DA: FTI onion order followed procurement rules

THE Department of Agriculture (DA) said a P537 per kilogram of domestic onion order placed by Food Terminal, Inc. (FTI), a unit of the National Food Authority (NFA), followed procurement rules, amid concerns that it paid inflated prices for the commodity, in turn setting a high benchmark price for resellers.

The Office of the Ombudsman announced an investigation into alleged collusion by government officials and the private sector to rig onion prices.

Rex C. Estoperez, Agriculture deputy spokesperson, told reporters on Wednesday that the FTI, a government-owned and -controlled corporation (GOCC), is cooperating with the investigation.

"Let the FTI (disclose the details of) their transaction with the cooperative," Mr. Estoperez said, adding that the DA has nothing to hide because the procurement exercise was above board.

FTI is 99% owned by the NFA, according to the Integrated Corporate Reporting system maintained by the Governance Council for GOCCs, the sector's regulator. It engages in strategic purchasing to stabilize prices. The NFA is in turn an arm of the DA.

According to a Jan. 10 order issued by the Ombudsman, Senior Undersecretary Domingo F. Panganiban was ordered to submit a sworn comment within three days the onion purchase.

The Ombudsman is also asking the DA to explain the shortage of onions and a separate decision to import onions coinciding with the domestic onion harvest.

The DA has also authorized the import of 21,060 metric tons of onions, giving importers until Jan. 27 to land their shipments, as a counter to the high retail price of onions.

Kristine Y. Evangelista, DA spokesperson, said that DA is looking at the farmgate price and studying possible price manipulation somewhere along the supply chain after the onions leave the farm.

DA price monitoring as of Wednesday put the price of red and white onions in wet markets at P350 and P550 per kilogram respectively, against P420 and P600 on Tuesday.

"Price manipulation is a possibility because of the sudden price movement and it is hard to explain... we were looking at who is manipulating the price of onions from cold storage but now we are seeing that the movement of price is in the farmgate," Ms. Evangelista told reporters.

Ms. Evangelista said that the price movements were probably the result of fresh supply from the domestic harvest, adding that price manipulation is suspected, with the DA also looking into how retailers are pricing the commodity. — **Ashley Erika O. Jose**

US chamber pushes for repeal of agri foreign investment cap

THE American Chamber of Commerce of the Philippines (AmCham) has called on the government to remove foreign investment restrictions in the rice and corn industry if it wants to boost farm productivity.

AmCham issued the statement after President Ferdinand R. Marcos, Jr. extended tariff reductions on pork, rice, corn, and coal until the end of December.

"The lower tariff rates across these commodities will help keep these products affordable for the consuming public, which needs a reprieve under this high inflation environment," AmCham Executive Director Ebb Hinchliffe said in a Viber message.

Mr. Hinchliffe said the extension of the low-tariff regime is "only a short-term solution," calling for a "real effort" to improve farm productivity "in order to break the Philippines' over-reliance on imports long term."

"One place to start here is to remove foreign investment barriers in the rice and corn sectors by finally repealing Presidential Decree (PD) No. 194 or the Rice and Corn Law," he said.

Issued in 1973, PD No. 194 itself eased the total restriction on foreign investment imposed by the Rice and Corn Nationalization Law of 1960.

PD No. 194 authorized the then-National Grains Authority (NGA) to admit foreign investment in case of "urgent need" if the entry of the foreign investor is not likely to create a monopoly. The NGA was also tasked with overseeing the transfer of at least 60% ownership to Filipinos over a period it deems suitable.

In 1998, the NGA's successor agency, the National Food Authority, set the period of divestment by foreign companies at 30 years, counting from the start of actual operations.

In May, President Ferdinand R. Marcos, Jr.'s sister, Senator Maria Imelda Josefa Remedios R. Marcos, filed a bill amending PD No. 147.

Mr. Hinchliffe said the decree still "requires mandatory divestment of foreign companies participating in the rice and corn sectors, (including activities like) purchasing, storing, transporting and processing of rice and corn."

"In this regard, we also push for a policy that will allow the tariff revenues for these imported products to be ploughed back into the domestic sectors that need to compete with these imports, akin to the Rice Competitiveness Enhancement Fund created under the Rice Tariffication Law," Mr. Hinchliffe said.

In the third quarter of 2022, production of palay, or unmilled rice, was 3.79 million metric tons (MT), up from the 3.75 million MT a year earlier, according to the Philippine Statistics Authority.

Corn production was 2.35 million MT during the period, up 2.5% from a year earlier, it added.

In a Dec. 23 report, the US Department of Agriculture's Foreign Agricultural Service forecast Philippine rice imports this year at 3.8 million MT, while its corn imports could hit 1 million MT "because of the extension of lower tariffs through 2023 and competitive price quotes for orders going forward, especially from ASEAN member states." — **Kyle Aristophere T. Atienza**

Salary Standardization Law final pay hike takes effect

THE fourth and last tranche of salary hikes for government employees authorized by the Salary Standardization Law took effect on Jan. 1, the Department of Budget and Management (DBM) said.

