

Rice imports to bolster supply during El Niño

THE Department of Agriculture (DA) said it is expecting just under 500,000 metric tons (MT) of rice imports to arrive soon as the government builds up its reserves for El Niño.

In a statement on Wednesday, Agriculture Undersecretary Roger V. Navarro said arrivals are scheduled for late December until early February, shipped in by private traders.

"We received reports that around 100,000 tons of im-

ported rice has already arrived. This is part of the 495,000 metric tons committed by import permit holders," Mr. Navarro added.

The DA has imposed a 30-day deadline on rice traders to bring in their imports. The deadline starts running from the date of issuance of the Sanitary and Phytosanitary Import Clearance.

Secretary Francisco Tiu Laurel, Jr. told a House of Represent-

tatives committee that he has instructed traders to use up permits for an additional 1 million MT of rice, also within 30 days, to increase supply.

Mr. Navarro added that about 75,000 MT of rice is set to arrive from India during the last week of Dec. until early January.

"The 75,000 metric tons due in the coming weeks is part of the 295,000 metric tons of rice India

has allocated to the Philippines," he said.

In October, the Indian government allocated a 295,000 MT quota for non-basmati white rice to the Philippines. It had earlier banned all imports of non-basmati white rice to stabilize its domestic supply and prices.

On the other hand, 20,000 bags or 1,000 MT of rice also arrived from Taiwan as the first tranche

of its 40,000-bag donation to the Philippines.

"With the arrival of imported rice and the volume harvested by farmers in recent months... the country will have sufficient supply until the next harvest, which starts in March," he said.

The DA has said that full-year imports may hit 3.6 million MT. This is below the 3.8 million MT projection of the US Department of Agriculture.

As of Dec. 14, rice imports have amounted to 3.22 million MT, according to the Bureau of Plant Industry.

According to PAGASA (Philippine Atmospheric, Geophysical and Astronomical Services Administration), the government weather service, El Niño is expected to intensify between January and May, with its effects felt by 63 provinces in the form of drought and dry spells. — **Adrian H. Halili**



Pork prices to remain high due to cost of feed, lingering ASF

By **Adrian H. Halili**
Reporter

PORK PRICES are expected to remain higher until next year, with feed still expensive and African Swine Fever (ASF) lingering in some regions.

"Unless biosecurity measures are installed, which only the big raisers can afford, pork supply will remain unstable. With a growing population, demand will simply outstrip supply," Former Agriculture Undersecretary Fermín D. Adriano said in a Viber message.

"Prices will remain elevated," Mr. Adriano added.

In October, the Department of Agriculture said it is currently in various stages of testing ASF vaccines, with four companies seeking to introduce their products on the market.

Mr. Adriano said that the recent extension of lowered tariffs on commodities like pork, rice, and corn will only ease the supply problem "a little."

On Tuesday, the government approved the extension of lowered pork tariffs at 15% for imports within the minimum access volume (MAV) quota and 25% for those exceeding the quota. The extension of the low-tariff regime was implemented via Executive Order 50.

Additionally, tariff rates for rice remained at 35% regardless of source or volume, while corn was kept at 5% for shipments

within the MAV quota and 15% for those exceeding the quota.

"But with costs of feed ingredients like corn and wheat continually rising, there is no way that pork prices will decline to their old levels," he said.

Edwin C. Mapanao, president of the Philippine Association of Feed Millers, Inc. said in an e-mail that the feed mill industry is currently facing challenges in sourcing raw materials.

Mr. Mapanao added that there is still a need to increase the volume of corn imports to address the deficit of about 2 to 3 million metric tons annually.

The group has called for a standard 5% tariff on corn imports, regardless of volume.

He said corn imports would do more to improve the competitiveness of the livestock industry, as against allowing more meat imports.

Yellow corn makes up 40% to 60% of animal feed. Feed accounts for about 60% of the cost to grow farm animals.

"While other matters impact our competitiveness, addressing feed input sufficiency will certainly improve the livestock situation," Mr. Mapanao said.

He added that the lowered tariffs should not have included meat, as the measure has impacted the livestock industry.

"We believe that this should not be the case considering that it displaces the food value chain by discouraging the expansion of meat producers," Mr. Mapanao said.

