that will continue to authorize the need to get express approval from government to implement price adjustments will curtail business prerogative to make decisions according to the exigencies of business and goes against allowing market forces to dictate price movements. We submit that the bills amending the Price Act should support instead a "notification" of price adjustments, instead of "approval", which is what is currently being practiced.

As we transition to the next normal of "business unusual", our consumer protection laws should effectively balance the well-being and interests of both consumers and businesses alike— the former from unfair trade practices and the latter to ensure continued commercial activities and provide essential goods and services especially during emergency situations.

Create a national body to oversee the implementation of the Price Act's mandate.
In this context, the ECCP, together with its industry partners, support the government's thrust to safeguard consumer welfare while at the same time encourage business activities during times of emergencies. As such, we support the creation of a national body to oversee the implementation of the Price Act's mandate and recommend an avenue for the President to cast its decision in case of a deadlock of the National Price Coordinating Council (NPCC). The rationale behind the former is to allow the chief executive to focus on disaster preparedness and/or relief efforts during crisis and delegate the specific function of price control setting to the NPCC, while the latter being the President's inherent right to exercise power of control over the executive branch.

Limit the definition of the Basic Necessities and Prime Commodities (BNPC) only to goods vital to the needs of consumers for daily existence and sustenance, or those which are deemed essential.

We also find it important to limit the definition of BNPC only to goods vital to the needs of consumers for daily existence and sustenance, or those which are deemed essential. Specifically, we suggest removing 'clinker' as a prime commodity as it is merely a semi-finished good used by cement manufacturers. We also call on relevant authorities to reconsider the imposition of price freeze to construction materials, nor the inclusion of cement, steel, plywood and other construction materials in any price freeze and price ceiling authorized under the Price Act. While we generally support the inclusion of personal protective equipment, medical devices, and select healthcare products in light of the ongoing health crisis, we deem it unnecessary to further expand the list of items classified as prime commodities to discretionary goods as there are variants, even within product categories, that cater not to the general public but a targeted high-tier segment such as luxury items.

It is thus our position that the law should focus only on the "base" products within the category in order to limit the imposition of artificial price caps on a market that should be open and free. Manufacturers should be given the freedom to introduce different brands, variants, sizes and formats, and even new technology or innovations within the category, that cater to the wide range of consumers belonging to different socio-economic classes with varying preferences and needs. Without good faith consultation with private sector, there could arise a situation where all the different variants, formats and sizes (SKUs) within a category, even if deemed non-essential or luxury, will be included in BNPC which would be an excessive exercise of authority going beyond the objective of the Price Act.

While there is a mechanism to influence the inclusion or exclusion of types and brands of goods in the BNPC list, the process outlined may be very bureaucratic and does not set forth clear criteria on what should be included or excluded from the list. The proposed bill provides an exclusion recourse of types and brands of goods, but only upon petition and public hearing, and with the approval of the President.

The ECCP, along with its partners from the Joint Foreign Chambers, hopes for a more streamlined, practical and simpler process to do this wherein private sector will be consulted proactively and, at the onset, be allowed to offer a list of its "base" products that should be included in the BNPC list, taking into account the objective of the Price Act which, as mentioned, is to make available to the consumers goods that are essential to their daily needs at reasonable prices. Given current protocols for seeking approvals to make price adjustment on all products in the BNPC list, further expanding the list to include non-essential goods will unintendedly impose artificial price caps on a host of other categories of products in case the request for price adjustment is delayed or not approved. While consumers may benefit from this lower cost of goods, this is temporary at best, as this may discourage businesses from further investing and innovating due to low returns on investment to cover increasing production costs, ultimately resulting in the detriment of both consumers and businesses alike in the long-term.

In conclusion, the ECCP concurs with state policy to ensure the availability of basic necessities and prime commodities at reasonable prices at all times without denying legitimate businesses a fair return on investment. Hence, this requires our consumer protection laws to effectively balance the well-being and interests of both consumers and businesses alike.

