

# Maharlika, OFW protections seen topping President's Saudi agenda

PRESIDENT Ferdinand R. Marcos, Jr. is expected to promote the newly established sovereign wealth fund and discuss protections for overseas Filipino workers (OFWS) during his visit to Saudi Arabia for the inaugural summit between Southeast Asian and Gulf leaders.

Mr. Marcos, who will fly to Riyadh on Oct. 19, is expected to hold a bilateral meeting with the Saudi government and businesses, Foreign Affairs Assistant Secretary Daniel R. Espiritu said at a Palace briefing on Monday.

"Of course, part of the discussion could be the presentation of the Maharlika Fund to the Kingdom of Saudi Arabia and its businesses, the protection of our nationals abroad especially in terms of labor reforms being proposed for the Kingdom of Saudi Arabia, and Arab assistance to develop the Bangsamoro Autonomous Region," he said.

The investment fund has been provided seed capital by state-owned banks and the central bank.

Mr. Espiritu said Mr. Marcos is also expected to hold a bilateral meeting with Bahrain to discuss the 40<sup>th</sup> year of the two countries' diplomatic relationship.

The Association of Southeast Asian Nations (ASEAN) and the Gulf Cooperation Council (GCC) will hold their first-ever summit on Oct. 20, over a decade after the first ministerial meetings between the two organizations in Bahrain in 2009.

"It's very important because the GCC is composed of highly developed Arab economies, and at the same time, they are petrochemical powerhouses, as well as hub and logistics economies," Mr. Espiritu said. "Now, they can help ASEAN in addressing energy and food security."

He noted that Qatar is one of the world's largest producers of fertilizer. "They can fill up the slack or the deficit on the ASEAN side."

Mr. Espiritu said the Gulf countries could also help ASEAN nations with supply chain issues

"since most of these hub economies are advanced in terms of operations of supply chains and ports and shipping and connectivity."

He said dealings with Gulf countries could "indirectly" stabilize fuel prices "because the basic root of the high energy prices are shortages and instability in the region."

"If the two regional organizations can cooperate on that... we can assure ASEAN of continued and consistent volume of supply throughout the year," he added.

The meeting with the Gulf countries coincides with the Gaza war between Israel and Hamas, the Palestinian group in control of the Gaza strip, which has made the region a flashpoint once more after an apparent warming of relations between Israel and moderate Gulf governments.

Mr. Marcos has condemned the Hamas attacks on southern Israel, defending Israel's right to self-defense.

Mr. Espiritu said, "current developments in the Middle East" are expected to be raised in the ASEAN-GCC Summit, but "these countries are not exactly directly involved in the conflict, so probably the discussion will dwell on generalities."

Mr. Marcos' visit to Saudi Arabia will be his ninth foreign trip this year, and the 15th since he assumed office in June 2022.

He has visited China, Switzerland, Japan, the US, the UK, Indonesia, Malaysia, and Singapore this year.

He is set to fly to the US again in November for the Asia-Pacific Economic Cooperation Economic Leaders' Meeting, and to the United Arab Emirates in December for the United Nations Climate Change Conference.

Mr. Marcos spent over P392.3 million last year on his foreign trips. His office is seeking P1.408 billion to fund foreign travel next year. — **Kyle Aristophere T. Atienza**

# 'Smart and green' infra being readied to serve offshore wind industry

THE Department of Energy (DoE) said the nascent offshore wind industry will be served by "smart and green" infrastructure to link the wind turbines to the power grid.

Energy Assistant Secretary Mylene C. Capongcol said in a Viber message on Monday that the department is developing the system "that will define the grid interconnection support" for offshore wind (OSW) projects in aid of the renewable energy (RE) transition.

She made the remarks in response to Senator Sherwin T. Gatchalian's call for the government to hasten the development of transmission facilities for OSW projects.

"The country would be better positioned to attract RE investment if transmission facilities are readily available for these RE facilities, particularly for OSW farms," Mr. Gatchalian said in a statement on Sunday.

To date, the DoE has awarded 79 OSW service contracts this year with a potential capacity of 61.931 gigawatts. All are currently under development.

The DoE has said it is studying upgrades to ports that will serve offshore wind projects, with technical assistance from the Asian Development Bank (ADB).

Nine such ports have been identified, including Currimao, Ilocos Norte; Iloilo City; Bacolod City; Batangas City; Port Irene, Sta. Ana, Cagayan, as well as sites in Camarines Sur and Mindoro.

"These are areas with the highest wind potential and also the areas where there is a clustering of the offshore wind energy service contracts," Energy Undersecretary Giovanni Carlo J. Bacordo told *BusinessWorld*.

Mr. Bacordo said the feasibility study on such works will be completed by April or May.

"(With the) feasibility study, I'm expecting that ADB will identify what ports are ideal for marshaling, manufacturing, operations and maintenance," he said. "I expect also that this will also include the budget that is needed for an

identified port to be repurposed."