BPO group calls CREATE law amendments crucial if industry is to meet 2024 revenue, employment goals

THE IT and Business Process Association of the Philippines (IBPAP) expressed support for amendments to the Corporate Recovery and Tax Incentives for Enterprises (CREATE) law, saying that such reforms would help the industry hit its revenue target of \$39 billion next year.

"IBPAP is looking at a continued growth of 7% to 8% in 2024 with a projected revenue of \$39 billion and 1.84 million full-time employees. We support House Bill No. 8968 (CREATE MORE) as this would support the projected growth of the industry," Celeste Ilagan, chief of policy and regulatory affairs officer for the organization, said via text.

The CREATE MORE measure (CREATE to Maximize Oppor-

tunities for Reinvigorating the Economy) was approved by the House Ways and Means Committee on Nov. 21.

CREATE MORE seeks to allow domestic market-focused companies and exporters, even those inside ecozones and freeports, to continue to enjoy duty exemptions, VAT exemptions on imports, and VAT zero-rating of local purchases as authorized by their respective investment promotion agency (IPA) registrations.

"It is important to maintain the cross-border doctrine/separate customs' territory principle for ecozones and freeports to ensure consistency and clarity in VAT exemption and zero-rating privileges for industry

players registered with IPAs," she said.

IBPAP, which represents an industry also known as the business process outsourcing sector, also sought clarification of the bill's work-from-home arrangements, particularly for companies registered with the Philippine Economic Zone Authority.

"We must become more responsive to the changing needs of existing and potential investors. In the past three years, industry players have implemented various remote work models," Ms. Ilagan said.

She added that the CREATE MORE bill would help attract investors and ease the process of doing business.

"IPAs are the investors' primary contact from their initial exploration of setting up operations in the country. Their confidence in the country's business environment and ease of doing business is driven by their engagement with their IPAs," Ms. Ilagan said.

IBPAP also urged Congress to approve the proposed Open Access in Data Transmission act, amendments to the Cybercrime law, and the Critical Information Infrastructure Protection Act.

"To enhance the country's IT-BPM (information technology and business process management) investment attractiveness, we also need to prioritize digital connectivity and cybersecurity," Ms. Ilagan said. — **Beatriz Marie D. Cruz**

Poverty rate not declining rapidly enough, Ibon Foundation says

THE GOVERNMENT must find sustainable and long-term solutions to generate quality jobs to reduce poverty more rapidly, according to the Ibon Foundation.

"Falling poverty should always be good news. But the government should be asking why poverty is still above pre-pandemic levels after a year and a half of the economy reopening, and despite growth hyped as among the fastest in Asia," Ibon Foundation Executive Director Sonny A. Africa said in a Viber message.

"Poverty persists not because there aren't enough welfare programs but because the economy

isn't creating enough jobs and incomes," he added.

The Philippine Statistics Authority reported a poverty rate of 22.4% in the first half of 2023, lower than the 23.7% from a year earlier. This was equivalent to a poor population of 25.242 million.

The government is hoping to bring the poverty rate to single-digit levels by 2028.

"Poverty incidence even according to the much too low poverty threshold will not be reduced to single digit levels by 2028. Poverty reduction from reopening after 2021 is already an artificially fast

pace but even this isn't enough; what more with poverty incidence actually increasing between 2018 and 2023," Mr. Africa said.

"Poverty is stubborn from high disguised joblessness and because there is so much informality in the economy," he added.

The National Economic and Development Authority (NEDA) said in a statement that the reopening of the economy and lifting of coronavirus disease 2019 (COVID-19) restrictions helped the country recover from the pandemic.

It also noted the government's efforts to hold down inflation and improve labor market conditions.

"The reopening of the economy is certainly the main factor in the reported decline between the first semester of 2021 and the same period in 2023. This isn't a constructive action to reduce poverty though, and is just a passive lowering of restrictions that were too harsh and too long to begin with," Mr. Africa said.

"It's also odd to claim successful efforts to combat inflation — inflation averaging 7.2% in the first semester of 2023 is much higher than the 4% in the same period in 2021," he added. — **Luisa Maria Jacinta C. Jocoson**

OPINION

Post-audits and CARs: The enforcement of taxable gifts

TAXWISE OR OTHERWISE
MARVIN JOSEPH MANUEL

This time of the year marks the peak of giving and receiving gifts among friends and family. As a tax professional, I have often wondered: "Are all gifts subject to donor's tax?" and "Are all transactions that are subject to donor's tax gifts?" These are the questions taxpayers ponder when applying for a Certificate Authorizing Registration (CAR) for share sale transactions.