On mineral mining agreements and the establishment of mineral reservations

Last April 2021, President Duterte signed Executive Order (EO) No. 130 of 2021 which amends Section 4 of Executive Order No. 79 of 2012, or the Grant of Mineral Agreements Pending New Legislation. With this, the government can enter into new mineral mining agreements subject to compliance with the Philippine Mining Act of 1995 and other applicable laws, rules, and regulations. This is a welcome development as it can enable the mining industry to further support various government projects, such as the Build, Build, Build Program, by providing raw materials for the construction and development of other industries; and the Balik Probinsya, Bagong Pag-asa Program, by generating more employment opportunities in remote, rural areas where there are mining activities thereby spurring countryside development.

While the issuance of said EO is a welcome development, we are concerned with the continued reference to the establishment of 'Mineral Reservations' as well as the wording of the EO 130's Implementing Rules and Regulations (IRR). Specifically, Section 5 of the said Implementing Rules and Regulations (IRR) is written as follows:

> *The MGB shall determine and recommend to the Office of the President, through the DENR Secretary, the declaration of areas covered by Mineral Agreements into mineral reservation pursuant to Section 9 of DAO No. 2010-21.*

This echoes and reinforces what was previously stated in the Executive Order No. 79 which refers to the moratorium of mining. If the government decides to classify areas as 'Mineral Reservation' areas, the affected industry will be subject to further royalties of 5% of the market value of the gross output of minerals extracted in accordance with Section 13 of DAO 2010-21. With respect to cement and infrastructure, **and if the classifications as Mineral Reservation Areas are pursued, it may directly equate to additional costs which may adversely affect government infrastructure projects.** Additionally, the imposition of mineral reserve status on existing mining tenements may be inflationary. This could also impose a heavy burden on consumers, and may render affected industries uncompetitive. In consideration of the foregoing, we respectfully **request the concerned government agencies to reconsider its proposal on the establishment of mineral reservations.**

Level playing field in the construction industry for fully foreign-owned and local contractors alike

Amend Rule 3.1 of the IRR of R.A. 4566 to allow foreign contractors to be issued regular licenses under the same conditions as those posed to domestic players

Licensing of contractors in the Philippines, both foreign and local, is governed by Republic Act No. 4566, as amended by Presidential Decree No. 1846, *"An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes,"* otherwise known as the "Contractors' License Law". The Contractors' License Law provides that the Philippine Construction Accreditation Board ("PCAB") has the authority to issue, suspend and revoke the licenses of contractors.[14]

However, Rule 3.1 of the Implementing Rules and Regulations (IRR) of R.A. 4566 distinguishes between two types of licenses: *regular* and *special*. A regular license is issued to a domestic construction firm or a corporation with at least 60% Filipino equity. A special license may be issued to a joint venture, a consortium, a foreign contractor, or a project owner provided the licensee will engage only in the construction of a single, specific project/undertaking. This distinction is not found in the law.

In an attempt to demonstrate openness to foreign players, the PCAB issued Board Resolution No. 333, s. 2013 "Creating A Quadruple A Or "AAAA" Category Under the PCAB Regular License for Contractors with a Net Worth of At Least 1 Billion Pesos, and Allowing Foreign Contractors to be Licensed Under the said Category."[15] This allows foreign contractors to work on multiple construction projects provided they meet the minimum requirement of Net Worth of 1 Billion Pesos to qualify for AAAA license. This amount of minimum investment is quite high, especially if compared to the minimum stockholders' equity of only 180 Million Pesos for the AAA regular license category.

This discrimination between foreign and domestic contractors in the licensing process lacks legal basis. R.A. 4566 does not provide for any nationality criteria, but only for minimum requirements related to the technical capacity of the contractor. Additionally, Article 48 of the Omnibus Investments Code, as cited in the PCAB IRR, has since been amended and can no longer be used as basis for Rule 3.1. In fact, the Department of Justice has opined in 2011[16] that there is no law that prescribes the restrictions made to the regular licensing of foreign contractors as stipulated in the IRR of R.A. 4566.