Marshaling ports serve as staging grounds to assemble wind turbines, which Mr. Bacordo said will require the most investment.

Philippine National Oil Co. (PNOC) President Oliver B. Butalid has said the company plans to redevelop its 19.2-hectare property in Mabini, Batangas into an integration port to serve OSW projects.

"PNOC manifested its intention to repurpose its existing port for offshore wind, so we look at this move by the PNOC president as a catalyst... (to) sending a strong signal to the private sector that the government is serious in its offshore wind efforts," Mr. Bacordo said.

"There's going to be a heavy capital requirement for the repurposing of existing ports. The (private sector) has to be convinced that there will be returns on their investment and that the government will serve as a partner," he said.

Mr. Bacordo said that the port in Currimao will need about P4.8 billion to be repurposed into an OSW port meeting international standards.

"We're hoping for the private sector to come in for a PPP (public-private partnership) project on these identified ports so that the other ports may also be developed as marshaling ports," he said.

Asked whether there will be construction of new ports, he said: "As per advice from the experts, it is cheaper and faster to repurpose existing ports rather than to build a port from scratch."

Mr. Bacordo said that the DoE is closely collaborating with the Department of Transportation and the Philippine Ports Authority on the project.

"I am expecting that by the period 2028 to 2030, we'll be seeing a lot of public works projects — we're expecting a lot of activities related to offshore wind like already the deployment of offshore wind turbines in the areas of the highest wind potential," Mr. Bacordo said. — **Sheldeen Joy Talavera**

# Multiple ASF, avian influenza vaccines undergoing testing

THE Department of Agriculture (DA) said on Monday that it has received applications from various companies seeking to introduce African Swine Fever (ASF) and Avian Influenza (AI) vaccines onto the Philippine market.

Agriculture Undersecretary Deogracias Victor B. Savellano told reporters that the vaccines are still undergoing trials.

"(They are still under) testing; once approved and we are okay with all the protocols, then we will recommend the vaccines for purchase," Mr. Savellano added.

He said that the DA has received five bird flu vaccines for evaluation.

He added that the DA aims to seek approval for testing and use of AI vaccines from the President, who is also the Secretary of Agriculture.

"AI vaccines have been around for a long time now but there is no approved protocol for its testing, approval, and use," Mr. Savellano said.

He added that four suppliers have expressed interest in bringing ASF vaccines to the Philippines, with two currently being tested.

"They are in various stages of trials at our Veterinary Laboratory Division of the Bureau of Animal Industry," he said.

He added that until the approval of vaccines, the DA is prescribing heightened biosecurity measures to slow the spread of AI and ASF.

"For both the AI and ASF vaccines, we want to do it fast, but we want to do it safely also. This is a balancing act, but we are streamlining the process to expedite trials, approvals and eventual use," he added.

The DA has said that it is aiming to increase livestock production by five times by 2028.

Separately, Pork Producers Federation of the Philippines Chairman Nicanor M. Briones said in a statement that vaccine testing has only been conducted on starter hogs and not sows and breeders, which are "the ones that produce pigs."

Mr. Briones added that it would take billions more for the hog industry to recover from the effects of the ASF virus.

The House of Representatives said earlier that it would re-allocate about P1.5 billion towards ASF vaccines. — **Adrian H. Halili**

# Awards body names PHL top cruise ship destination in Asia

THE PHILIPPINES was named Asia's Best Cruise Destination 2023 by the World Cruise Awards, the Department of Tourism (DoT) said on Monday.

In a statement, the department said: "This... is a big win for Philippine tourism as it reflects a resounding global preference for our island destinations," Tourism Secretary Christina G. Frasco said.

The Philippines was named the winner on Sunday in Dubai. Other candidates were India, Japan, Singapore, South Korea, Sri Lanka, Taiwan, Thailand, and Vietnam.

The Philippines is projected to receive 128 port calls this year across 33 destinations, which are expected to bring in more than 101,000 passengers and 50,000 crew.

The cruise ships calling at Philippine ports are the Seabourn Cruise Line's *Seabourn Encore*; Silver Cruises' *Silver Shadow* and *Silver Whisper*; MSC Cruises' *MSC Poesia*; The Cunard Line's *Queen Elizabeth*; Norwegian Cruise Line's *Norwegian Jewel*; Coral Expeditions Australia's *Coral Adventurer*, Regent Seven Seas Cruises' *MS Seven Seas Explorer*, Windstar Cruises' *MS Star Breeze*; AIDA Cruises' *AIDAbella*, and various vessels from Blue Dream Cruise and Oceania Cruises.

"Our archipelago of 7,641 islands offers a wide array of cruise experiences, from exploring picturesque coastlines and coral reefs to immersing in local culture and traditions," Ms. Frasco said.

She added that the department will continue to promote lesser-known destinations to expand the cruise tourism portfolio.

