ECCP ADVOCACY PAPERS 2019

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EUROPEAN CHAMBER OF COMMERCE OF THE PHILIPPINES

CUSTOMS ADVOCACY PAPER 2019

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.

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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

CUSTOMS
ADVOCACY PAPER
2019

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METHODOLOGY

The 2019 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 2018 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 ECCP PRESIDENT

2019 has truly been a year of opportunities for the European-Philippine business community. This year, we welcome the implementation of the landmark Ease of Doing Business Act as well as the 18th Congress, with its list of legislative economic priorities. We also acknowledge the enactment of laws on Universal Health Care, Tax Amnesty, Energy Efficiency and Conservation, amongst other measures. Steady macroeconomic fundamentals as well as the administration's plans and pronouncements concerning economic reforms also open opportunities for further trade and investments. Furthermore, the ECCP aims to build upon the achievements of the past years in making the Philippine business environment friendlier for European companies and ensuring that these businesses can make the most of these exciting developments.

To further build on such success, several matters need to be addressed in order to fully realize the potential of the European-Philippine economic ties and the Philippine economic growth. It becomes increasingly important for the Philippines to improve global market integration, enhance its competitiveness as a Foreign Direct Investment (FDI) destination, and accelerate infrastructure development in order to achieve much needed sustainable and inclusive growth.

It is in this context that we are pleased to present the 2019 ECCP Advocacy Papers. The ECCP Advocacy Papers include suggested reforms on priority sectors identified by the Chamber and its members. As an advocate of economic liberalization and sustainable economic growth, the ECCP stands ready to support the Philippines in making these much needed changes for the mutual benefit of Europe and the Philippines.

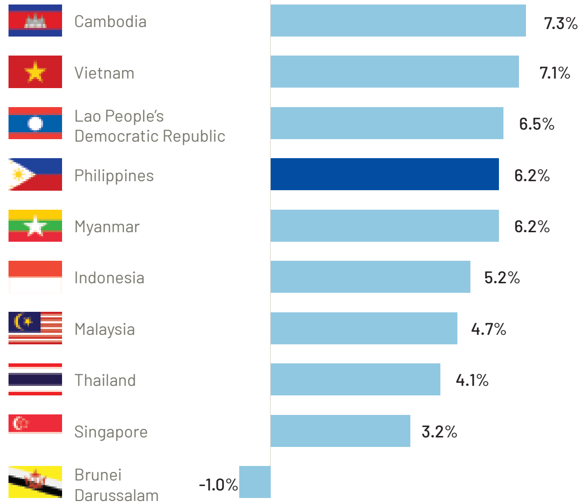
Mr. Nabil Francis
ECCP President

WHERE ARE WE NOW?

THE PHILIPPINES

The Philippines strives to maintain its robust economic performance amidst several challenges. Though the GDP posted a decelerated growth of 6.2% in 2018, it is still considered as one of the fastest-growing countries in the Association of Southeast Asian Nations (ASEAN). With a 10-year average annual GDP growth of 5.4%,[1] the Organisation for Economic Co-operation and Development (OECD) recognizes the Philippines as one of the countries, along with Vietnam, who are expected to lead the ASEAN-5 in terms of economic growth.[2]

GDP Growth Rate, 2018
(% per year)



Source: Asian Development Bank. *Asian Development Outlook 2019*

The GDP was mainly driven by manufacturing, trade and repair of motor vehicles, motorcycles, personal and household goods, and construction. Services accounted for the biggest share with 57.8%, followed by Industry with 34.1%, and Agriculture, Hunting, Forestry and Fishing (AHFF) with 8.1%.[3] The steady flow of remittances from Overseas Filipino Workers (OFWs), the ambitious *Build Build Build* Program, and resilience of the business and knowledge outsourcing industry are anticipated to keep the momentum going in the upcoming years.[4] The GDP Per Capita posted a decelerated growth of 0.5% from 2017, placing the Philippines 5th in rank amongst the ASEAN.[5]

1 World Economic Forum. (2018) *The Global Competitiveness Report*. Retrieved 15 September 2019 from www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf.

2 OECD. (2018) *Economic Outlook for Southeast Asia, China and India 2018: Fostering Growth Through Digitalisation*. Retrieved 14 September 2019 from dx.doi.org/9789264286184-en.