The licensing restrictions for foreign contractors are not conducive to fair market competition. According to the Philippine Competition Commission, foreign firms would have to pay twelve times more in application fees compared to local ones.[17] Such a nationality distinction limits the ability of foreign contractors to enter the market and compete with domestic competitors on the basis of a level playing field. The repercussions are not just felt by foreign contractors, but rather, they have detrimental effects on much needed infrastructure development and the wider Philippine economy.

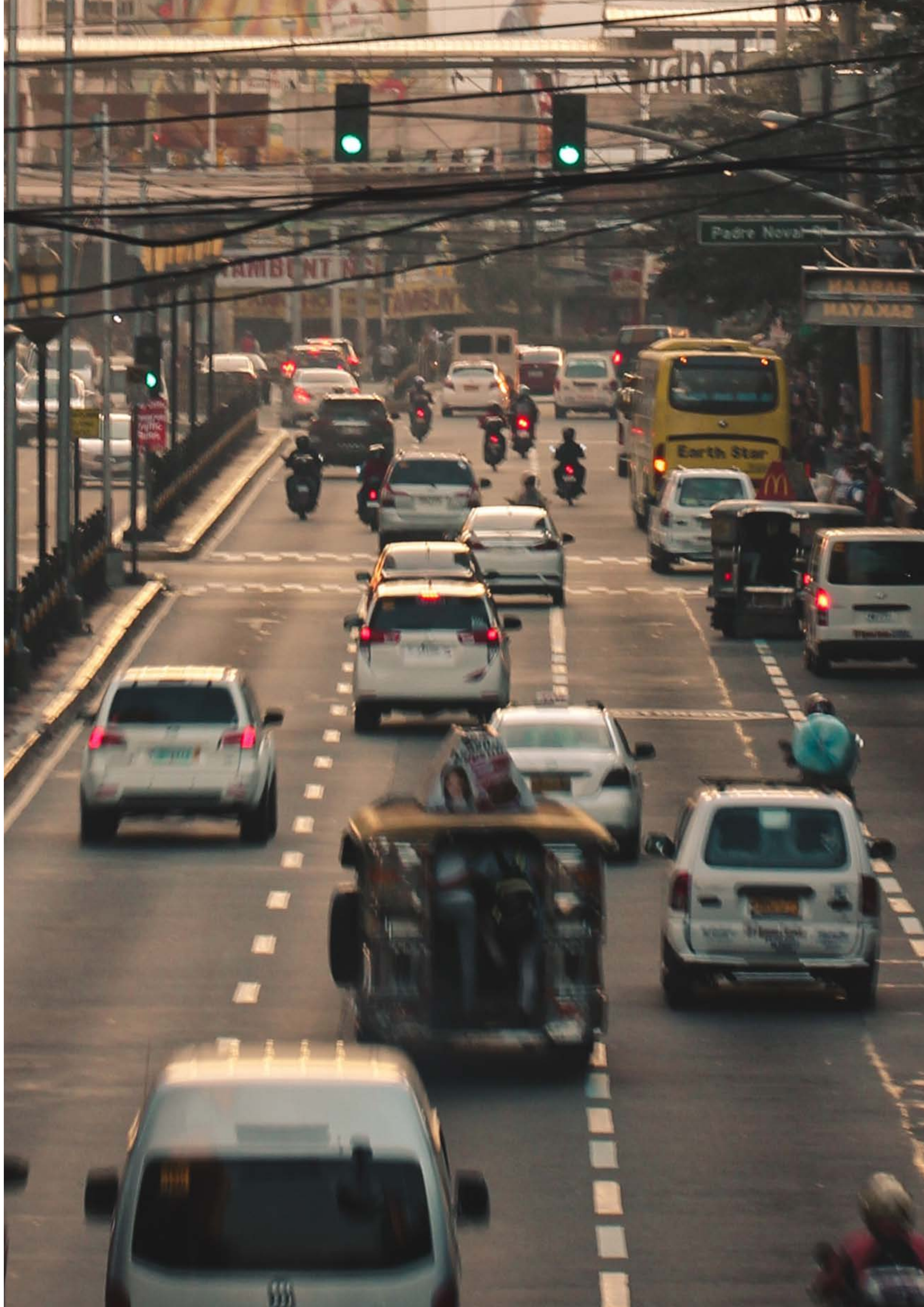
The lifting of the restrictions on foreign contractors and the promotion of fair competition will only bring positive benefits to the economy. Furthermore, the Philippine Competition Commission estimates an additional PHP 210 billion worth of private construction activities, particularly in the residential

