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Committee on Subsidies and Countervailing Measures

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SUBSIDIES

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:1 OF THE GATT 1994 AND ARTICLE 25 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

PHILIPPINES

The following communication, dated and received on 28 June 2021, is being circulated at the request of the delegation of the Philippines.

In the interest of transparency, please find herewith the Philippines' new and full notification pursuant to Article XVI:1 of the GATT 1994, and Article 25 of the Agreement on Subsidies and Countervailing Measures (ASCM) covering the period 2019 to 2020.

As provided under Article 25.7 of the ASCM, this notification does not prejudice the legal status, effects or nature of the notified programs or measures under GATT 1994 and the ASCM.

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1 ALL SECTORS

1.1 Investment Promotion Program

1. Period covered by the notification

2019-2020.

2. Policy objective

Encourage investments in activities that will create more jobs and contribute to industry development.

3. Background and authority for the incentives

- a. Executive Order (EO) No. 226 (*Omnibus Investments Code of 1987*), as amended.
- b. EO No. 57, s. 2018 (*Reducing the Rates of Duty on Capital Equipment, Spare Parts and Accessories Imported by Board of Investments (BOI) - Registered New and Expanding Enterprises*)
- c. EO No. 85, s. 2019 (*Reducing the Rates of Duty on Capital Equipment, Spare Parts and Accessories Imported by Board of Investments - Registered New and Expanding Enterprises*)

4. Form of the incentives

Tax concessions.

5. To whom and how the incentives are provided

Qualified Board of Investments (BOI)-registered enterprises, which should apply to avail of the incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

Ongoing. Duty-free importation of capital equipment EO No. 57 s. 2018 ended on 06 July 2019. EO No. 57 is succeeded by EO No. 85 s. 2019 which provides for the same concession.

8. Statistical data

Not available.

1.2 Market Competitiveness Program

1.2.1 Economic Zones and Industrial Areas

1. Period covered by the notification

2019-2020.

2. Policy objective

Transform disadvantaged areas into productive centers of businesses and livelihood.

3. Background and authority for the incentives

- a. Republic Act (RA) No. 7916 (*The Special Economic Zone Act of 1995*), as amended
- b. RA No. 7922 (*Cagayan Special Economic Zone Act of 1995*)
- c. RA No, 7903 (*Zamboanga City Special Economic Zone Act of 1995*)

d. Presidential Decree (PD) No. 538 (*Creating and Establishing the PHIVIDEDEC Industrial Authority and Making it a Subsidiary Agency of the Philippine Veterans Investment Development Corporation Defining its Powers, Functions and Responsibilities, and for Other Purposes*), as amended

4. Form of the incentives

Tax concessions.

5. To whom and how the incentives are provided

Qualified Philippine Economic Zone Authority (PEZA), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZAMBOECOZONE) or PHIVIDEDEC Industrial Authority (PIA)-registered enterprises, which should apply to avail of incentives.

6. Amount of the incentives

Under RA 7916, Income Tax Holiday (ITH) is provided for non-pioneering and pioneering projects if applicable, plus 5% Gross Income Tax (GIT), in lieu of all national and local taxes.

7. Duration of the incentives and/or anytime attached to them

Under RA 7916, ITH is provided for four (4) to six (6) years and/or 5% GIT while registered with PEZA.

8. Statistical data

Not available.

1.2.2 Shared Service Facilities (SSF)

1. Period covered by the notification

2019-2020.

2. Policy objective

Improve the competitiveness of MSMEs by providing them with machinery, equipment, tools, systems, skills and knowledge under a shared system.

3. Background and authority for the incentives

MSME Development Plan 2017-2022.

4. Form of the incentives

Provision of machine, tools, and equipment under a shared system.

5. To whom and how the incentives are provided

Beneficiaries of the project are the actual and potential users of the SSF which are predominantly cooperatives, associations or groups of MSMEs including individual entrepreneurs who may not be members of cooperatives, associations, corporations or organizations.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

Ongoing.

8. Statistical data

Since 2013 to 2020, the government has disbursed PhP 2,014,970,459.78 for the SSF Program. In the same years, there has been a total of 2,782 SSFs established benefitting 202,818 MSMEs.

2 INDUSTRIAL

Industry Promotion Program

2.1 Downstream Oil Industry

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. To liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products; and
- b. To promote and encourage the entry of new participants in the downstream oil industry, and introduce adequate measures to ensure the attainment of these goals.

