

## Marcos hopes to avoid rice imports with 'luck'

PRESIDENT Ferdinand R. Marcos, Jr. said he does not consider the supply-demand situation for rice to constitute a "crisis," though he acknowledged that the supply of rice could tighten in the near term.

"We are watching and waiting to see what the production levels are going to be after the last planting season," he said at a livestreamed briefing. "We are keeping the option of importing

open," he added, though that might not be necessary "as long as we are a little lucky."

Mr. Marcos, who also heads the Department of Agriculture (DA), said the rice supply is sufficient to keep prices stable, adding that imports will be considered if natural disasters affect the harvest.

The DA said on Tuesday that the Philippines aims to be self-sufficient in rice production by 2027.

The Philippines is the second-biggest rice importer behind China, shipping in more than three million tons of rice yearly, mainly from Vietnam.

The DA's 2023 supply outlook estimates the national supply at 16.98 million metric tons, while demand is projected at about 15.29 million metric tons.

Agriculture Deputy Spokesman Rex C. Estoperez said at

a briefing on Tuesday that the National Food Authority will build its buffer stock by offering to procure grain from farmers at prices competitive with those offered by private traders.

The supply is expected to remain sufficient despite an expected El Niño dry spell, which could turn into a full-blown drought if sufficiently severe. — **John Victor D. Ordoñez**

## Two potential investors evaluating \$10 billion in nickel processing projects

THE Department of Trade and Industry said it hopes to land \$10 billion worth of investment in nickel processing operations from two interested parties.

Trade Undersecretary Ceperino S. Rodolfo told reporters in chance remarks in Taguig City on Wednesday that two companies have expressed interest in operating nickel processing businesses, one of which is Chinese.

Domestic nickel processing will allow the Philippines to capture more value than the current arrangement of exporting ore. Domestic processing could also support Philippine ambitions to join the global supply chain for electric vehicles.

According to Mr. Rodolfo, the two companies are investing about \$5 billion each in their respective nickel processing operations.

He said the Chinese investor is seeking partners and has opened a representative office in the Philippines, while the non-Chinese investor is currently conducting preliminary studies.

Mr. Rodolfo said the Chinese investor could register its project with the Board of Investments as early as this year if it is able to sign a memorandum of understanding with its local partners.

Mr. Rodolfo added that the government is currently studying imposing a tax of up to 10% on nickel ore exports.

"When we implement a policy, we will have to make sure that it will have a commercial impact meaning that it will bring in the investments. We need to make sure that whatever policy that we issue will really have the desired outcome, which is to have nickel processing (businesses) that will increase the value-added of our nickel ores," Mr. Rodolfo said.

Nickel is used in the production of lithium-ion batteries for electric vehicles.

In 2022, nickel accounted for 49.4% or P117.58 billion of the Philippines' P238.05 billion in metallic mineral production, according to the Mines and Geosciences Bureau. — **Revin Mikhael D. Ochave**

## Vis-Min grid connector project seen hitting full capacity by July

THE Department of Energy (DoE) said the Mindanao-Visayas Interconnection Project (MVIP), which has been in test operations since March, is expected to build up to a full load of 450 megawatts (MW) by July.

"The MVIP... started testing and commissioning... with only 80 megawatts (MW)," Energy Undersecretary Rowena Cristina L. Guevara said via Zoom on Tuesday.

"They are going to increase that until we reach July, back and forth; currently, we are only testing it one way," Ms. Guevara said.

"They have to do the lines one by one and then if both work, going to Visayas and Mindanao then we can do 225 MW half capacity back and forth (which) will happen sometime in June and then 450 MW by the time we reach July," she added.

The P52-billion MVIP, a project of National Grid Corp. of the Philippines, will result in the connection of the country's three main grids, enabling each region to supply surplus electricity as needed.

The DoE is also planning to launch a unified Wholesale Electricity Spot Market once the MVIP is fully operational.

The DoE is looking at a unified electricity spot market to allow

Mindanao to trade power while easing the demand pressures on the Luzon grid.

The MVIP was certified in 2018 as an Energy Project of National Significance, granting it an expedited approval process. It was initially targeted for completion by December 2020, though it was ultimately delayed by the pandemic. — **Ashley Erika O. Jose**

## Austria in discussions with PHL to fill worker shortage, including healthcare industry

THE Department of Migrant Workers (DMW) said it met with a delegation from Austria to discuss the possibility of expanded worker deployments to address Austrian labor shortages, particularly in healthcare.

In a statement issued late Tuesday, the DMW said representatives from the city government of Vienna and the Austrian Federal Economic Chamber met with Migrant Workers Secretary Maria Susana V. Ople on Tuesday.

Gunther Wiesinger, chairman of the Austria Vienna Association of Healthcare Facilities at the Austrian Chamber of Commerce, said Austria needs about 60,000 to 75,000 healthcare workers, with 200,000 job openings across all industries.

There are about 5,824 overseas Filipino workers in Austria, with 1,220 of these in the hospitality and food service industries and 749 in healthcare and social work, the DMW said, citing 2022 government data.