Under the Philippine Tax Code, in case property (other than real property) is transferred for less than adequate or full consideration, the amount by which the fair value has exceeded the consideration is deemed a gift and subject to donor's tax. An exemption is provided where the transfer is made in the ordinary course of business (e.g., bona fide, at arm's length, and free from donative intent), in which case consideration will be recognized as adequate.

In determining whether a transaction is made in the ordinary course of business, there are no clear-cut guidelines as to what factors or conditions would qualify transactions as bona fide, and free from donative intent. As for the arm's length requirement, it was clarified under Revenue Memorandum Circular 30-19 that the determination of whether the sale of shares of stock not listed and traded in the stock exchange is done at arm's length is a question of fact and not of law. Since an arm's length transaction is a question of fact, it therefore behooves the party seeking to apply the exception to prove that indeed the sale involves no irregularity between unrelated and independent parties.

This would require presentation and reception of reasonable evidence to prove that the sale of the shares is without intent to evade tax and defraud the government (of the tax due thereon). The evidence that should be presented should be viewed in accordance with its relation and relevance to the transaction on a case to case basis.

The Bureau of Internal Revenue (BIR), in some of its rulings, has mentioned that the issuance of a CAR is a ministerial duty, when it appears that the share sale transaction is a bonafide sale and the corresponding capital gains tax and documentary stamp tax were shown to have been paid.

In an application for a CAR, once it is determined that the sale of shares is done for less than adequate or full consideration, the BIR usually requires that the corresponding donor's tax be paid prior to the issuance of the CAR. If the taxpayer takes the position that the transaction is made in the ordinary course of business (hence not subject to donor's tax), this usually prolongs the process of securing the CAR since additional supporting documents and information are usually requested to support the taxpayer's claim. Notwithstanding the fact that donor's tax is a liability of the seller, the delay in resolving the issue impacts the buyer since the absence of the CAR also defers the transfer of the legal title after the consummation of the transaction from the seller to the buyer.

Usually, a comparison is made by the BIR between the consideration and book value of the shares transferred. Under the current regulations, the book value based on the latest available audited financial statements prior the date of sale, but not earlier than the immediately preceding taxable year, is considered the prima facie fair market value of the shares of stock. In case of contrary evidence of the fair market value, this may necessitate further review which consequently prolongs the issuance of the CAR.

Should the determination of whether a transaction is subject to donor's tax de-

lay the issuance of a CAR? Comparing the CAR application process in cases where the consideration is at less than book value with CAR applications covering a tax-free exchange, the latter scenario's CAR is usually issued upon submission of the required documents and stating in the CAR application letter that the transaction involved is a tax-free exchange under Section 40(C)(2) of the Philippine Tax Code. Fortunately, securing a confirmatory tax-free exchange ruling prior to the issuance of a CAR is no longer required. The recent changes to the tax rules provide that following the issuance of the CAR, the tax-free exchange transaction is subject to a post-audit. In fact, in case it is found during the audit that the transaction is subject to tax, it does not invalidate the CAR previously issued for the transfer.

Perhaps the same conduct of post-audits can be done for transfers at less than adequate or full consideration as a better approach in the processing of a CAR. In this case, the CAR may be issued to the buyer while the liability of the seller to the donor's tax may be settled separately under a post-audit of the transaction. This affords the buyer the opportunity to mark the end of the transaction and look forward to beginning new ones to further stimulate our economy.

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NOTICE

Notice is hereby given that **OMEGA HEALTHCARE MANAGEMENT SERVICES INC.** with office address at 15th Floor, Union Bank Plaza, Meralco Avenue cor. Onyx and Sapphire St. Ortigas Center, Pasig City, is applying for registration with the Board of Investments (BOI) as Expanding Services Export Provider (Contact Center Services - One Corporate Center, Ortigas Center, Pasig City) under Tier 1, (Export Activities - Services Exports) of the 2022 SIPP, with project site located at Unit 3602, 36th Floor, One Corporate Center, Dofia Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Brgy. San Antonio, Pasig City.

Any person with valid objections on the above-mentioned project may file his/her objection in writing, under oath, with the BOI within three (3) days from the date of this publication.

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