December 15, 2021
Press Statement

FOREIGN CHAMBERS HAIL SENATE APPROVAL OF PUBLIC SERVICE ACT AMENDMENTS BILL

The members of the Joint Foreign Chambers (JFC) hailed the approval of Senate Bill 2094, which seeks to amend the Public Services Act (PSA). The JFC expressed optimism that the game-changing law will pass in the current Congress as the bill has been certified urgent for immediate enactment by President Rodrigo Duterte.

The PSA amendments bill, along with several investment liberalization bills, are landmark laws in the 18th Congress. The Retail Trade Liberalization Act amendments just lapsed into law and the Foreign Investments Act amendments was recently ratified by both chambers of Congress and will soon be transmitted to the president.

After 3rd reading approval of the PSA amendments bill either a bicam will be convened to reconcile the House and Senate-approved versions or one of the chambers may decide to adopt the other's version of the bill. The House earlier approved its version on March 10, 2020.

Liberalization of the economy is one of the most important measures needed to attain similar levels of foreign investment received by ASEAN neighbors and ensure the Philippine economy's continued recovery from the pandemic.

The approved Senate bill will allow 100% foreign ownership of, among others:

1. Telecommunications
2. Air carriers
3. Domestic shipping
4. Railways and subways
5. Canals and irrigation

Under the approved bill, only the following are classified as public utilities and remain subject to the 60-40 foreign ownership restriction:

1. Distribution or transmission of electricity
2. Petroleum and petroleum products pipeline transmission or distribution systems
3. Water pipeline distribution systems and wastewater pipeline systems
4. Airports
5. Seaports
6. Public utility vehicles (defined as road vehicles that carry passengers and/or cargo for a fee, offering services to the public, namely trucks-for-hire, UV express service, public utility buses, public utility jeepneys, tricycles, filcabs, and taxis)
7. Expressways and tollways

We strongly support the passage of this vital legislation and pledge our efforts to bring the reform to the attention of appropriate firms in our member countries in the United States, Australia-New Zealand, Canada, Korea, Japan, and Europe. We will encourage them to invest in the Philippines and support better public services for the Filipino people with capital and technology. With its large, growing economy, the Philippines will enjoy many benefits when local and foreign firms compete side-by-side and together to provide the Filipino with better services that this reform will bring.

As prescribed in the Philippine Constitution, public utilities must be 60% Filipino-owned, but the Constitution provides no definition of public utilities.

For 85 years the Public Services Act (Commonwealth Act 146) has regulated public services and includes a long list of 25 services which are not natural monopolies and would not usually be considered public utilities under best international practice.

These restrictions have been the basis of the reputation of the country as more closed to foreign investment than most Asian economies. It also created a business environment for the services sector that nurtured oligopolies and weakened competition to the detriment of consumers. Tens of billions of dollars in foreign investment did not come to the Philippines but instead went to our neighbors.

By opening up key economic sectors, particularly telecommunications, transportation and other services, and limiting the definition of public utilities largely to natural monopolies, the PSA amendments bill is expected to create jobs, improve technology, modernize and lower the prices of services to the benefit of Filipino consumers.

Philippine infrastructure consistently ranks 6th behind Indonesia, Malaysia, Singapore, Thailand, and Vietnam in international indices. While the Build, Build, Build program is helping the Philippines to catch up, the PSA amendments bill will allow even more capital to be invested in the country and improve infrastructure services at no cost to the government and taxpayer.

This reform will also improve the international ranking of the Philippines by the Organization of Economic Cooperation and Development from its current unattractive placement as one of the three most restrictive economies in the world for foreign investment in public services.

The PSA amendments will match policies that Singapore, Thailand, and Vietnam already allow and that Indonesia last year opened to foreign investment. It also complies with commitments the Philippines made in the ASEAN Comprehensive Investment Agreement to open investment in services to other ASEAN members, effective in 2012, as part of the ASEAN Economic Community. And it will allow the Philippines to better qualify to be a member of advanced plurilateral trade and investment agreements such as the Comprehensive and Progressive Transpacific Partnership.

Members of the Joint Foreign Chambers are:

American Chamber of Commerce of the Philippines
Australian-New Zealand Commerce of the Philippines
Canadian Chamber of Commerce of the Philippines
European Chamber of Commerce of the Philippines
Japanese Chamber of Commerce & Industry of the Philippines
Korean Chamber of Commerce of the Philippines
Philippine Association of Multinational Companies Regional Headquarters, Inc.