PHL-Indonesia deal may cushion coal, gas shocks

THE PHILIPPINES and Indonesia signed an energy collaboration deal designed to smooth out any supply disruptions in critical fuels like coal and liquefied natural gas (LNG).

The signing of the memorandum of understanding (MoU) between the Philippine Department of Energy and Indonesian Ministry of Energy, which was witnessed by President Ferdinand R. Marcos, Jr. and visiting Indonesian President Joko Widodo. It updates the long-term energy cooperation arrangements between the two countries, Energy Secretary Raphael P.M. Lotilla said in a statement.

"On the part of the Philippines, it is an offshoot of our President's efforts to achieve higher energy security through energy diplomacy," he said.

Under the MoU, the two countries will collaborate via their respective business sectors "during periods of critical supply constraints on energy commodities such as coal and liquefied natural gas," Mr. Lotilla said.

He said bilateral agreements on energy should consider the increasing role of the private sector in the two countries' energy sectors, noting that previous deals "reflected the dominance of state-owned companies in the power sector in the Philippines and the upstream sector including coal mining in Indonesia."

The Philippines has been a key market for Indonesian coal, which accounted for 98% of Philippine coal imports in 2022, "consistently increasing from 88% in 2017," Mr. Lotilla said.

He noted that a coal export ban imposed by Indonesia in January last year following the failure of its coal mines to provide adequate supply for domestic power plants and markets pushed coal prices higher.

"This forced countries like the Philippines to scramble for alternative sources of coal and caused coal prices to spike," he said. "The Philippines imported more than 80% of its coal requirements in 2023 and even more than 90% in previous years." — **Kyle Aristophere T. Atienza**

FULL STORY

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Budget, infra constraints expected to hinder DA food stockpile plan

THE lack of storage infrastructure and funding may pose challenges as the Department of Agriculture (DA) gears up to stockpile agricultural commodities in response to possible shortages, analysts said.

Roy S. Kempis, a retired Pampanga State Agricultural University professor, said in a Viber message that infrastructure like shared community facilities, equipment, and farm-to-market roads will be a challenge if the government plans to build up reserves of agricultural products.

On Monday, the DA said that it is drafting the implementing rules and regulations (IRR) for Section 9 of the Price Act.

Section 9 of the law authorizes the allocation of funding for the procurement, purchase, import, or stockpiling of basic necessities or prime commodities, and determine ways to distribute these items during shortages or in the event of a need to influence market prices.

Philippine Institute for Development Studies Senior Research Fellow Roehlano M. Briones said that the DA would need the spending capacity to continue stockpiling commodities like rice if it is to move market prices significantly.

"The big problem is the cost of the rice stockpile; we'll need a much larger budget if we want to have a stockpile large enough to stabilize prices," Mr. Briones said in a Viber message.

The National Food Authority (NFA) is authorized to purchase domestically grown rice and hold it in reserve in the event of shortages or calamities, as outlined in the Rice Tariffication Law of 2019 (Republic Act No. 11203).

Philippine Chamber of Agriculture and Food, Inc., President Danilo V. Fausto said NFA warehouses, which are typically used for rice storage, should also be configured to store prime commodities like high-value crops.

"It is not just funding that they need, but storage as well. I recommend the use of NFA facilities for storage," Mr. Fausto said by telephone. — **Adrian H. Halili**

Philippines' 2024 GDP growth may fall short of gov't target — BPI

BANK of the Philippine Islands (BPI) expects gross domestic product (GDP) growth of 6.2% this year, short of the official government target.

"While significant uncertainties remain, the country may maintain its position as one of the fastest-growing economies in the region with a full year growth rate of 6.2% in 2024," BPI said in a statement.

BPI's forecast is below the government's 6.5-7.5% target range for GDP growth this year.

GDP growth accelerated to 5.9% in the third quarter, bringing the nine-month average to 5.5%, still below the government's 6-7% full-year target.

"With the anticipated easing of 2024 inflation, consumer spending may recover in 2024," BPI said.

