DoE shelves plan to establish strategic oil reserve, citing cost

THE Department of Energy (DoE) said the Philippine National Oil Co. (PNOC) will postpone its plan to establish a national strategic petroleum reserve.

Citing concerns about "the useful life of the investment" in light of declining oil use, Energy Secretary Raphael P.M. Lotilla told reporters on the sidelines of a briefing on Monday that cost is also an issue.

Last year, the PNOC was seeking legislative approval for its plan to establish a permanent reserve.

"Of course, it won't (happen) overnight; again, you've got to take a look at what will be the useful life of your investment. These are the things that we are considering," he said.

PNOC described the reserve as a permanent stockpile that will help the Philippines ride out periods of severe supply disruption.

The strategic reserve "is an extensive undertaking which aims to provide an oil stockpile, either crude oil, finished petroleum products, or both. Such magnitude and considerable funding required... will necessitate the implementation of the program in phases, depending on the resources available," the PNOC said on its website.

According to the PNOC, the DoE commissioned the company to conduct a feasibility study and an implementation plan for the reserve.

Mr. Lotilla also said that the DoE is reviewing the work plan and projects of the PNOC.

"We are reviewing their work plan and projects so that they can concentrate on some alternative fuel," Mr. Lotilla said. — **Ashley Erika O. Jose**

House panels approve substitute bill barring LGU interference in Bataan economic zone

TWO House committees approved on Wednesday a substitute bill clarifying the powers of the Authority of the Freeport Area of Bataan (AFAB), which will preclude local government interference, with AFAB also being singled out as an economic zone specializing in space technology locators.

The House economic affairs and trade and industry committees, meeting jointly, approved the bill, which consolidates House Bills No. 7058 and 7181.

The unnumbered substitute bill seeks to amend Republic Act (RA) No. 11453, An Act Strengthening the Powers and Functions of the AFAB, which itself amended RA No. 9728 or the Freeport Area of Bataan Act of 2009.

It also approved amendments proposed by Bataan Rep. Albert S. Garcia exempting domestic enterprises within the freeport from paying value-added tax.

The measure also grants foreign nationals who invest $75,000 either in cash or equipment directly to AFAB or in a registered enterprise eligibility for an investor visa.

In 2022, the AFAB generated P11.3 billion in investment while its locators produced $835 million worth of exports, Economic affairs committee chairman and Negros Oriental Rep. Gerardo P. Valmayor, Jr. said.

The AFAB "has long expressed its role to become an offshore financial center (amid) emerging fintech markets and with the passage of Republic Act No. 11659 (or the Public Services Act)," Mr. Valmayor told the panel.

The trade deficit rose to 27% year on year or $5.74 billion in January, according to the Philippine Statistics Authority. Economic zones are expected to help reverse trade deficits.

The committees also approved House Bill No. 7201, which proposes to create a special economic zone in the municipality of Maria, Siquijor. — **Beatriz Marie D. Cruz**

Rising rice prices reflect increased fertilizer costs, farmers' group says

RICE PRICES are rising even during the dry season harvest, reflecting the higher cost of fertilizer, according to a farmers' organization.

In a Viber message, Raul Q. Montemayor, chairman of Federation of Free Farmers, said high fertilizer prices raised the cost of production for palay (unmilled rice).

In Metro Manila markets, the price of domestically-produced rice between March 1 and March 15 rose P2 per kilogram compared with February levels, while the price of imported rice rose around P4, according to government price monitoring reports.

According to Mr. Montemayor, the dry season crop accounts for about 44% of annual rice production. The harvest for this crop is currently ongoing.

Mr. Montemayor also attributed higher prices to the rising cost of rice in Vietnam, one of the Philippines' top suppliers of the staple grain.

He said that the "overall increase in import prices allowed local prices to inch up."

"We expected this to happen in late 2022, but large imports during the year may have resulted in some delayed reaction which we are seeing now," Mr. Montemayor said.

Citing data from the Bureau of Customs, Mr. Montemayor said that the Philippines imported 3.85 million metric tons of rice in 2022 which was the highest total since the rice tariffication law took effect in 2019.

He said imports do not seem to have kept prices from increasing.

Agriculture Assistant Secretary Rex C. Estoperez said that prices usually increase during the dry season, but agreed that fertilizer costs were a factor.

Mr. Estoperez said that the Philippines has been heavily dependent on chemical fertilizer.

"It might be better to source locally. Either organic or chemical fertilizer, it is better to have (domestic production) so that we are not dependent on imports," he said.

"We still cannot say that the (rice prices) have normalized as the harvest has not peaked yet. We are still dependent on the remaining supply we are importing," Mr. Estoperez told reporters. — **Sheldeen Joy Talavera**

Customs clearing out bottlenecks in agri smuggling prosecutions

THE Bureau of Customs (BoC) said it is seeking to move more quickly on prosecutions of agricultural smugglers in partnership with the Department of Justice (DoJ).

