



January 24, 2022

Business Groups Call for Congress to Ratify Public Service Act amendments before February 5

Philippine business groups and foreign chambers continue to strongly encourage Congress to ratify the bill amending the 1936 Public Services Act before beginning its campaign recess on February 5. The Senate approved the prioritized measure on 3rd reading on December 15, following House approval in March 2020.

The PSA reform is one of the most important for the Philippine economy in many decades and is essential to restoring and eventually exceeding pre-pandemic rates of economic growth. By encouraging large new capital inflows from abroad into critical infrastructure, the reforms will support and enable faster modernization of a range of vital infrastructure, including telecommunication/broadband and air, ground, and marine transportation services. One estimate made in the Congress is that enactment of the House measure will result in over US\$300 billion in new FDI over the next five years, while adding nearly a half percent to the country’s annual GDP growth.

Eventually, consumers will enjoy the benefits of increased competition from more choices of service providers with better technology, pricing, and customer service.

The PSA amendments - along with the enacted Retail Trade Law amendments – should result in a considerable improvement in the ranking of the Philippines by the Organization of Economic Cooperation and Development (OECD) for foreign investment restrictiveness, currently ranked as third most restrictive of 83 countries. This will improve the reputation of the Philippines as an economy that welcomes foreign investment, and annual FDI inflow levels should increase to levels well above Malaysia and Thailand and may even begin to approach Vietnam.

The business groups encourage the bicameral committee to adopt the most liberal provisions between the two versions. In particular, they strongly recommend:

1. Airports and seaports: Operations and maintenance concessions should be allowed for fully foreign-owned companies. The world's best airport and seaport operators could bring world-class standards and technology to serve the Philippine public who travel by air and sea.
2. Tollways/expressways: These vital logistic arteries should be liberalized for foreign investment in the same way as railways and subways. The Senate version classifies tollways as a public utility but not railroad and subways. This is illogical. Indonesia is seeking foreign investors for its 2,818-kilometer Trans-Sumatra Toll Road with 24 segments costing US\$34 billion. The Philippines could do the same.
3. Air carriers – It is essential to lift the foreign ownership restriction to allow an option for our existing air carriers to access foreign capital in case they need it to help them recover from the pandemic and improve or expand their operations. Lifting the restrictions will also lay down an enabling environment for more players, thereby increasing competition in the industry and reducing the cost and improving the quality of air travel for the public, and making our air carriers competitive with international air carriers.
4. Telecommunications must be excluded from the definition of public utility. Likewise, the exclusion of passive infrastructure and value-added services from the definition of “telecommunications” to avoid erecting a new and substantial barrier to the entry of competition in the market for internet services which would stifle the growth of community internet.
5. Public Utility Vehicles (PUVs) should also be excluded from the definition of “public utilities.” In no way are they natural monopolies. This reform will be advantageous to the Philippine economy as it will increase competition in vital domestic land transportation services and result in increased foreign investment helping to modernize the industry. Filipino workers in land transportation businesses would not be displaced as they will remain as drivers and mechanics that service PUVs. Moreover, this reform should allow international carriers to undertake their first and last mile of delivery services to pick up and deliver to customers in the Philippines, as they do in most of the world. Allowing this will encourage these global firms to invest more in international gateways, as they have at Clark, and increase the role of the Philippines as a regional air cargo hub, which in turn will attract new export manufacturing firms to locate in the country. Overall, this reform can result in improvement in the quality and cost of logistics in the country, thereby increasing our economic competitiveness.

6. The reciprocity provision should not prevent important foreign investment from coming to the Philippines, as could the Senate bill provision. When the Philippine economy needs more foreign capital, the law should not require that a Filipino firm be allowed the same in the country of the investor. The reciprocity provision should not be a barrier to needed investment.

Finally, the justified concerns of policy-makers in government for national security should be satisfied by the language in the Senate bill, which restricts state-owned enterprises (SOEs) from owning public services and creates a process for all foreign investments in public services to be reviewed and approved by the president.

This statement is supported by the following organizations:

American Chamber of Commerce of the Philippines
Australian-New Zealand Commerce of the Philippines
British Chamber of Commerce of the Philippines
Canadian Chamber of Commerce of the Philippines
Dutch Chamber of Commerce in the Philippines
European Chamber of Commerce of the Philippines
French Chamber of Commerce and Industry in the Philippines
Financial Executives Institute of the Philippines
German-Philippine Chamber of Commerce and Industry
Japanese Chamber of Commerce & Industry of the Philippines
Korean Chamber of Commerce of the Philippines
Management Association of the Philippines
Makati Business Club
Nordic Chamber of Commerce of the Philippines
Philippine Association of Multinational Companies Regional Headquarters, Inc.
Philippine Cable and Telecommunications Association
Philippine-Swiss Business Council
Semiconductor and Electronics Industries in the Philippines Foundation
Spanish Chamber of Commerce in the Philippines (La Cámara)
US-ASEAN Business Council
U.S. Chamber of Commerce
Women's Business Council Philippines