14 Section 5, Article I, R.A. No. 4566, "An Act Creating The Philippine Licensing Board For Contractors, Prescribing Its Powers, Duties And Functions, Providing Funds Therefor, And For Other Purposes"
15 Construction Industry Authority of the Philippines. PCAB Classification/ Categorisation table. Retrieved from https://ciap.dti.gov.ph/content/philippine-contractors-accreditation-board
16 DOJ LML M-21I11-622 dated 21 September 2011
17 Philippine Competition Commission (2017). Anti-Competitive Effects of Regulatory Restrictions: The Case of the Construction Sector (01-2017). Retrieved from http://phcc.gov.ph/wp-content/uploads/2017/03/PolicyNote_20170316.pdf

condominiums, commercial, industrial, and institutional segments, should the construction sector be liberalized.[18]

We therefore recommend that PCAB reviews and amends Rule 3.1 of the IRR of R.A. 4566, to allow **foreign contractors to be issued regular licenses under the same conditions as those posed to domestic players** and therefore align the contractors' licensing process with the principles of fair competition and transparent market practices, consistent with R.A. 4566, the Foreign Investment Negative List and the policy of the State to rationalize investments.

The benefits for infrastructure development, employment generation and innovation, knowledge and technology transfers that increased competition in the infrastructure sector will create, will have a positive spillover effect to the wider economy and will be a significant step forward towards attracting more FDI in the infrastructure sector and conveying the message that the Philippines is open for business.



18 Ibid.

ASSESSMENT OF 2019 RECOMMENDATIONS

ADVOCACY	COMPLETED/ SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS/ RETROGRESSION
PCAB licensing for fully foreign owned contractors			Several hearings were conducted on this matter. However, there have been no significant positive developments towards the creation of a level-playing field fully foreign-owned contractors since the last version of the ECCP Infrastructure Advocacy Paper.
Lifting of the moratorium on new mining agreements*		Last April 2021, President Duterte signed Executive Order No. 130 of 2021 which amends Section 4 of Executive Order No. 79 of 2012. With this, the government can enter into new mineral mining agreements subject to compliance with the Philippine Mining Act of 1995 and other applicable laws, rules, and regulations. While the issuance of the said EO is a welcome development, we respectfully request the concerned government agencies to reconsider its proposal on the establishment of mineral reservations. Should the classifications as Mineral Reservation Areas be pursued, these may directly equate to additional costs which may adversely affect government infrastructure projects. Additionally, the imposition of mineral reserve status on existing mining tenements may be inflationary. This could also impose a heavy burden on consumers, and may render affected industries uncompetitive.	
Imposition of additional mining excise taxes		On fiscal regime for the mining industry, last November 2020, Congress listed HBN 6135 as among the top priority legislations for COVID-19 recovery. The said bill has already hurdled the committee level. Through several engagements with government, there was an understanding of the industry position to differentiate taxes between metallic vs. non-metallic mining.	

**Note: This was not part of the 2019 ECCP Infrastructure and Transportation Advocacy but was later on advocated through an ad hoc position paper.*

EUROPEAN CHAMBER OF COMMERCE
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19th Floor, Philippine AXA Life Center Bldg.,
Sen. Gil Puyat Ave. cor. Tindalo Street,
Makati City, Metro Manila, Philippines, 1200

8845-1324 to 26

info@eccp.com

www.eccp.com