The DMW, Department of Health, and the Commission on Higher Education plan to launch a scholarship fund for nursing students to ensure employment opportunities after they graduate, Ms. Ople told the delegation.

Ms. Ople noted that the Department of Foreign Affairs advised the government to sign a memorandum of understanding to set guidelines for labor agreements between Austria and the Philippines.

Austrian Ambassador to the Philippines Johann Brieger said both countries will benefit from increased worker deployments to Austria.

"Our partnership with the Philippine government through the DMW will create a win-win situation, providing employment opportunities for skilled Filipino workers while contributing to the growth of Austria's economy."

In January, Ms. Ople said the government is hoping to conduct discussions with Romania, Hungary and Portugal to conclude more labor agreements. — **John Victor D. Ordoñez**

## Sugar industry sees El Niño reducing output by 10-15%

SUGARCANE production may drop 10-15% depending on the severity of the El Niño dry spell expected this year, a sugar industry official said.

"For a starting figure, a drop of around 10-15% in production, (equivalent to) 180,000-200,000 metric tons (MT) of sugar might not be harvested... 200,000 (MT) is about four million bags," United Sugar Producers Federation President Manuel R. Lamata told reporters via Zoom on Wednesday.

Mr. Lamata said a six- to eight-month dry spell may cause cane farmers with no access to water to stop farming.

On Tuesday, the Philippine Atmospheric, Geophysical and Astronomical Services Administration said the likelihood of an El Niño event in the fourth quarter has risen to 80%.

"If that really happens, that would be worse, not just for sugar but all agricultural products... Everything that's agricultural will really be hit," he said.

Pablo Luis S. Azcona, board member and planter's representative from the Sugar Regulatory Administration (SRA), said that the impact of El Niño on sugarcane production will likely be reflected in the next cropping season.

"At this moment, (most sugar is in) the vegetative stage," he told reporters in a separate Zoom briefing.

The cropping season for sugarcane typically starts in early September but last year, some farmers started planting as early as Aug. 15 which seemed to cause a 10% drop in output, he said.

Mr. Azcona said that the SRA is currently validating its production records with the milling season due to end next month.

Aside from reduced output, the cost of farm inputs like irrigation and fertilizer might rise 10%, translating to an increase in the sugarcane farmgate price by P5 to between P50 and P60, according to Mr. Azcona.

Mr. Lamata said solar-powered irrigation pumps could help farmers maintain their productivity.

### SRA ACTING ADMINISTRATOR

Agriculture Senior Undersecretary Domingo F. Panganiban has been designated officer-in-charge (OIC) of the SRA, according to Mr. Azcona.

Citing the SRA charter, Mr. Azcona said the SRA board chairman steps in as acting administrator pending a more permanent appointment.

"(Appointing) an OIC is urgent because we have imports coming in and we still (processing) import clearances, so we need somebody in place," he said.

The Palace confirmed the resignation of former SRA Administrator David John Thaddeus P. Alba on March 15. His departure took effect on April 15, with the Palace citing Mr. Alba's deteriorating health.

In a statement, National Federation of Sugarcane Planters, Inc. (NFSP) President Enrique D. Rojas said that the designation of Mr. Panganiban "sends mixed signals" due to the recent controversy surrounding Sugar Order No. 6.

"Nonetheless, the NFSP grants Usec. Panganiban all the benefit of the doubt, while the propriety and legality of all matters relating to Sugar Order No. 6 is still up for debate," he said.

Large shipments of sugar were brought in via the Port of Batangas earlier this year and were released on Mr. Panganiban's authority. The shipments had arrived before the process for applying for import quotas under SO 6 had expired.

Mr. Panganiban had described the need to import sugar as urgent due to the impact of rising food prices on inflation.

### RECLASSIFICATION

Meanwhile, Mr. Azcona said that about 130,000 MT of refined sugar landed in the Philippines of the 440,000 MT authorized for import by SO 6.

SO 6 required that 100,000 MT of refined sugar be landed "as soon as possible" with another 100,000 MT arriving before April 1.

The remaining 240,000 MT will be retained as a buffer stock, according to instructions issued by President Ferdinand R. Marcos, Jr., in his capacity as Secretary of Agriculture.

Some 86,000 MT has been reclassified for domestic use and is set for release onto the market.

Mr. Azcona said that the suggested retail price for refined sugar has yet to be decided but expects it to remain at about P85 per kilogram.

The SRA has been working on amending a memorandum circular that would allow it to ultimately release smuggled sugar seized and donated by the Bureau of Customs (BoC).

Mr. Azcona has said that the Palace approved the donation of 4,000 tons of refined sugar seized by the BoC to the Department of Agriculture for sale at government-subsidized KADIWA outlets at P70 per kilogram, he said.