The Bureau said in a statement that it is working with the DoJ on streamlining the communication and case-filing process to bring alleged smugglers to court more expeditiously.

The agency recently seized 18 containers of misdeclared red and yellow onions at the Manila International Container Port as well as 30,000 sacks of misdeclared refined sugar at the Subic Bay New Container Terminal.

It said it also filed four criminal cases before the DoJ against importers suspected of having smuggled agricultural products.

This year, the agency has been set a collection target of P901.3 billion.

This includes P570.3 billion in value-added taxes from imports, P207.4 billion worth of excise taxes, P105.1 billion in import duties and P18.5 billion from other fees.

As of Feb. 28, the BoC reported that it collected P133.38 billion in revenue, surpassing its P124.74-billion target for the first two months of the year. — **Luisa Maria Jacinta C. Jocson**

Wholesale price growth picks up in Jan.

GROWTH in wholesale prices of general goods hit a two-month high in January following an uptick in food commodities, the Philippine Statistics Authority (PSA) said on Wednesday.

Preliminary PSA data indicate that the general wholesale price index (GWPI) rose 7% year on year in January, against the 6.7% growth posted in December and 4.6% from a year earlier.

The January reading was the highest since the 7.2% posted in November 2022.

The acceleration in price growth was attributed to stronger price growth in food (14.2% from 11.7% in December) and beverages and tobacco (6.3% from 5.2%).

However, price growth in the following commodity groups eased year on year during the month: Mineral fuels, lubricants and related materials (14.2% from 22.2%); chemicals including animal and vegetable oils and fats (0.1% from 2.2%); manufactured goods classified chiefly by materials (3.9% from 4.3%); machinery and transport equipment (1.1% from 1.3%); and miscellaneous manufactured articles (3.4% from 3.7%).

Price growth contracted in crude materials, inedible except fuels (27.2% from 17.7%).

Luzon outpaced the national GWPI rate with a reading of 7.2% in January, against 6.9% in December and 4.7% in January 2022.

"The uptrend in the GWPI in Luzon was primarily caused by the 14.9% annual increase in the heavily-weighted food index from the previous month's record of 12.3%. In addition, a higher annual uptick was recorded in the index of beverages and tobacco at 6.1%," PSA said.

Luzon posted the fastest growth in over two months or since the 7.4% reading in November 2022.

The GWPI in Mindanao accelerated to 5.5% from 4.5% in December and January 2022's 4.2%.

Meanwhile, the Visayas GWPI in January slowed to 4.9% from 5.6% in December. It was higher than the year-earlier 3.2%.

"Price pressures remain in the Philippines and rising wholesale prices mirror worsening supply side bottlenecks referred to by the most recent Purchasing Managers' Index (PMI) manufacturing survey," ING Bank N.V. Manila Senior Economist Nicholas Antonio T. Mapa said in an e-mail.

The manufacturing PMI continued to expand in January with a score of 53.5, higher compared with 53.1 in the previous month. A PMI reading above 50 indicates purchasing managers are ordering more materials that will go into manufactured goods or inventory for sale, which is a leading indicator for improving economic conditions.

"Accelerating GWPI could find its way to consumer prices as firms are likely to simply pass on the increased cost of production to buyers," Mr. Mapa added. — **Lourdes O. Pilar**

PHL climate-resilient agri project receives $26.2 million in funding

THE PHILIPPINES will receive $26.2 million worth of international funding for a seven-year project to help climate-vulnerable rural smallholder farmers become more resilient against climate change.

The Philippine proposal was one of two approved for funding in Southeast Asia by the Green Climate Fund (GCF) at its board meeting.

In a statement on Wednesday, the Food and Agriculture Organization (FAO) Regional Office for Asia and the Pacific said the grant will be supplemented by $12.9 million in co-financing by the Department of Agriculture and the government weather service, known as PAGASA.

The project is expected to benefit 1.25 million farmers who will be instructed in climate-resilient farming practices, risk reduction measures and enterprise development, as well as granted access to finance and technology.

"We are truly grateful to GCF for supporting this important and timely initiative that will help Filipino smallholder farmers adapt to mitigate the impacts of the climate crisis on their livelihood," the FAO Representative in the Philippines, Lionel Dabbadie said.

The GCF also approved $43 million for a six-year project in Cambodia benefiting 450,000 smallholder farmers in the Northern Tonle Sap Basin — Cambodia's top agricultural region.

"These two most recently approved projects by the GCF in Southeast Asia are emblematic of the trust placed in FAO's work to deliver with, and on behalf of, our member nations in this region," FAO Assistant Director-General Jong-Jin Kim said. — **Sheldeen Joy Talavera**

OPINION

Penalty woes: A not so beneficial disclosure

TAXWISE OR OTHERWISE

MAXENCIO JR. RIOS

Years after the implementation of Securities and Exchange Commission (SEC) Memorandum Circular (MC) No. 15-2019 updating the General Information Sheet (GIS) to include information on beneficial ownership, the SEC recently issued SEC MC 10-2022 increasing and imposing additional non-financial penalties for non-compliance and providing further guidelines for submission.