3 Philippine Statistics Authority. (2019). *Gross Domestic Product of the Philippines Highlights for 2018*. Accessed 14 September 2019 from psa.gov.ph/regional-accounts/grdp/highlights.

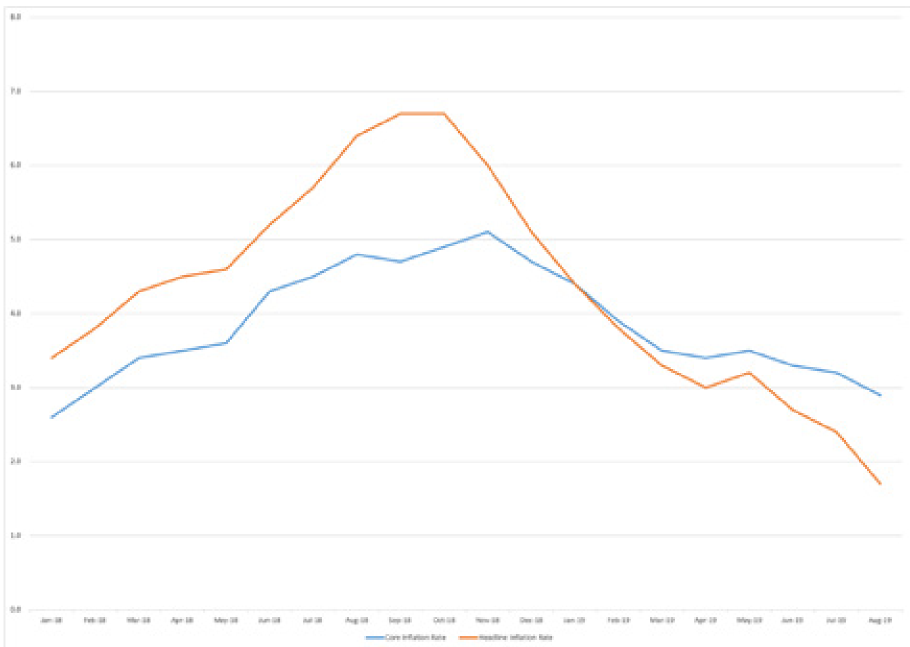
4 OECD. (2018) *Economic Outlook for Southeast Asia, China and India 2018: Fostering Growth Through Digitalisation*.

5 Asian Development Bank. (n.d.) *Economic indicators for the Philippines*. Retrieved 16 September 2019 from adb.org/countries/philippines/economy.

The inflation rate for 2018 steadily rose throughout the year. The headline inflation rate increased from 2.9% in 2017 to 5.2% in 2018. Inflation peaked at 6.7% in the third quarter of 2018, and only decreased during the last two months of the said year. The drastic increase in prices was primarily attributed to the tight domestic supply, impact of natural calamities, and the rising global crude oil rates.[6]

The average core inflation rate reached 4.1% in 2018 – a 2.5% increase from 2017, that could be linked to the impact of fiscal expansion as well as the pass-through effect of a weaker peso.[7] The full year average inflation was brought up to 5.2%, which is above the National Government's announced target range for 2018.[8] However, as of August 2019, the headline inflation rate decelerated to 1.7%, the lowest rate achieved since October 2016 which was at 1.8%. The deceleration was brought about by the slower annual increase in prices of food and non-alcoholic beverages.[9]

Philippines: Inflation Rate, January 2018 – August 2019



Source: PSA and BSP

6 World Bank. (2019) *Philippines Economic Update April 2019: Safeguarding Stability, Investing in the Filipino*. Retrieved 16 September 2019 from documents.worldbank.org/curated/en/442801553879554971/pdf/Philippines-Economic-Update-Safeguarding-Stability-Investing-in-the-Filipino.pdf

7 Ibid.

8 Bangko Sentral ng Pilipinas. (2018) *Inflation Report Q4 2018*. Retrieved 15 September 2019 from bsp.gov.ph/downloads/Publications/2018/IR4qtr_2018.pdf.

9 Philippine Statistics Authority. (2019). *Summary Inflation Report Consumer Price Index (2012=100): August 2019*. Accessed 27 September 2019 from psa.gov.ph/statistics/survey/price/summary-inflation-report-consumer-price-index-2012100-august-2019.