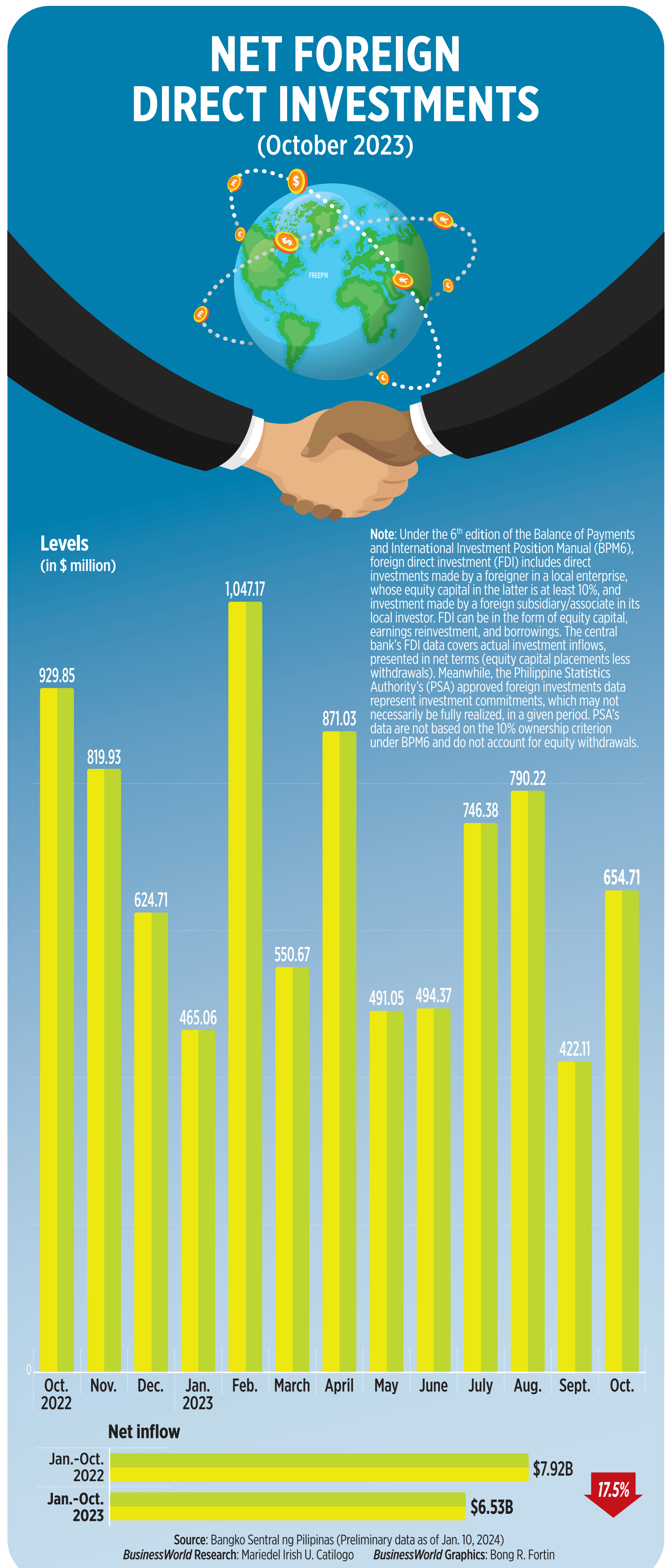
The bank sees headline inflation averaging 3.7% this year, within the Bangko Sentral ng Pilipinas' (BSP) 2-4% target, but cited upside risks like El Niño, which may reduce food harvests and send prices higher.

Inflation is expected to rise again in the second quarter, breaching 4%, before settling within the BSP's 2-4% target range in the second half.

Inflation slowed to 3.9% in December, settling within the central bank's 2-4% target for the first time in nearly two years, and easing from 4.1% in November and 8.1% a year earlier. This also was the lowest reading in 22 months or since the 3% posted in February 2022.

Inflation averaged 6% for 2023 from 5.8% in 2022, marking the second straight year of inflation breaching the BSP's 2-4% target.

BPI sees investment spending ramping up this year, driven by the construction sector and with companies becoming more aggressive in capital expenditures on the expectation that interest rates have peaked. — **Aaron Michael C. Sy**



OPINION

New year, new audit

TAXWISE OR OTHERWISE

ANGELIKA VALMONTE

As most readers may know, the start of a tax audit by the Bureau of Internal Revenue (BIR) is marked by the issuance of a Letter of Authority (LoA) which authorizes specific BIR officers/examiners (i.e., Revenue Officers and Group Supervisor) to examine the taxpayer's books and accounting records.

After the BIR officers conduct their audit within a specified period of time, they will communicate their preliminary findings through a Notice of Discrepancy (NoD), and invite the taxpayer for a discussion within 30 days from receipt thereof.

If the tax findings remain unresolved, the BIR will then issue a Preliminary Assessment Notice (PAN). Upon receipt of the PAN, the taxpayer may reply in writing within 15 days.

Thereafter, the BIR will issue a Formal Letter of Demand (FLD) and Final Assessment Notice (FAN). The taxpayer must file a protest letter within 30 days from receipt of the FAN; otherwise, the assessment shall become final and executory.

