US business delegation keen on RE, infra tie-ups

US BUSINESSES are seeking Philippine partners for renewable energy (RE) and infrastructure projects, the Palace said, citing conversations with US companies who are part of a visiting US-ASEAN Business Council delegation.

In a statement, the Presidential Communications Office said 30 US companies visited the country, the largest such contingent in 40 years.

"We are determined… not just to talk but also to… create real partnerships and to show our commitment in the form of investments," US-ABC President and former US Ambassador to Vietnam Theodore George Osius III said during a visit by the delegation to Malacañan Palace on Wednesday.

Meeting with the US businesses, President Ferdinand R. Marcos, Jr. cited the need for such partnerships to advance the Philippine economy and mitigate the effects of climate change.

"I recognize the critical role that the US and American businesses have played in advancing a robust and inclusive economic growth in the Philippines, not only in this period but for a very long time," Mr. Marcos said, adding that the country is actively participating in the Indo-Pacific Economic Framework for Prosperity.

The framework aims to boost collaboration between the US and the Asia-Pacific, Oceania, East and South Asia, whose goals include developing clean energy solutions.

The President in his foreign trips has urged foreign companies to invest in Philippine green energy.

US-ABC has over 170 members worldwide that generate about $7 trillion in combined revenue and employ more than 14.5 million workers.

Mr. Marcos told the delegation that he will attend the Asia-Pacific Economic Cooperation Summit in November in San Francisco, California.

He said his priorities in the discussions were energy security and tapping technology to bring forward renewable energy adoption.

Democratic US Senator Ladda Tammy Duckworth, who is also visiting, told Mr. Marcos on Wednesday that the US is also interested in collaborating with the Philippines in producing electronic vehicle batteries.

"All efforts to increase the number of power sources lean towards clean energy," the President said.

"With energy security high in the economic agenda, we are particularly interested in sustainable land, water, and ocean solutions that align with our climate goals and support our plans to transform the Philippines into an upper middle-income country by 2025." — **John Victor D. Ordoñez**

Gov't risks depressing agriculture output by extending EO lowering tariffs, farmers say

By Luisa Maria Jacinta C. Jocson
Reporter

THE government's proposal to prolong a low-tariff regime for key agricultural commodities runs the risk of discouraging farmers from growing produce that competes with the imports, farmers' organizations said.

"It appears that the tariff reductions have not been able to significantly and proportionately reduce retail prices. This means that it is the importers and traders who are benefitting from the reduction, at the expense of producers, and with no sizable benefit to consumers," Raul Q. Montemayor, chairman of the Federation of Free Farmers, said in a Viber message.

"Any measure that adversely affects our farmers will discourage them from continuing to farm; when this happens, the long-term price stability of our agricultural products will be compromised," Asis G. Perez, co-convenor of food advocacy group Tugon Kabuhayan, said in a text message.

Last week, Finance Secretary Benjamin E. Diokno said the government is considering extending the validity period for reduced Most Favored Nation tariff rates on pork, corn, rice and coal.

Executive Order (EO) No. 10, which was signed in December, extended the lower tariff rates for imports of swine meat (15% for shipments within the minimum access volume (MAV) quota and 25% for those exceeding the quota), corn (5% for MAV imports and 15% for those beyond the quota), and rice (35% for both MAV and non-MAV shipments.) These rates will be in effect until Dec. 31.

It also kept coal import duties at zero beyond Dec. 31. Rates are subject to review every half year after that date.

"We would have thought that our economic team would finally have the courage to accept the fact that they failed miserably in equating unlimited imports and lowering tariffs on meat, rice and corn as our primal solution to fighting inflation," Samahang Industriya ng Agrikultura (SINAG) Executive Director Jayson H. Cainglet said in a statement.

"Three years since the first EO was signed by then-President Duterte that lowered the tariffs on rice, meat and corn; the reverse has actually happened," he added, referring to still-high prices.

SINAG said domestically-grown well-milled rice had commanded P34-39 per kilogram prior to the EO.

Department of Agriculture (DA) price monitors currently put well-milled rice prices at P42-52 per kilo.

"Lowering tariffs has only benefitted and incentivized a few privileged importers and favored traders," Mr. Cainglet said.

DA price monitors also reported pork shoulder (*kasim*) selling for up to P330 per kilo and pork belly (*liempo*) at up to P390 per kilo.

Mr. Montemayor said that the tariff reduction has also not succeeded in diversifying foreign suppliers of farm imports.

"In the case of rice, more than 85% of our imports came from ASEAN countries during the first six months of 2023, debunking the claims of the economic managers that reducing tariffs on non-ASEAN rice would significantly diversify our sources of rice," he said.

In the seven months to July, the Philippines imported 1.96 million metric tons (MT) of rice, according to the Bureau of Plant Industry.

