

EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )

'22 JUN -1 P 3 :02

SENATE

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COMMITTEE REPORT NO. 649

Submitted by the Committee of the Whole on JUN - 1 2022.

Re: P. S. Resolution No. 922, taking into consideration the Privilege Speech of Senate President Vicente Sotto III delivered on December 7, 2021

Recommending the adoption of the recommendations contained therein and their immediate implementation

Sponsors: Senator Sotto III

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**MR. PRESIDENT:**

The Committee of the Whole to which was referred **P. S. No. 922**, introduced by Senator Francis N. Pangilinan, entitled:

**"RESOLUTION  
DIRECTING THE SENATE COMMITTEE ON AGRICULTURE, FOOD, AND  
AGRARIAN REFORM TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION,  
ON THE PROLIFERATION OF SMUGGLED CHINESE VEGETABLES IN THE  
MARKET"**

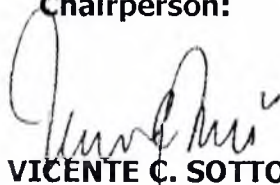
and Senator Sotto III's privilege speech before the Chamber on December 7, 2021, entitled:

**"PRIVILEGE SPEECH  
ON THE PROBLEM OF VEGETABLE FARMERS WHOSE LIVELIHOOD WAS  
GREATLY AFFECTED BY THE RAMPANT CORRUPTION IN THE BUREAU OF  
CUSTOMS (BOC)"**

has considered the same and has the honor to submit its report on its inquiry back to the Senate, recommending the adoption of the recommendations as contained in this Report and their immediate implementation.

Respectfully submitted:

**Chairperson:**



**SEN. VICENTE C. SOTTO III**  
*Senate President*

**Vice-Chairperson:**



**SEN. PANFILO M. LACSON**

**Members:**

**SEN. SONNY ANGARA**



**SEN. MARIA LOURDES NANCY S. BINAY**

**SEN. PIA S. CAYETANO**

**SEN. LEILA M. DE LIMA**

**SEN. RONALD "BATO" DELA ROSA**

**SEN. WIN GATCHALIAN**

**SEN. CHRISTOPHER BONG GO**

**SEN. RICHARD J. GORDON**

**SEN. RISA HONTIVEROS**

**SEN. MANUEL "LITO M. LAPID**

**SEN. IMEE R. MARCOS**

**SEN. GRACE POE**

**SEN. EMMANUEL "MANNY" D. PACQUIAO**

**SEN. RAMON BONG REVILLA JR.**

**SEN. FRANCIS N. PANGILINAN**

**SEN. JOEL VILLANUEVA**

**SEN. AQUILINO "KOKO" PIMENTEL III**

**SEN. CYNTHIA A. VILLAR**

**SEN. FRANCIS "TOL" N. TOLENTINO**

*Ex Officio Members*

**SEN. RALPH G. RECTO**  
President Pro-Tempore

**SEN. JUAN MIGUEL F. ZUBIRI**  
Majority Leader

**SEN. FRANKLIN M. DRILON**  
Minority Leader

## I. INTRODUCTION

### A. PREFATORY STATEMENT

*Section 2 of Republic Act No. 10845, also known as the "Anti-Agricultural Smuggling Act of 2016" provides that –*

"SEC. 2. Declaration of Policy. – It is the policy of the State to promote the productivity of the agriculture sector and to protect farmers from unscrupulous traders and importers, who by their illegal importation of agricultural products, especially rice, significantly affect the production, availability of supply and stability of prices, and the food security of the State.

xxx."

The *Customs Modernization and Tariff Act* defines *smuggling* as the "fraudulent act of importing any goods into the Philippines, or the act of assisting in receiving, concealing, buying, selling, disposing of or transporting such goods, with full knowledge that the same has been fraudulently imported." Thus, *smuggling* is the fraudulent exportation of goods from a foreign country in to the Philippines.

The League of Associations at La Trinidad Vegetable Training Areas reported the effects of smuggling to farmers and the vegetable industry with declining orders between 20% to 40% and monetary loss of about P2.5 Million per day on the part of the farmers.

Aside from fruits and vegetables, other smuggled shipments comprise of frozen meats, high-value agricultural food, sugar, frozen mackerel and tuna.

The Committee of the Whole was called to convene in order to address matters of serious concern: the smuggling of agricultural products brought about by

the manipulative schemes of economic saboteurs that endanger the production and supply of agricultural products, stability of prices, the country's food security, the government's revenue, and most importantly, the difficulties encountered by our local farmers who have been competing directly with the influx of cheaper vegetable and fruit products.