The country's credit rating over the past year proves itself to be stable according to Moody's Investor Service.[10] The table below shows ratings from various agencies throughout the year:

2018 Philippine Credit Ratings		
Date	Agency	Rating
26 April	S&P	BBB Positive
20 July	Moody's	Baa2 Stable
19 December	Fitch	BBB

Source: Standard and Poor's, Moody's, Fitch.

The demographics for 2018 puts the country's economy at a prime advantage. A population of 106.60 million,[11] with a median age of 23.7,[12] adds a young, dynamic and competitive workforce to the country's competitive advantages including its strategic business location in the region and a pursuit for developing infrastructure for global growth,[13] among others.

A 2018 Philippine Statistics Authority (PSA) Survey records the employment rate at 94.7%. Categorically, the Services sector had the biggest share with 56.6%, followed by the Agriculture sector with 24.3%, and the Industry sector with 19.1%.[14] This leaves the unemployment rate at 5.3% and the underemployment rate with 16.4%. Though the statistics on employment displayed a positive growth of approximately 0.3-0.4% from 2017, high levels of unemployment remain to be a recurring challenge for the Philippines.

For international rankings, the 2018 Global Competitiveness Report ranks the Philippines 56th out of 140 countries, with a score of 52.1.[15] The report highlighted the country's Macroeconomic Stability as its strongest pillar, ranking 43rd with a score of 90. However, Innovation Capability was noted as the country's weakest, ranking 67th with a score of 37.2.[16] As for the World Bank Doing Business 2018 Report, the Philippines was given an overall ranking of 113th out of 190 countries. The country's factor of Getting Electricity is ranked best at 31st, while Starting a Business is ranked the worst at 173rd.[17]

10 Moody's Investors Service. (2018) *Announcement: Moody's: Philippines' credit profile supported by strong growth and progress on reform*. Retrieved 16 September 2019 from moodys.com/research/Moodys-Philippines-credit-profile-supported-by-strong-growth-and-progress—PR_387103.

11 Asian Development Bank. (2018) *Philippines: By the Numbers*. Retrieved 16 September 2019 from data.adb.org/dashboard/philippines-numbers.

12 Central Intelligence Agency. (2018). *The World Factbook: Philippines*. Retrieved 15 September 2019 from cia.gov/library/publications/the-world-factbook/geos/rp.html.

13 Philippine Consulate General. (n.d.) *The Philippines possesses several competitive advantages*. Retrieved 18 September 2019 from vancouverpcg.org/trade-01.html.

14 Philippine Statistics Authority. (2018). *2018 Annual Labor and Employment Status*. Accessed 15 September 2019 from psa.gov.ph/content/2018-annual-labor-and-employment-status.

15 World Economic Forum. (2018) *The Global Competitiveness Report*.

16 Ibid.

17 World Bank. (2018). *Doing Business 2018: Reforming to Create Jobs*. Retrieved 16 September 2019 from doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2018-Full-Report.pdf.

With regard to Foreign Direct Investments (FDIs), the Bangko Sentral ng Pilipinas officially registered USD 9.8 Billion in net inflows for 2018, down by 4.4% from the USD 10.3 billion record from 2017.[18] Majority of equity capital placements were mainly channeled to manufacturing, financial and insurance activities, and real estate activities with Singapore, Hong Kong, and Japan as the top partners.[19] With the country's relations with the European Union, three member states ranked in the top ten with Netherlands, Luxembourg, and Germany placing 7th, 8th, and 10th, respectively.[20]

Total external trade amounted to USD 182.15 billion in 2018. The top three major trading partners for the year were People's Republic of China, Japan, and the United States of America.[21] The European Union (EU) immediately followed with a 9.6% share in total trade, valued at USD 17.49 billion. Germany ranked the highest as the Philippines' top trading partner in the EU, followed by the Netherlands, and France. Alternatively, the Philippines is the EU's 41st largest trading partner globally, accounting for only 0.4% of the EU's total trade.[22]

Indeed, the Philippines has made notable progress in recent years. However, much work still needs to be done in order to improve the country's global competitiveness. Substantial economic reforms, especially concerning the ease of doing business as well as the creation of a level playing field have yet to be realized to capitalize on the substantive gains of the Philippines. Furthermore, boosting the Philippine manufacturing sector, deepening the ASEAN integration, and enhancing trade facilitation are all imperative to take the Philippine economy to greater heights.