Vietnam was the top supplier of imported rice during the period, accounting for 89.68% of the total. Much of the rest was from Myanmar and Thailand.

Mr. Cainglet said that imports have become less feasible as a means of keeping up a buffer stock in case of extreme weather events because exporting countries are keeping a lid on rice being shipped overseas.

"Countries with surplus production have been limiting their allocation for exports as a way of increasing their local stocks. Nations across the globe are all protecting their local agriculture and building capacity for self-reliance," he added.

Meanwhile, former Agriculture Undersecretary Fermin D. Adriano said that the tariff cut extension may be necessary if the supply situation tightens.

"If the country is experiencing a shortage of a commodity, leading to higher prices, then there is justification for extending lower tariffs," he said in a Viber message.

The DA has recently called on the private sector to import over a million metric tons of rice amid supply concerns. The DA also announced that it is preparing to import 1.3 million MT of rice.

The rice supply is projected to hit 5.47 million MT in the third quarter, with demand seen at 3.79 million MT. This would bring inventory at the end of the quarter to 1.69 million MT, equivalent to 45 days' demand.

Mr. Montemayor said that the government should focus on supporting farmers instead of relying on imports.

"Given recent developments in the international marketplace, the government strategy should be to encourage domestic production and avoid unnecessary and large tariff cuts which will only discourage producers from expanding their ouput, consequently making us even more reliant on imports," he said.

"Our view is for the government to see the long-term implications of their actions, as opposed to looking for short-term solutions that will permanently damage the viability of our agriculture industry," Mr. Perez added.

Support from the private sector will also be crucial to boost productivity, Mr. Cainglet said.

"The last two cropping seasons have been very positive to our rice farmers because of the extended help of the private sector and the increased fuel and fertilizer subsidies from the government. Farmgate prices have increased and the cost of producing palay (unmilled rice) has been reduced because of these interventions," he added.

"These developments are encouraging farmers to plant and more institutional support from the DA would further encourage the local rice industry," he added.

Mr. Cainglet called on the government to "support our producers and incentivize industry users of food as well as agri-entrepreneurs, promote food sovereignty and do away with the mentality that imports are manna from benevolent importers."

Mindanao allocated 40% of flagship infra projects

ALMOST 40% of the government's 194 flagship infrastructure projects will rise in Mindanao, Finance Secretary Benjamin E. Diokno said.

"To date, we have 194 high-impact Infrastructure Flagship Projects, estimated at P8.3 trillion. Out of these projects, 93 are either ongoing or approved for implementation. Seventy-six are located right here in Mindanao with an indicative total cost of P2.4 trillion," Mr. Diokno said during the Philippine Economic Briefing in Davao on Wednesday.

These include the Davao Public Transport Modernization project, which is the country's "first-ever network solution to urban congestion," Mr. Diokno said.

"We also have the Mindanao Railway Project, the Samal Island-Davao City Connector Bridge, the Davao City Expressway, and the Panguil Bay Bridge, which will be finished by June next year," he added.

Other projects include the Bukidnon airport, the New Siargao Sayak airport, and New Zamboanga airport.

Budget Secretary Amenah F. Pangandaman said Mindanao projects will be receiving P807 billion from the 2024 budget.

"From infrastructure to tourism to clean energy, the island of Mindanao is uniquely positioned to power the country's economic progress and lead our transformation journey in the years ahead," Mr. Diokno added.

Philippine Chamber of Commerce and Industry, Inc. Vice-President for Mindanao Arturo M. Milan said Mindanao has many areas of opportunity for growth.

"There are a lot of bright spots, especially for us here in Mindanao. Transport, infrastructure, healthcare, education, agriculture, digitalization and energy," he said.

However, he noted the need to address high power costs in order to attract more investment.

"In my opinion, the aspect of energy security has to be present. Otherwise, all these bright spots in our economy will not be possible… it will bring the country to an uncompetitive situation compared to neighboring countries, in investment, tourism, and trade," he added. — **Luisa Maria Jacinta C. Jocson**

BIR may exempt small farmers from receipt, invoice requirement

THE Bureau of Internal Revenue (BIR) is studying exempting small-scale agricultural producers from issuing receipts or invoices to make doing business easier for them.

The BIR on Wednesday released draft revenue regulations exempting the sale of agricultural products from the receipts and invoice requirement.