## **B. BACKGROUND**

As early as August 2021, Benguet farmers have alerted the Department of Agriculture (DA) about the imported produce being sold at the Divisoria public market in Manila.

In a virtual briefing held last 28 September 2021, Secretary William Dar of the Department of Agriculture (DA) advised that smuggled vegetables from China such as carrots and cabbage have entered the market by way of the Subic Port. The smuggling was undertaken by *misdeclaring* these goods as "other items" and as such, the Bureau of Plant Industry (BPI) did not issue the necessary import permits for the said produce. The BPI consequently warned the public to avoid the said produce since no import permit or sanitary and phytosanitary import clearances have been issued which makes the same prone to uncertainty of their pesticide and formalin content.<sup>1</sup> There were reports that a larger volume of foreign carrots from China was spotted in key markets in the country entering it through container vans and distributed on a weekly basis. This illegal importation of carrots led to the overproduction of farmers and the consequent effect of these not being sold in the market. The unsold carrots, even with a P25.00 per kilo cost of production were just then given away or donated as relief goods to calamity-stricken areas.

On September 29, 2021, in response to the issues involving smuggled vegetables, Senator Francis N. Pangilinan filed Senate Resolution 922 directing the Senate Committee on Agriculture, Food, and Agrarian Reform to conduct an inquiry,

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<sup>1</sup> Business World (2021): Pesticide advisory issued against smuggled vegetables. In: <https://www.bworldonline.com/economy/2021/09/28/399712/pesticide-advisory-issued-against-smuggled-vegetables/>. Last accessed: May 30, 2022

in aid of legislation, on the proliferation of smuggled Chinese vegetables in the market. According to Senator Pangilinan, the price of vegetables dropped from PhP70.00 per kilo to only PhP25.00 per kilo due to the smuggled vegetables which were priced substantially cheaper than those produced locally. The continuous existence of smuggling of agricultural products causes price distortion in the locally produced vegetables and undue competition with cheaper contraband farm products.

On November 3, 2021, the *Sangguniang Panlalawigan ng Benguet* furnished Senate President Sotto III a copy of their Resolution No. 2021-1350 requesting Congress to intercede and investigate the alleged illegal importation of carrots and cabbages from China being sold at Divisoria, Tondo, Metro Manila, and at the Carbon Market in Cebu.

In this regard, on December 7, 2021, Senate President Sotto III, availing himself of the privilege hour, delivered his privilege speech touching not only on the vegetable smuggling but also on the systemic problems of the Bureau of Customs (BOC) on corruption and other irregularities. He kept a close eye on the press releases issued by the BOC regarding their anti-smuggling operations from the period of May 2021 to November 18, 2021 and was able to document 25 operations amounting to approximately PhP1 billion. These shipments comprised of frozen meats, high value agricultural food, garlic, onions, sugar, frozen mackerel and tuna, carrots, ginger and other fruit and vegetable products. These smuggled goods were declared as pastry ingredients, glucose syrups, mantou buns, and were misdeclared in terms of their true weight or quantity beyond the allowable importation limits as set forth by law. The Senate President disclosed in his speech that the tally of the press releases *vis-à-vis* the cases filed in courts thereafter does not match. Another issue alleged was the filing of cases with lesser penalties against the smugglers as illustrated by a report in Malabon where an operation amounted to PhP4.7 million smuggled agricultural products which is within the purview of large-scale smuggling, was only filed for a case of violation of the Food Security Act which is punishable with a penalty of only PhP50,000.00 to PhP100,000.00 fine and a revocation of the

business permit.<sup>2</sup> On the same day, and there being no objection, Senator Juan Miguel F. Zubiri moved that the Committee of the Whole be constituted to investigate the rampant smuggling of agricultural products involving the BOC.

On December 14, 2021, the Committee of the Whole convened to discuss the issues subject matter of P. S. Resolution No. 922 and Senate President Sotto III's privilege speech. The issue of smuggling has been a decade-long problem that has continued to be a burden to the Filipino farmers from whatever sector, be it pork, chicken, rice, vegetable, sugar and fish. There has yet to be an administration that has been truly successful in countering smuggling, much less eradicate the devastating effect this has made on the livelihood of those who depend on the agriculture industry and to the consumers who suffer from the high prices of food commodities. During this hearing, it was found that the country had lost PhP7.6 billion in tariffs every year due to misdeclaration or technical smuggling. Moreover, these smuggled goods do not undergo testing for diseases and can lead to destruction of local farmers and products or worse, result to another pandemic. Incidentally, it was also found that aside from smuggling, another contributing factor to the burdens of farmers in Benguet and other parts of the country was the indiscriminate grant of authority by the Bureau of Plant Industry (BPI) to import fruits and vegetables from other countries.