18 Bangko Sentral ng Pilipinas. (2019). *FDI Registers US$677 million in December 2018; Full-Year Reaches US$9.8 Billion in 2018.* Retrieved 14 September 2019 from bsp.gov.ph/publications/media.asp?id=4967&yr=2019.

19 Ibid.

20 Department of Trade and Industry. (2018) *NET FOREIGN DIRECT INVESTMENTS REPORT*. Retrieved 16 September 2019 from dti.gov.ph/resources/statistics/net-foreign-direct-investments-fdi#graph.

21 Philippine Statistics Authority. (2019). *Highlights of the 2018 Annual Report on International Merchandise Trade Statistics of the Philippines (Preliminary).* Accessed 15 September 2019 from psa.gov.ph/content/highlights-2018-annual-report-international-merchandise-trade-statistics-philippines.

22 European Commission. (2019). *Countries and Regions: The Philippines.* Retrieved 16 September 2019 from ec.europa.eu/trade/policy/countries-and-regions/countries/philippines/.

CUSTOMS ADVOCACY PAPER 2019

INTRODUCTION

The official establishment of the ASEAN Economic Community (AEC) in 2015 is a major milestone in the regional economic integration agenda in ASEAN. High economic growth in member states, coupled with a dynamic demographics and increasingly skilled workforce makes ASEAN one of the most attractive investment and trade destinations for European business.

Opportunities that the region has to offer are expanding as some manufacturers once based in China have relocated to ASEAN, thus, changing the investment trends in the region. The vision to connect intra-ASEAN movement of goods and people of ten high-growth, high-potential markets opens up a unique opportunity for businesses to capitalize on the opportunities which this fast-growing market of over 600 million people has to offer. The ASEAN member states are also expected to largely benefit from high economic growth, job creation, and the creation of regional value chains.

Zooming in on the local scene, the Philippines has been one of the fastest growing economies in Southeast Asia with a 6.2% GDP growth in 2018. Furthermore, the current administration's commitment to increase public infrastructure spending as well as rising domestic demand, remittances, and employment are also expected to heavily fuel the economy. A brief review of the 2018 Philippine trade performance shows that the country's total exports amounted to USD 69.3 million, with a 0.9% increase from the previous year. However, the value of imports amounted to approximately USD 112.8 million, surpassing that of the exports.[1]

In terms of trade facilitation, the Philippines ranked number 82 out of 136 economies in the latest **Global Enabling Trade Report** released in 2016. The report cites the Philippines' three main importation obstacles: burdensome procedures, expensive and inefficient domestic transportation, and the lack of transparency in customs.[2]

Recognizing the importance of customs and trade facilitation, the European Chamber of Commerce of the Philippines (ECCP) urges the relevant government agencies to fully implement the Customs Modernization and Tariff Act (CMTA) in pursuance to the WCO Revised Kyoto Convention; revisit the provisions of Customs Memorandum Order No. 27-2019 and expedite issuance of the Authority To Release Goods (ATRIG); and fully operationalize the National Single Window (NSW) and integrate it with the ASEAN Single Window (ASW).

As for concerns on high shipping costs, the ECCP proposes the following: (1) the charges of the shipping lines must be transparently clarified and justified; (2) International Commerce Terminology (INCOTerms) must be observed and respected; (3) official clarification on the lead government agency responsible for matters relating to shipping rates and port congestion; and (4) the inclusion of the ECCP Committees on Customs, and Infrastructure and Transportation in the technical working group and other consultations for the aforementioned matter.