"We are grateful that the country's potential to offer exceptional cruise experiences is now acknowledged on a global scale," she said. — **Justine Irish D. Tabile**

## OPINION

# The genuine opportunity to be heard: Due process in tax assessments

As the adage goes, the only certainties in life are death and taxes. Taxes are also the lifeblood of government. The pivotal role of taxes cannot be emphasized enough as the nation focuses on recovering from the COVID-19 pandemic.

Yet, even as we concede the inevitability and indispensability of taxation, it is paramount in any democratic system that this power be wielded judiciously, respecting the rights of taxpayers. Due process is the cornerstone of many legal systems around the world, upholding the principles of justice, protection of individual rights, and the rule of law. No less than the 1987 Philippine Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.

Due process becomes increasingly important in light of the state's plenary power of taxation. In numerous decisions, the Supreme Court has reiterated that between the power of the state to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.

Under Section 228 of the Tax Code, as amended, the Bureau of Internal Revenue (BIR) is required to inform taxpayers in writing of the law and facts on which the assessment is based. It is no surprise that most taxpayers feel

a sense of unease and apprehension when faced with the prospect of a tax audit, driven by concerns about inconsistent rules during the tax assessment process and doubts about whether they will genuinely be heard at any stage of the process.

The BIR's tax assessment process begins with the issuance of a Letter of Authority (LoA). Taxpayers must ensure that a valid LoA has been duly issued and received before the BIR can proceed with its tax assessment. If the BIR finds deficiency taxes during its examination, it shall issue a Notice of Discrepancy (ND). Should the taxpayer and the BIR fail to resolve the issues at the ND stage, a Preliminary Assessment Notice (PAN) will be issued, allowing the taxpayer to respond in writing within 15 days of receiving it.

Within an additional 15 days from the taxpayer's response to the PAN, the BIR will issue a Final Assessment Notice along with a Formal Letter of Demand (FAN/FLD). The taxpayer is required to submit a protest letter within 30 days of receiving the FAN/FLD, which can take the form of either a request for reconsideration or a request for reinvestigation. In the case of a request for reinvestigation, additional supporting documents can be submitted within 60

days from the date of filing the protest. The BIR will then communicate its decision on the taxpayer's protest through the issuance of a Final Decision on Disputed Assessment (FDDA).

In a minute resolution released by the Court in 2019, it was clarified that Section 228 of the Tax Code, as amended, gives the taxpayer 60 days to submit relevant supporting documents in a request for reinvestigation from the date of filing its protest to the PAN, and not the FAN/FLD. This pronouncement by the Court caused confusion among taxpayers as it is contrary to the BIR's interpretation on when the 60-day period to submit additional documents must commence.

Because of this apparent contradiction, the Supreme Court corrected itself in *G.R. No. 261065* dated July 10, and released it to the public on Oct. 4, 2023. In this case, the Court stated definitively that the reckoning point of the 60-day period for the submission of relevant supporting documents in a request for reinvestigation is from the filing of the administrative protest to the FAN/FLD, and not from the filing of the response or reply to the PAN.

In the same decision, the Court also ruled to cancel the deficiency taxes due to the BIR's violation of the taxpayer's right to due process. In this case, the BIR issued the FDDA after 30 days from the taxpayer's filing of the protest and before the lapse of the 60-day period

for the taxpayer to submit additional supporting documents in its request for reinvestigation.

The BIR contended that the taxpayer was not actually deprived of due process, arguing that the essence of due process in administrative proceedings is merely the opportunity to be heard, and the taxpayer was given such an opportunity when it was able to file its protest to the FAN/FLD. In rejecting the BIR's argument, the Court explained that the taxpayer "was denied even the opportunity to present its evidence as would afford it a genuine opportunity to be heard, despite the clear procedural rules giving it a 60-day period within which to provide relevant supporting documents pursuant to its request for reinvestigation."

In another case (*G.R. Nos. 201398-99, October 3, 2018*), the Court also ruled that while the BIR is not compelled to accept the taxpayer's explanations, it must provide a justification for dismissing the same. The BIR is obliged to give the particular facts upon which its conclusions are based, and those facts must appear in the record.

These court decisions underscore the importance of due process, not just in providing a mere opportunity for taxpayers to be heard but in ensuring a genuine opportunity. Taxpayers must be provided with ample time, as permitted by law, to present their evidence, and they should be assured that their

submitted documents will be considered and addressed by tax authorities with reason before arriving at a final decision, be it the acceptance or denial of the taxpayer's claim. The right to present evidence is rendered meaningless if tax authorities can arbitrarily disregard it without a valid explanation.

Balancing the rights of taxpayers and the government's need to collect taxes is essential for promoting transparency within the tax system. In the context of tax audits and assessments, it is important to uphold the principles of fairness and equity, as these processes affect the proprietary rights of specific persons. It is also crucial to emphasize that when taxes are due, they should rightfully be paid to the government.

*Let's Talk Tax is a weekly newspaper column of P&A Grant Thornton that aims to keep the public informed of various developments in taxation. This article is not intended to be a substitute for competent professional advice.*

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