On Wednesday, DA price monitoring indicates that refined sugar market prices were between P86 and P110 per kilo, while washed sugar sold for P80-P96, and brown sugar P78-P95. — **Sheldeen Joy Talavera**

### OPINION

## Amendments and assessments: Revisiting the nature of substantial changes

In tax litigation, one of the first questions we ask when elevating an assessment from the Bureau of Internal Revenue (BIR) to the Court of Tax Appeals (CTA) is, "Was the assessment made within the prescriptive period?" This is because when prescription is properly established, we no longer have to argue on the other merits of the case (but we do it anyway, at least to make sure that all bases are covered).

For the uninitiated, an "assessment" is the BIR's finding that a taxpayer still has taxes to pay on top of the ones it has already paid voluntarily. On the other hand, when an assessment has "prescribed," it means that the deadline for making the assessment has lapsed. In other words, when prescription sets in, the BIR can no longer run after the deficiency even if its findings would have been valid.

Generally, the prescriptive period (or the statute of limitations) for the BIR to make an assessment is three years from the last day provided by the Tax Code to file the return for that particular tax, or from the actual date of the filing, whichever is later.

For example, if under the Tax Code, a particular tax return should be filed by April 15, 2020, then the BIR has until April 14, 2023 to make an assessment. However, if the

taxpayer filed that return on July 15, 2020, then the BIR has until July 14, 2023 to issue the assessment.

But what if the taxpayer amended the return after the filing? Should the prescriptive period start from the date when the original return was filed, or from the date the amended return was filed? Does it matter if the amendment was substantial or just formal? What even is a "substantial" amendment?

In the recent case of *Lapanday Foods Corporation v. Commissioner of Internal Revenue* (G.R. No. 186155, Jan. 17, 2023), the Supreme Court answered these questions, removing ambiguities in definitions along the way.

The case involved an assessment on VAT for which, prior to 2023, taxpayers were required to file monthly declarations and quarterly returns. While the Petitioner intended to file its 1<sup>st</sup> Quarterly Return on the last day to file the quarterly VAT return for that period, it instead filed a **Monthly VAT Return (BIR Form 2550M) on April 25, 2000.**

Almost 17 months later, realizing the mistake, the Petitioner filed an **amended 1<sup>st</sup> Quarterly Return on Sept. 4, 2001.** This filing was meant to serve as a correction to the mistaken filing of a Monthly declaration, instead of a Quarterly VAT Return, on April 25, 2000.

The BIR's assessment for deficiency VAT covering the 1<sup>st</sup> Quarter of 2000 didn't come until Jan. 21, 2004, which was more than three years from the filing of the original return on April 25, 2000.

### SUBSTANTIAL VS FORMAL AMENDMENT

The Petitioner claimed that it only introduced a "formal" amendment, or one that merely involved a change in the VAT return's form, but not its substance. Thus, the Petitioner argued, the prescriptive period for assessment should still be reckoned from the filing of the original return (April 25, 2000), citing the Supreme Court's 1965 ruling in *Commissioner of Internal Revenue v. Phoenix Assurance Co., Ltd.*

In *Phoenix Assurance*, the Court ruled that the prescriptive period for assessment should be reckoned from the date of the filing of the amended return because it was "substantially different from the original return."

On this basis, the Petitioner in *Lapanday* argued that the BIR's right to make an assessment on its VAT return should be considered prescribed, because the last day to assess should have been on April 24, 2003. It claimed that there were no substantial changes in the amount it would have paid based on the monthly return it filed.

When the Supreme Court compared the Petitioner's original and "amended" returns (one

being a monthly declaration and the other a quarterly return), it found that even the reported figures were different, not just the form used.

**Despite this, the Court still considered these changes as not "substantial" enough for the prescriptive period to be reckoned from the date of the filing of the amended return.** In other words, although the amendment was "substantive" — since it referred to the substance of the returns — the Court did not deem it "substantial" enough to warrant an interruption of the prescriptive period.

According to the Supreme Court, even with the original return that used the wrong form, the BIR could still have properly determined the Petitioner's deficiency tax. After all, it also had the Petitioner's monthly VAT declarations from the past three months to verify any unreported receipts. Thus, despite the changes in the figures, the two returns were declared to be not substantially different.

All in all, the Supreme Court ultimately ruled that the BIR's assessment for the 1<sup>st</sup> Quarter of 2000 was barred by prescription. After ruling that prescription had set in, the Court did not even go into the merits of the assessment itself.

Fortunately, with the passage of the TRAIN Law, we no longer need to worry about making the same "formal" mistake. Beginning 2023, VAT-registered taxpayers only need to file Quarterly VAT Returns, without Monthly VAT declarations.

Nonetheless, the Court's discussion on the nature of an amendment that interrupts the prescriptive period is still relevant. An amendment of a return, even if it involves changes in the figures and computations, is not "substantial" if the tax payable for the period remains the same.

Prescription, which more or less refers to a "deadline," is one of the most basic safeguards that the law provides for taxpayers. Considering the many returns taxpayers are required to file, not to mention potential exceptions under the law, some confusion is understandable. Nonetheless, this recent case law, among many others, reinforces why it should still be one of the first arguments to consider in disputing assessments.

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