3. Background and authority for the program

RA No. 8479 (*Downstream Oil Industry Deregulation Act of 1998*).

4. Form of the incentives

- a. Income tax holiday;
- b. Minimum tax and duty of three percent (3%) and value-added tax (VAT) on imported capital equipment;
- c. Tax credit on domestic capital equipment;
- d. Exemption from contractor's tax;
- e. Unrestricted use of consigned equipment;
- f. Exemption from taxes and duties on imported spare parts; and
- g. Such other applicable incentives under Article 39 of Executive Order No. 226.

5. To whom and how the incentives are provided

- a. RA No. 8479 registered projects and/or accredited producers and distributors in the downstream oil industry; and
- b. Qualified BOI-registered enterprises, which should apply to avail of the incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

Ongoing.

8. Statistical data

Not available.

2.2 Mining

1. Period covered by the notification

2019-2020.

2. Policy objective

Promote rational exploration, development, utilization, and conservation of the country's mineral resources in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

3. Background and authority for the program

- a. RA No. 7942 (*Philippine Mining Act of 1995*)
- b. EO No. 79, s. 2012 (*Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources*)

4. Form of the incentives

Tax concessions.

5. To whom and how the incentives are provided

Qualified BOI-registered enterprises with valid exploration Permit, mineral Production Sharing Agreement (MPSA), Financial or Technical Assistance Agreement (FTAA), quarry permit, or mineral processing permit, whichever is applicable.

6. Amount of the incentive

Not available.

7. Duration of the incentive and/or anytime attached to it

Ongoing.

8. Statistical data

Not available.

2.3 Renewable Energy

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. Accelerate the exploration, development and use of renewable energy resources for power generation;
- b. Achieve energy self-reliance;
- c. To reduce the country's dependence on fossil fuels;
- d. Minimize the country's exposure to price fluctuations;
- e. Adoption of clean energy to mitigate climate change;
- f. Promote socio-economic development in rural areas; and
- g. Increase the utilization of Renewable Energy by providing fiscal and non-fiscal incentives.

3. Background and authority for the program

RA No. 9513 (*Renewable Energy Act of 2008*).

4. Form of the incentives

• *Renewable Energy Developers*

- a. Income tax holiday for seven years;
- b. Duty-free importation of RE machinery, equipment and materials including control and communication equipment;
- c. Special realty tax rates on equipment and machinery not exceeding 1.5% of their original cost less accumulated normal depreciation or net book value;
- d. Net operating loss during the first 3 years of commercial operation which had not been previously deducted from gross income shall be carried over as deduction from gross income for the next 7 consecutive taxable years immediately following the year of such loss (NOLCO);
- e. Corporate tax rate of 10% on its net taxable income after 7 years of ITH;
- f. Accelerated depreciation of plant, machinery and equipment may be applied if the project fails to receive an ITH before full operation;
- g. 0% Value-Added Tax rate on the sale of fuel or power generated from RE sources. Zero rated VAT on purchases of local supply of goods, properties and services needed by RE developers in the development, construction and installation of its plant facility as well as the exploration and development of RE resources and its conversion into power;
- h. Tax exemption on carbon credits;
- i. Cash incentive of Renewable Energy developers for Missionary Electrification. A cash generation-based incentive per kilowatt hour equivalent to 50% of the universal charge for the power needed to service missionary areas chargeable against the universal charge for missionary electrification;
- j. Tax credit on domestic capital equipment and services;
- k. Exemption from universal charge; and
- l. Option to pay transmission and wheeling charges of on a per kilowatt-hour basis at a cost equivalent to the average per kilowatt-hour rate of all other electricity transmitted through the grid.

• *Manufacturers, Fabricators and Suppliers*

- a. Tax and duty free importation of components, parts and materials necessary for the manufacture and/or fabrication of RE Equipment and components made after obtaining DOE approval for such importation;
- b. Tax credit on domestic capital components, parts and materials purchase made from DOE-accredited local manufacturers;
- c. Income tax holiday for 7 years from the date of recognition/accreditation; and
- d. Zero-rated value added tax on transactions with local suppliers of goods, properties and services.

• *Biomass Resources Plantation*

- a. Duty-free importation; and
- b. Exemption from Value Added Tax on all types of agricultural inputs, equipment and machinery and spare parts.

• *Purchase of Renewable Energy Component*

- a. Tax rebate for all or part of the tax paid for the purchase of RE equipment for residential, industrial or community as prescribed by DOF.