"Provided, however, that small-scale agricultural producers shall record each sale transaction in a simplified sales book containing the date of transaction, description of goods sold or services rendered, registered name, registered address, Taxpayer Identification Number (TIN) of the purchaser if engaged in business, amount of sales, amount withheld if any, and the net amount received," according to the draft rule. — **Luisa Maria Jacinta C. Jocson**

FULL STORY

Read the full story by scanning the QR code <bit.ly/440Khoq>

OPINION

A closer look at the Mutual Agreement Procedure in the Philippines

TAXWISE OR OTHERWISE
KAREN PASCUAL

A year older, a year wiser? More than a year has passed since the BIR issued Revenue Regulations No. 10-2022 (RR No. 10-2022 or the MAP Guidelines), which prescribed the guidelines and procedures for requesting Mutual Agreement Procedure (MAP) assistance in the Philippines. As with any new process, overcoming the learning curve on either side — the government or the taxpayer — is inevitable in the early stages of implementation. With a handful of guinea pigs having gone through or currently undergoing the infancy of implementation, some taxpayers may still be wondering if there is truly any value in pursuing the MAP process vis-à-vis ordinary remedies. One may ask, how is MAP relevant to taxpayers and how does it work?

As of this writing, all 43 tax treaties executed by the Philippine government contain a MAP provision. In a nutshell, the MAP Guidelines bring to life the process agreed in tax treaties allowing for the resolution through mutual agreement of disputes arising from the interpretation or application of tax treaties. This is a particular concern to taxpayers since issues with tax treaty interpretation often lead to double taxation — wherein the taxpayer suffers income taxes imposed by two or more states on the same income — the scenario that all tax treaties seek to avoid. While admittedly domestic MAP experience is still limited, experience in other jurisdictions has proven MAP to be one of the most highly utilized means of eliminating double taxation.

As MAP is a predominantly diplomatic process, the issues are resolved on a state-to-state level, with the taxpayer's active participation mainly limited to lodging the MAP request and laying down the basis to show how the taxation imposed is not in accordance with the tax treaty. Thus, the taxpayer is typically not privy to the negotiations and exchanges between the states concerned. Nevertheless, there is no restriction on the taxpayer-initiator to request status updates from the handling MAP team.

Prior to the availability of MAP, aggrieved taxpayers ordinarily pursued administrative or judicial remedies in one or more countries where the double taxation occurred. With the MAP process, there is now an opportunity to address double taxation efficiently, with MAP functioning as a forum to simultaneously address issues that would otherwise be subjected to potentially piecemeal resolution in two or more countries. Moreover, availing of the MAP process ensures that the issues are heard by highly specialized government personnel attuned to the technicalities and peculiarities of tax treaties. In addition, there are generally no fees involved in initiating a MAP request. Needless to say, this can lead to overall cost-effectiveness and time saving on the part of the taxpayer.

When one avails of MAP, it is presupposed that an earlier administrative measure has been taken by the taxpayer where government action results in double taxation. In initiating the MAP process, the taxpayer must observe the time limit of 2-3 years from first notification of the government action within which to institute the MAP process. This first notification could be in the form of a Final Assessment Notice arising from a tax audit or a ruling denying the claim for treaty benefit.

The MAP Guidelines specify that it could take up to 24 months to process a MAP request. However, the 2021 OECD MAP statistics gives us a glimpse of concrete experience that may be closer to reality. Based on reporting from 127 countries, it took an average of 32.5 months to resolve MAP cases that dealt with transfer pricing issues, while "other" cases took an average of 20.7 months. On this basis, we can expect that it could take the authorities a significantly longer time to resolve cases especially where transfer pricing issues abound.

Likewise, taxpayers should be mindful that the MAP process normally consists of a unilateral and a bilateral stage. If the Philippine competent authority (CA) finds that the taxpayer's request is justified, it will initially attempt to resolve the matter unilaterally without consulting the foreign CA. At this unilateral stage, the importance of adopting a principled approach to resolving the MAP case is amplified; otherwise it runs the risk of losing taxpayer confidence in the process. That is, once the Philippine CA adopts a position on an issue, such a position should be maintained consistently and should not vary depending on which side makes the most revenue for the government. Notably, the MAP Guidelines direct the MAP team to resolve the case independently and objectively, without being influenced in any manner by objectives of the tax auditor or examiner who made the tax adjustments. To this end, it would be beneficial for the Philippine CA to adopt the OECD best practice of publishing issues of interpretation that apply generally to taxpayers in order to safeguard this purpose and further promote transparency in the process.

The case will move to the bilateral stage only when the Philippine CA cannot arrive at a unilateral solution. Note though that, while the MAP provision in tax treaties calls for CAs to endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application or interpretation thereof, the respective CAs are not obliged to enter into an agreement for each individual MAP case presented by a taxpayer. This is especially true given the absence of a mandatory arbitration clause in the prevailing tax treaties of the Philippines. For this reason, even when the CAs have endeavored to resolve a case, there is a danger that the double taxation will persist should the CAs fail to agree for any number of reasons (i.e., impediments imposed by domestic law, stalemates on economic issues, and so on.)

While there may be plenty of room for improvement and refinement with the current MAP process, it cannot be denied that this avenue brings vital assistance for eliminating double taxation. In due time and with more maturity in dealing with MAP, it is inevitable that MAP assistance will be recognized as a principal tool in addressing cross-border issues, leading to greater confidence from taxpayers.

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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