"The government recognizes the indispensable role of its dedicated personnel in serving our beloved country. We are firmly committed to help them amidst rising prices of goods and services. We hope this latest salary increase will cushion the impact of inflation," Budget Secretary Amenah F. Pangandaman said in a statement on Wednesday.

Republic Act (RA) No. 11466 or the Salary Standardization Law raised public servants' salaries in four phases starting Jan. 1, 2020.

Under the law, the salary increase covers all civilian personnel, whether regular, casual, or contractual, appointive or elective, full-time or part-time, existing at the time of the law's signing or thereafter created in the executive, legislative, and judicial branches; constitutional commissions and other constitutional offices; state universities and colleges; and government-owned or -controlled corporations (GOCCs) not covered by RA No. 10149 or the GOCC Governance Act of 2011.

It also applies to all salaried personnel in local government units (LGUs), whether regular, contractual or casual, elective or appointive; full-time or part-time, existing at the time of the law's passage or thereafter created in LGUs, and all positions for barangay personnel who are paid monthly honoraria.

"Those engaged without employer-employee relationships and funded from non-personnel services (PS) appropriations and budgets shall be excluded from (its) coverage," it added.

Also excluded from the pay hike are military and uniformed personnel, GOCC staff covered by RA No. 10149, and individuals whose services are engaged through job orders, contracts of service, consultancy or service contracts with no employer-employee relationship.

The DBM said that around P48 million is being allocated to conduct a study on the government's compensation structure.

"President Ferdinand R. Marcos, Jr. directed us to conduct a study to ensure that the compensation of all civilian personnel will be generally competitive with those in the private sector doing comparable work to attract, retain, and motivate corps of competent and dedicated civil servants," Ms. Pangandaman said.

"Apart from the conduct of the study, the DBM is also undertaking a review of the rates of the existing benefits being provided to qualified government employees to assess if these may need adjustment in the future," she added. — **Luisa Maria Jacinta C. Jocson**

Supermarket group proposes that gov't help manufacturers source raw materials

A SUPERMARKET industry association proposed that the government aid manufacturers in sourcing raw materials from the Philippines as a means of keeping prices low.

Steven T. Cua, Philippine Amalgamated Supermarkets Association president, said government aid in local sourcing will help temper manufacturer price increases.

"It would augur well for our economy if the (Department of Trade and Industry) reached out to the manufacturing sector and helped them with sourcing local raw materials. Develop the industries which would provide these raw materials and generate employment in the countryside as an added benefit," Mr. Cua told *BusinessWorld* in a Viber message.

The DTI announced in December that a new suggested retail price (SRP) bulletin for basic necessities and prime commodities (BNPCs) is expected to be released this month.

According to Mr. Cua, providing manufacturers access to affordable and quality raw materials will help stabilize BNPC prices.

"The impact of having cheap and reliable quality raw materials will have a proportional effect on the price stability of basic necessities and prime commodities as well as (generate) gainful employment when local food manufacturing is prioritized," Mr. Cua said.

One possible outcome of the sourcing policy, Mr. Cua said, will be to reduce the need for the DTI to periodically review the SRP bulletin due to movements in global prices.

"Initially, maybe review every semester and focus on assisting in the development of the various local food industries and ascertain food security," Mr. Cua said.

"Updating that (SRP) list takes some doing especially as factors affecting prices continue to be fluid and the DTI keeps adding new items to monitor. Global economic analysts seem to be one in saying 2023 will see the ascent of commodity prices," he added.

Trade Secretary Alfredo E. Pascual has said that some of the products that have pending price hike applications include canned goods, milk, coffee, and bread.

"We are in discussions with the manufacturers so we can appropriately assess the need for price increases. We need to check the changes in various inputs to the cost of producing the product," Mr. Pascual said.

The DTI's last SRP bulletin was issued in August, which authorized price increases for 67 out of 218 stock keeping units. The price increases ranged from 3.29% to 10%.

Some of the BNPC permitted to raise prices were canned sardines, coffee, noodles, bottled water, processed milk, detergent soap, candles, and condiments. — **Revin Mikhael D. Ochave**

OPINION

BEPS 2.0: On Pillar 1 and its challenges from a Philippine perspective

TAXWISE OR OTHERWISE
MARIA ISABEL SILPEDES

As multinational entities (MNEs) continue to expand their businesses internationally, Base Erosion and Profit Shifting (BEPS) persists as a major concern by taxing authorities. Given the differences in tax policy among countries, MNEs implement tax strategies that effectively lower their tax bases or shift profits to countries with more favorable tax policy.