5. To whom and how the incentives are provided

- a. RA No. 9513 registered RE projects and equipment manufacturers/suppliers; and
- b. Qualified BOI-registered enterprises, which should apply to avail of the incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

In effect and ongoing.

8. Statistical data

Not available.

2.4 Coal

1. Period covered by the notification

2019-2020.

2. Policy objective

To immediately accelerate the exploration, development, exploitation production and utilization of the country's coal resources.

3. Background and authority for the program

- a. Presidential Decree (PD) No. 972 (*The Coal Development Act of 1976*), as amended by PD No. 1174; and
- b. PD No. 1174 (*Amending the Coal Development Act of 1976*)

4. Form of the incentives

- a. Cost reimbursement of operating expenses up to 90% of gross proceeds from production with carry forward of unrecovered cost;
- b. Special allowance of up to 40% of the net proceeds;
- c. Exemption from all taxes except income tax;
- d. Exemption from payment of tariff duties and compensating tax on the importation of machinery, equipment, spare parts and all materials for coal operations;
- e. Entry of alien technical and specialized personnel; and
- f. Right of ingress to and egress from the coal operating contract (COC) area.

5. To whom and how the incentives are provided

- a. PD No. 972 registered projects and/or accredited operator with coal operating contracts/trade/user; and
- b. Qualified BOI-registered enterprises, which should apply to avail of incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

In effect and ongoing.

8. Statistical data

Not available.

2.5 Biofuel

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. Develop and utilize indigenous renewable and sustainably-sourced clean energy sources to reduce dependence on imported oil;
- b. Mitigate toxic and greenhouse gas (GHG) emissions;
- c. Increase rural employment and income; and
- d. Ensure the availability of alternative and renewable clean energy without any detriment to the natural ecosystem, biodiversity and food reserves of the country.

3. Background and authority for the program

RA No. 9367 (*Biofuels Act of 2006*).

4. Form of the incentives

- a. Income tax holiday;
- b. Minimum tax and duty of 3% and value-added tax on imported capital equipment;
- c. Tax credit on domestic capital equipment;
- d. Exemption from contractor's tax;
- e. Unrestricted use of consigned equipment;
- f. Exemption from taxes and duties on imported spare parts; and
- g. Such other applicable incentives under Article 39 of E.O. No. 226.

5. To whom and how the incentives are provided

- a. RA No. 9367 registered biofuels projects and/or accredited producers and distributors of biofuels; and
- b. Qualified BOI-registered enterprises, which should apply to avail of incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

In effect and ongoing.

8. Statistical data

Not available.

2.6 Compressed Natural Gas (CNG)

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. Ensure energy supply in the transport sector through fuel diversification using indigenous natural gas, and use compressed natural gas (CNG) as a clean alternative fuel for transport; and
- b. Develop an implementation plan for a gradual shift to CNG fuel utilization in public utility vehicles (PUVs) and promote natural gas vehicles (NGVs) in Metro Manila and Luzon through the issuance of directives/orders providing preferential franchises in present day major routes and exclusive franchises to NGVs in newly opened routes, and other preferential incentives

3. Background and authority for the program

E.O. 290 (Implementing the Natural Gas Vehicle Program for Public Transport or NGVPPT)

4. Form of the incentives

- a. Income tax holiday
- b. 1% rate of duty on imported NGV, NGV engines and other NGV industry related equipment, facilities, parts and components as certified by the DOE;
- c. Issuance by the Land Transportation Office (LTO) Certificates of Compliance with Emissions Standards to NGVs;
- d. Preferential and exclusive franchises from the Land Transportation Franchising Regulatory Board (LTFRB) for NGVs to newly opened routes;
- e. Accelerated issuance by the DENR of Environmental Compliance Certificate (ECC) for NGV facilities and refuelling stations;
- f. Affordable and commercially tenable financial packages from Government Financing Institutions (GFIs);
- g. Manpower development and capability building through training and technology transfer programs;
- h. Attractive CNG prices which translate to a discount to diesel prices; and
- i. Other privileges and incentives that may be subsequently provided.

5. To whom and how the incentives are provided

- a. E.O 290 registered projects; and
- b. Qualified BOI-registered enterprises, which should apply to avail of incentives

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

In effect and ongoing.

8. Statistical data

Not available.