1 Bangko Sentral ng Pilipinas (2019). Selected Economic Indicators, 2015-2019. Retrieved from http://www.bsp.gov.ph/statistics/spei_new/tab48_sas.htm

2 World Economic Forum. (2016). The Global Enabling Trade Report2016. Retrieved from http://reports.weforum.org/pdf/eti-2016/WEF_ETI_2016_Profile_PHL.pdf

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The following reforms affecting customs procedures and processes were recently adopted:

- In order to implement the Customs Modernization and Tariff Act (CMTA), the Bureau of Customs created its Project Management Office for the purpose of drafting CAOs and CMOs and the implementation of the CMTA. As of writing time, approximately 17 Customs Administrative Orders have been signed and issued since February 2019.[3]
- A draft Joint Administrative Order on Port Congestion was drafted to ease and address port congestion and offer solutions to avoid similar instances.
- Initially suspended last August 2017, the Green Lane has been fully reactivated last 31 May 2019.
- The BOC is ready to implement the European Union Registered Exporters (REX) system for certifying the origin of goods.
- International Chamber of Commerce (ICC) is scheduled to launch 2020 Incoterms in early September 2019 and will come into effect on 1 January 2020.
- In June 2019, the Customs Memorandum Order No. 27-2019 was issued which concerned the adjustment of the period of lodgment of goods declaration and payment of duties and taxes.
- In 2017, the government launched TradeNet, an online platform established as the operating system for all issuances of trade permits and other required documents related to trade facilitation. TradeNet also functions as the country's National Single Window. The TradeNET connection to the ASEAN Single Window (ASW) has been successfully completed by the first quarter of 2018. The Philippine Bureau of Customs also joined the 2nd round end-to-end test with Myanmar and other ASEAN Member States in July and August 2019.

3 Bureau of Customs' presentation at the ECCP Luncheon Meeting last 22 August 2019.

ADVOCACY RECOMMENDATIONS

To improve customs procedures and processes towards a more competitive business environment, ECCP has looked into the following matters:

1. CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA)

> **The Bureau, as a matter of priority, should release all pending draft implementing rules and regulations (IRR), which must be aligned to the WCO Revised Kyoto Convention (RKC), to fully implement the provisions of the CMTA.**

The ECCP applauds the government's initiative to modernize and simplify the customs rules, laws and procedures in the country. Further, we recognize the positive work done in crafting and passing the CMTA in 2016 which is expected to foster transparency and boost the country's participation in international trade.

Through the proper implementation of the CMTA, the Philippines will be able to facilitate transparency, and create a more competitive trade environment in the country as the revised law would align domestic customs procedures with international standards and best practices. Consequently, this will help position the Philippines on equal footing with other countries in terms of its performance in international trade.

With this in mind and in support of the administration's move towards a more competitive business climate in the country, we support and urge the full implementation of the CMTA through the completion of the IRRs.

2. Customs Memorandum Order No. 27-2019

> **Customs Memorandum Order No. 27-2019 must be amended or clarified to clearly provide for a possible extension of time (within which to file the goods declaration) based on valid grounds.**

In June 2019, the Customs Memorandum Order No. 27-2019 was issued, and triggered the adjustment of the period of lodgement of goods declaration and payment of duties and taxes. This CMO seeks to further shorten the period to lodge goods declaration to seven (7) calendar days from discharge of last package from carrier.

The following shipments are considered high risk for abandonment:

(a) shipments availing of tax exemption from the Department of Finance, considering that such processes span two weeks;

(b) those securing Certificate of Origin to avail of preferential duty rate for countries that do not implement electronic certificate of origin (eCO);

(c) goods subject to excise tax and all other goods subject to Authority To Release Imported Goods (ATRIG)[4] which take one to two weeks to secure from BIR; and

(d) goods subject to permit/clearance from Department of Trade and Industry-Bureau of Product Standards which will need one to two weeks to secure.

4 As defined by P&A Grant Thornton, an Authority to Release Imported Goods (ATRIG) is an authority issued by the Bureau of Internal Revenues, addressed to the Customs Commissioner, allowing the release of imported goods from customs custody upon payment of applicable taxes, or proof of exemption from payment thereof, whichever is applicable.

This has been burdensome to the business community especially as commodity clearances stated above cannot be applied for or cannot be made available for the case of Certificate of Origin for shipments from nearby

countries prior to shipment arrival. The manual application for ATRIG usually takes around 7 to 14 days. Hence, the 7-day deadline to lodge may not be aligned with the timeline for commodity clearances from other government agencies.

In view of the foregoing, the ECCP strongly advocates for the amendment or clarification of Customs Memorandum Order No. 27-2019 to clearly provide for a possible extension within which to file the goods declaration based on valid grounds. In the alternative, the BOC may consider reverting to the 15-day period of lodgement under Section 407 of the CMTA in view of the challenges experienced by certain sectors in securing the ATRIG from the BIR.