To address this concern, the Organisation for Economic Co-operation and Development (OECD), together with the G20 countries, led the BEPS 1.0 initiatives and published a 15-point Action Plan. These BEPS Action Plans were initially published in July 2013 and final reports were published in October 2015. Throughout the years, over 135 jurisdictions have implemented the 15 Action Plans.

These Action Plans tackle tax avoidance and aim to improve the consistency of various international tax rules and promote a more transparent tax environment by providing guidance on transactions such as interest, hard-to-value intangibles, mandatory disclosures and country-by-country reporting, mutual agreement procedures, etc.

While there have been developments on the other Action Plans since their launch, in this article, I'd like to focus on Action Plan 1, which covers the challenges of the digital economy (more commonly known as BEPS 2.0), specifically Pillar 1, considering the recent updates on the House Bill (HB) concerning Digital Services Taxes (DST) and Amount B of Pillar 1.

BEPS 2.0

On October 2021, the two-pillar solution of the OECD was agreed to by 137 countries and endorsed by the Finance Ministers and Leaders of the G20 countries. Since then, draft publications and public consultation documents have been made available as work progresses.

Pillar 1 focuses on the reallocation of residual profits of MNEs to the market jurisdictions where their customers are located, regardless of the presence of a permanent establishment of the MNE in such locations. It entails the determination of "Amount A" and "Amount B."

Pillar 2 aims to implement a tax system wherein MNEs will be subject to a minimum effective tax rate of 15% on income generated in low tax jurisdictions. The scope of the Pillar 2 rules includes all multinational groups with global turnover above 750 million euros, except those which operate pension, investment funds, and international shipping services.

PILLAR 1: AMOUNT A

Going back to Pillar 1, the scope of Amount A includes MNEs with profitability above 10%, based on profit before tax with reference to financial accounting income, with adjustments (also referred to as residual profit), and global turnover above 20 billion euros. Generally excluded from the coverage of this rule are those which operate extractives and regulated financial services, provided that their non-extractives or non-regulated financial services income does not meet the revenue and profitability scope thresholds. On the other hand, for those covered by the rules of Amount A, 25% of the deemed residual profit will be allocated to market jurisdictions with sufficient nexus, using a revenue-based allocation key.

PILLAR 1: AMOUNT B

On the other hand, Amount B aims to simplify and streamline the application of the arm's length principle to in-country baseline marketing and distribution activities, focusing on the needs of low-capacity countries. The qualifying transactions and scoping criteria of Amount B would apply to intra-group transactions where the tested party is a distributor under either buy-sell arrangements or sales agency and commissionaire arrangements, as determined primarily by the level and type of functions performed, assets owned, and risks assumed by the parties to the controlled transaction. The Inclusive Framework of the OECD is currently evaluating the set of scoping criteria for purposes of Amount B, but among the criteria are the documentation of the qualifying transactions in a written contract that would reflect the responsibilities, obligations and rights, and the assumption of risks of the distribution activities.

The recent public consultation document published by the OECD in December 2022 also provided that generally, the transactional net margin method (TNMM) shall be the pricing methodology for determining Amount B, except in cases where local market comparables are available, or if there is a most appropriate method than the TNMM. Work is still ongoing as regards the benchmarking criteria, net profit indicators, and comparability adjustments for purposes of determining Amount B. Nevertheless, the OECD acknowledges that it may be pragmatic to use local or homogenous market comparables if these provide a more reliable arm's length price.

CHALLENGES FROM A PHILIPPINE PERSPECTIVE

Currently, the groundwork and consultations on Pillar 2 are ahead of Pillar 1. Among the challenges in the implementation of Pillar 1 is the removal of DST with respect to all companies.

In the Philippines, the House of Representatives recently approved on third and final reading HB No. 4122, which imposes value-added tax (VAT) on digital transactions. The bill aims to clarify the imposition of VAT on digital advertising services (such as those on search engines and social media platforms), subscription-based services (including music and video streaming subscriptions), and services rendered using information communication technology (ICT)-enabled infrastructure, among others.

Moreover, from a Philippine perspective, there may be gaps that need to be addressed to apply the guidance on benchmarking search criteria, net profit indicators, among others, that will be used for purposes of determining Amount B. This is considering that the Philippine tax authorities under Revenue Audit Memorandum Order No. 1-2019 (otherwise known as Philippine TP Audit Guidelines) provided for certain rejection criteria for purposes of benchmarking and other guidance in conducting their TP audits.

While the implementation of these pillars will largely depend on the large MNEs, mostly from the G20 countries, Philippine affiliates who are part of these multinational groups need to disclose relevant information on their operations (including proper documentation of related party transactions) and profitability to aid in the adoption of the two-pillar approach. In the same vein, the cooperation of the Philippine tax authorities is essential for the success of the envisioned two-pillar solution.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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