2.7 Oil and Natural Gas

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. Hasten the discovery and production of indigenous petroleum through the utilization of government and/or private resources, local and foreign under the arrangements embodied in PD No. 87

3. Background and authority for the program

- a. Presidential Decree (PD) 87 (Oil Exploration and Development Act of 1972)
- b. Office of the Energy Affairs Circular No. 87-12-003
- c. DOE Circular No. 94-01-01

4. Form of the incentives

- a. Service fee of up to 40% of net production
- b. Cost reimbursement of up to 70% gross production with carry-forward of unrecovered costs
- c. FPIA grants of up to 7.5% of the gross proceeds for service contract with minimum Filipino company participation of 15%
- d. Exemption from all taxes except income tax

- e. Income tax obligation paid out of government's share
- f. Exemption from all taxes and duties for importation of materials and equipment for petroleum operations
- g. Easy repatriation of investments and profits
- h. Free market determination of crude oil prices, i.e., prices realized in a transaction between independent persons dealing at arms-length
- i. Special income tax of 8% of gross Philippine income for subcontractors
- j. Special income tax of 15% of Philippine income for foreign employees of service contractors and subcontractors
- k. Sliding scale allowance from 1.5 percent to 7.5 percent of the gross proceeds granted to the contractor when the aggregate participation in the contract by one or more Filipino Citizens and/or companies is at least 15.0 percent in respect to a Deepwater Contract; and
- l. Allowance of 7.5 percent of the gross proceeds granted to the contractor when the aggregate participation in the contract by one or more Filipino citizens and/or companies is at least 15.0 percent in respect to the drilling of a well by the contractor in water depths beyond 200 meters, whether inside or outside a deepwater area.

5. To whom and how the incentives are provided

- a. PD No. 87, Office of Energy Affairs Circular No. 87-12-003, and DOE Circular No. 94-0101 registered projects; and
- b. Qualified BOI-registered enterprises, which should apply to avail of incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

Ongoing.

8. Statistical data

Not available.

2.8 Power

1. Period covered by the notification

2019-2020.

2. Policy objective

- a. To ensure and accelerate the total electrification of the country; and
- b. To ensure the quality, reliability, security and affordability of the supply of electric power

3. Background and authority for the program

- a. Republic Act No. 9136 (Electric Power Industry Reform Act of 2001)
- b. Executive Order No. 226 (Omnibus Investments Code of 1987)

4. Form of the incentives

- a. Income tax holiday
- b. Exemption from taxes and duties on imported spare parts
- c. Exemption from wharfage dues and export tax, duty, impost and fees
- d. Modified duty rate for capital equipment by virtue of E.O. 313 (modified by E.O 528)
- e. Tax credits
- f. Additional deductions from taxable income
- g. Employment of foreign nationals

- h. Simplification of customs procedures
- i. Importation of consigned equipment
- j. The privilege to operate a bonded manufacturing/trading warehouse subject to custom rules and regulations.

5. To whom and how the incentives are provided

- a. RA 9136 and EO 226 registered projects; and
- b. Qualified BOI-registered enterprises, which should apply to avail of incentives.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

In effect and ongoing.

8. Statistical data

Not available.

2.9 Motor Vehicle

2.9.1 Manufacture and Assembly

1. Period covered by the notification

2019-2020.

2. Policy objective

Accelerate the sound development of the motor vehicle industry in the Philippines.

3. Background and authority for the program

- a. EO No. 156 (*Providing for a Comprehensive Industrial Policy and Directions for the Motor Vehicle Development Program and its Implementing Guidelines*), s. 2002 (now EO No. 877-A although not being fully implemented).
- b. EO No. 877-A (*The Comprehensive Motor Vehicle Development Program*)

4. Form of the incentive

Tax concessions on the importation of completely knocked-down (CKD) parts and components.

5. To whom and how the incentive is provided

BOI-registered enterprises engaged in the manufacture/assembly of motor vehicles.

6. Amount of the incentive

Not available.

7. Duration of the incentive and/or anytime attached to it

Ongoing.

8. Statistical data

Not available.

2.10 Jewelry

1. Period covered by the notification

2019-2020.

2. Policy objective

Encourage the development of the jewelry industry.

3. Background and authority for the program

RA No. 8502 (*Jewelry Industry Development Act of 1998*).

4. Form of the incentives

Tax concessions.

5. To whom and how the incentives are provided

Qualified BOI-accredited jewelry enterprises, which should apply with relevant authorities.

6. Amount of the incentives

Not available.

7. Duration of the incentives and/or anytime attached to them

Ongoing.

8. Statistical data

Not available.