Towards this end, the Chamber also calls for a speedier processing time for the release of the ATRIG requirement (if it cannot totally be dispensed with) in order for a smoother and more efficient facilitation of flow of goods.

3. High shipping costs and port congestion

Over the years, stakeholders of the Philippine logistics services sector have experienced high shipping costs, excessive and unnecessary fees, charges and surcharges imposed as origin and destination charges, among others. These charges imposed and collected at will by international shipping lines have negatively affected the economy as it increases the cost of importing raw and intermediate goods, escalates the prices paid by the domestic consumer, undermines the government's collection of correct taxes, among others. Unfortunately, such a scheme has adversely impacted the competitiveness of local industries and approximated to cost the Philippine economy about USD 2 billion to USD 5 billion per year.[5]

Given the aforementioned adverse effects, the ECCP advocates that the local charges of shipping lines that do business in Philippine ports must be transparently clarified and justified. Explanations should be made on the nature and basis of such charges. Industry players should also ensure that international norms and rules such as International Commerce Terminology (INCOTerms) are respected.

Furthermore, the ECCP urges the Philippine Government to strictly implement and enforce compliance with existing local and international consumer trade laws to protect the interests of the consumer, promote the general welfare and to establish standards of conduct for business and industry as well as enforce the compliance with International Commercial Terms (INCOTERMS) for the protection and fair treatment of Philippine Importers.

In this regard, the ECCP welcomes the move of the current administration to release an Executive Order which will **clarify which Agency is primarily responsible for matters relating to shipping rates and port congestion.**[6] Further, the ECCP supports the **passage of House Bill No. 4316**. The said Bill seeks to regulate the application of local charges (at origin and destination) imposed by international shipping lines. It also aims to facilitate compliance with existing laws on obligations and contracts as well as International Commercial Terminology (Incoterms). The Chamber also seeks to continue working closely with other stakeholders on this matter and hopes for its inclusion in the technical working groups in order to contribute insights with its foreign business perspective.