One may wonder, how does a taxpayer get selected for BIR audit?

As it undergoes digital transformation, the BIR electronically selects taxpayers that will be issued an LoA based on transactions identified as risk areas.

To notify the BIR officers and guide the taxpayers who received LoAs on the updated policies and audit process, and with the goal of improving the operational efficiency of audit activities, the BIR issued Revenue Memorandum Order (RMO) No. 6-2023. This RMO also clarifies that all taxpayers are possible candidates for audit.

Aside from selection based on the BIR system criteria, there are other instances where the BIR issues an LoA. For instance, taxpayers applying for tax clearance are subjected to audit to ensure that no unpaid taxes remain upon closure.

It is clear that only one LoA may be issued to a taxpayer for each taxable year, except when a specific tax type had been previously examined. So, if the BIR has issued a value-added tax (VAT) LoA for a taxable/period, this tax type should be excluded in the new LoA for all internal revenue taxes (i.e., LoA for all taxes except VAT) covering the same taxable period. There are also instances where a taxpayer who has an ongoing tax audit with the BIR, still receives a Discrepancy Notice (DN). The RMO confirms that this DN should be consolidated with the existing LoA.

What happens after the taxpayer has fully complied with the Checklist of Documentary Requirements attached to the LoA?

Once the BIR officers find the documents submitted by the taxpayer substantial, they will communicate their preliminary findings to the taxpayers through the issuance of the NoD.

This stage can be a crucial part of the audit as this can sometimes be the best time to resolve cases. It presents an opportunity for the taxpayer to discuss the explanations with the examiners to facilitate resolution at the earliest possible time.

RMO No. 6-2023 requires the revenue officers to submit their report of investigation for cases covered by an LoA (other than replacement LoA) within 180 days for Regional cases, 240 days for Large Taxpayers (LT) cases, and 90 days for the Large Taxpayers VAT Audit Unit (LTVAU), VAT Audit Section (VATAS) and Office Audit Section (OAS), from the date of the LoA.

While the RMO specified the deadline of the examiner's report of investigation, there appears to be different interpretations as to which report the BIR officer should complete within the deadline — is it the NoD or the PAN?

From my discussions with various BIR examiners in cases I've handled last year, there does not appear to be a clear consensus. When the RMO took effect on Jan. 1, 2023, most of the BIR examiners interpreted the deadlines as applying to the completion of their audit of the taxpayer's books and submission of their preliminary findings for the issuance of the NoD. However, there are also some BIR officers who interpret the deadlines as applying to the submission of the case dockets to the reviewing offices for the issuance of the PAN.

The disparity in interpretation has led to challenges and missed opportunities for both taxpayers and BIR officers.

For one, there were missed opportunities to resolve issues and close cases at the early stage of the audit. Taxpayers, thus, incur additional interest due to the prolonged process. On the other hand, the BIR also loses out on earlier collections at the NoD stage.

In my view, the prescribed deadlines should apply to the submission of the BIR examiner's report on the results of the investigation based on the documents submitted by the taxpayers during the LoA stage. This is to allow taxpayers reasonable time to retrieve and collate voluminous documents from two to three years ago, as most companies may not have enough personnel to focus on the retrieval of the necessary documents.

If we interpreted the prescribed deadline as submission of the report for issuance of the PAN, it would be unfortunate for the examiners as they may not have enough time to conduct a proper audit. As for the taxpayers, their explanations may not be given due consideration because of the tight timeline in issuing the PAN.

In recent years, I've noticed that some taxpayers receive up to two LoAs per year. Unfortunately, tax audits normally take a significant time to complete, which results in overlapping tax cases. Understandably, it becomes tedious for most taxpayers to deal with these cases at the same time. We should keep in mind that, in addition to boosting internal revenue collections, the goal of a tax audit is to improve the taxpayers' compliance with tax laws and regulations.

In 2024, I hope the BIR can release more clarificatory rulings or circulars to address some contentious tax issues, including the audit report deadline mentioned in RMO No. 6-2023, so that taxpayers will be properly guided. That way, issues arising from multiple interpretations of rules can be avoided and perhaps allow the BIR to achieve the same collection target through voluntary tax compliance.

Clearer guidelines and a well-defined timeline for the BIR's audit process are essential for taxpayers to plan effectively and facilitate the resolution of cases at the BIR level. A more transparent and consistent approach would benefit both the taxpayers and the BIR in achieving their respective goals — that is, for taxpayers to pay their dues and for BIR to meet their collection targets for the country's economic well-being.

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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