As readers may recall, SEC MC 15-2019 categorized "*Beneficial Owners*" into nine, grouped mainly as those either having "*ultimate ownership*," "*ultimate control*" and "*position*" in the reporting corporation. Moreover, the reporting corporations' directors/trustees have since been required to adopt a written procedure for obtaining, updating, and recording the reporting corporation's beneficial ownership information. Board and Senior Management oversight is also a requirement as part of the due diligence measure to ensure that prescribed procedures are observed. Failure to comply with the directive, subjects directors, trustees or officers and the reporting corporation to mainly monetary penalties.

Since its implementation, corporations have submitted the additional beneficial ownership page in their annual GIS. However, submissions are every so often treated with minor regard and frequently do not reflect the needed information. This could be because corporations still struggle to understand the proper approach in determining their beneficial owners, not to mention that most reporting corporations have yet to adopt written procedures or have Board and Senior Management oversight to ensure their compliance.

Despite these challenges, the SEC decided to increase the penalties imposed and included additional non-financial sanctions to "make them proportional, effective, and dissuasive for non-compliance." This move is in line with the recommendations of the Financial Actions Task Force and other international standard setting bodies.

Under SEC MC 10-2022, reporting corporations will no longer be penalized for *failure to disclose* alone but will be sanctioned as well for making false declarations on their beneficial ownership disclosures. Notably, the MC highlights that *Criminal Actions and Criminal Liability* are likewise imposable on persons responsible, on top of the usual administrative sanctions, in accordance with the Revised Corporation Code of the Philippines, as well as other applicable laws, rules and regulations.

As for the monetary penalties, the SEC has substantially increased the imposable fines based on the retained earnings for Stock Corporations and fund balance for Non-stock Corporations. The updated penalties for failure to disclose without lawful cause are as follows:

• *For stock corporations with retained earnings of less than P500,000:*

First Violation – P50,000 *(formerly P10,000)*
Second Violation – P100,000 *(formerly P20,000)*
Third Violation – P250,000 *(formerly P50,000)*
Fourth and subsequent violation – P500,000 *(formerly P100,000)*

• *For non-stock corporations with fund balance of less than P500,000:*

First Violation – P25,000 *(formerly P5,000)*
Second Violation – P50,000 *(formerly P10,000)*
Third Violation – P100,000 *(formerly P20,000)*
Fourth and subsequent violation – P250,000 *(formerly P50,000)*

• For stock corporations with retained earnings or non-stock corporations with fund balance of P500,000 or more but less than P5 million, the penalty is twice the abovementioned amounts.

• For retained earnings or fund balance of P5 million or more but less than P10 million, the penalty is thrice the abovementioned basic penalties.

• Finally, for retained earnings or fund balance of P10 million or more, the penalty shall be four times the basic penalties.

FALSE DECLARATION

Unlike its predecessor, the current MC provides that the SEC, upon its finding *motu proprio* or upon referral by a competent authority, can penalize reporting corporations with a fine of P2 million for any false beneficial ownership information. Most striking is the fact that the SEC can now proceed to dissolve the corporation if after notice and order, the corporation fails to submit complete and accurate beneficial ownership information and a written explanation for the false disclosure.

In addition, it is noticeable that the liability of directors, trustees and officers has been expanded to include false declarations which may subject those responsible to not only a fine of P200,000 but also disqualification to be a director, trustee and officer of any corporation for a period of five years.

OTHER IMPOSABLE PENALTIES

Furthermore, under the MC, if after due notice and hearing, the SEC finds that there is willful violation of the circular or its related orders, or that any person has refused to permit any lawful examination into the corporation's affairs, it is within the SEC's discretion to subject the reporting corporation to the penalty of suspension or revocation of its certificate of incorporation along with other penalties within the SEC's power to impose.

Other updates are the addition of passport details for identified foreign beneficial owners and the standardization of the period to submit updates in the disclosures which should now be done within 30 calendar days after such change has occurred or became effective.

While the SEC's move in ensuring compliance is laudable, it bears highlighting that the issues being addressed may not always be due to the reporting corporation's deliberate refusal to declare but rather the apparent lack of clear-cut parameters and procedures to determine their beneficial owners. Perhaps another circular on the matter in tandem with the current one on penalties will balance the gravity of the heavier monetary sanctions and harsher non-financial penalties considering that the very existence of reporting corporations is now at risk in the event of non-compliance.

Ultimately, ensuring compliance through the imposition of harsher penalties is never an issue if only the regulations sought to be enforced are clear in terms of procedure and its intended mandate. Otherwise, the graver penalties will only end up burdening reporting corporations which are already being plagued by numerous compliance requirements.

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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