5 DTI Export Development Council. (2017). International Shipping Fees.

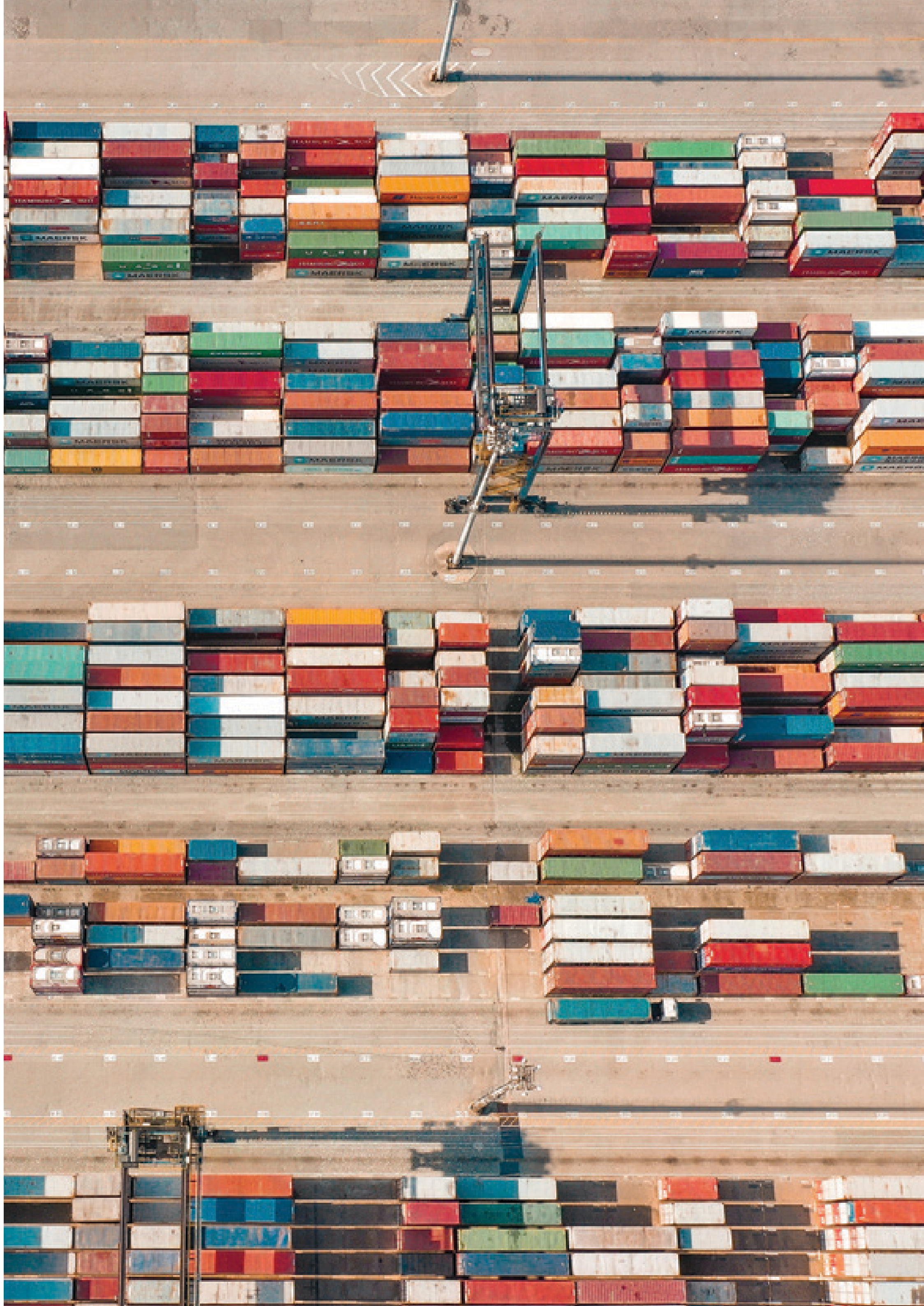
In summary, the ECCP proposes the following: (1) the charges of the shipping lines must be transparently clarified and justified; (2) INCOterms must be observed and respected; (3) official clarification on the lead government agency responsible for matters relating to shipping rates and port congestion; and (4) the inclusion of the ECCP Infrastructure and Transportation Committee in the technical working group and other consultations for the aforementioned matter. At any rate, the ECCP stands ready to support the concerned government agencies in this worthwhile endeavour in the name of enhanced trade facilitation, competition and consumer welfare.

4. NATIONAL SINGLE WINDOW (NSW) AND THE ASEAN SINGLE WINDOW (ASW)

Fully operationalize the National Single Window (NSW) and integrate it with the ASEAN Single Window (ASW).

Inefficiency, red tape and corruption are trade and investment barriers which discourage the doing of business in and with the Philippines. Taking these into consideration, the ECCP highly welcomes the government's initiative to establish a NSW through the TradeNet, which aims to streamline trade procedures in the country and promote a more competitive business environment in the Philippines. The operationalization of the NSW will address the lack of coordination between government agencies, combat smuggling and corruption, and facilitate smoother flow of domestic and international trade in the country.

Moreover, the establishment of the NSW will also allow the country to maximize the benefits of being a member of the Association of Southeast Asian Nations (ASEAN) by utilizing the ASW. Given all these benefits, the ECCP urgently calls for the integration with the ASW, and the full and expedited operationalization of the NSW in all government agencies.



ASSESSMENT OF 2018 RECOMMENDATIONS

COMPETITIVE BUSINESS ENVIRONMENT		COMPLETED / SUBSTANTIAL PROGRESS	SOME PROGRESS	NO PROGRESS / RETROGRESSION
Promotion of Transparency and Integrity	Implement CMTA, the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol.		While the CMTA was enacted on 30 May 2016, the government has yet to release the complete set of IRRs, delaying the full implementation of the CMTA.	
	Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies.		In 2017, the government launched TradeNet which functions as the country's National Single Window. The TradeNET connection to the ASEAN Single Window (ASW) has been successfully completed by the first quarter of 2018. The Philippine Bureau of Customs also joined the 2nd round end-to-end test with Myanmar and other ASEAN Member States in July and August 2019.	
	Enact a Freedom of Information Act.		As of writing time, several bills are pending in both Houses of Congress on the said matter.	

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