On March 28, 2022, a second Committee of the Whole hearing was conducted on the same subject matter. A deeper probe was done on the inconsistencies in the importation records of agricultural products between the BOC and the DA. Further inquiry was made as to why inspections and seizures have not resulted to any filed cases. The League of Associations of La Trinidad Vegetable Trading Areas reported that they supply the whole country with 60% to 70% of the country's needs of the semi-temperate vegetables. In 2012, the DA reported that the vegetable industry of Benguet is worth PhP14 Billion. At an average, Benguet vegetable industry distributes 1.5 million kilograms per day of assorted vegetables to all the key markets in the country and can reach up to 3.3 million kilograms. The orders from

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<sup>2</sup> Senate Session No. 29, Journal of the Senate dated December 7, 2021 (pp.2-3)

consumers declined between 20% to 40% due to the illegal smuggling of produce and the monetary loss can be translated to about a PhP2.5 Million per day on the part of the farmers.

On April 12, 2022, the third and final installment of the Committee of the Whole hearing was conducted. Here, policy direction and suggestions were explored with the concerned government agencies like the BOC and the DA. Resource persons were also grateful to the Committee as there were immediate actions made by the government the effects of which were likewise felt instantly as seen from the increase in volume of demand for locally-grown vegetables as well as its price levels. However, it was reported that in April 9 and 11, 2022, smuggled vegetables once again surreptitiously entered the local market. In this regard, an alleged list of “players” or smugglers protected by high ranking government officials were submitted to the Committee. The National Intelligence Coordinating Agency (NICA) in its capacity as member of the Sub Task Group on Economic Intelligence (STG-EI) was invited to give better insights into these personalities.

## **II. ACTION OF THE COMMITTEE**

Proposed Senate Resolution No. 992 and the Sponsorship Speech of Senate President Sotto III dated December 7, 2021 were all referred to the Committee of the Whole.

The Committee referral gave the Committee of the Whole jurisdiction to conduct the initial public hearing on December 14, 2021, followed by two other public hearings on March 28, 2022 and April 12, 2022.

### **December 14, 2021**

The first public hearing was called with the end in view of tackling anomalies in various government agencies to the detriment of the interest of the general public, particularly assessing the smuggling situation in the Philippines while



inquiring on the specific measures of the concerned government agencies in stunting if not entirely eradicating smuggling in the Philippines.

The resource persons who attended the first public hearing are the following:

1. USEC. Zamzamin L. Ampatuan, Undersecretary for Regulations, Department of Agriculture (DA);
2. ASEC. Liza G. Battad, Assistant Secretary-designate for Regulations, DA;
3. ASEC. Federico E. Laciste, Jr., Assistant Secretary for the DA-Wide Field Inspectorate, DA;
4. Dr. Reildrin G. Morales, Assistant Secretary, Bureau of Animal Industry, DA;
5. Dr. Jocelyn A. Salvador, OIC, Executive Director, National Meat Inspection Service, DA;
6. Atty. Charlie L. Guhit, Senior Assistant Prosecutor, Department of Justice (DOJ);
7. Gen. Rey Leonardo B. Guerrero (Ret.), Commissioner, Bureau of Customs (BOC)
8. Atty. Vener S. Baquiran, Deputy Commissioner - Revenue Collection Monitoring Group (RCMG), BOC;
9. Atty. Vincent Philip C. Maronilla, Assistant Commissioner - Post Clearance Audit Group (PCAG), BOC;
10. BGen. Raniel T. Ramiro, Deputy Commissioner- Intelligence Group, BOC;
11. Collector Maritess T. Martin, District Collector-Port of Subic, BOC;
12. Ms. Maita S. Acevedo, Deputy Collector for Assessment-Port of Subic, BOC;
13. Mr. Miguel Malijan, Customs Examiner-Port of Subic, BOC;
14. Ms. Agnes Hilado, Customs Appraiser-Port of Subic, BOC;
15. Mr. Daniel F. Torralba, Customs Examiner-Port of Subic, BOC;
16. Atty. Giovanni Ferdinand A. Leynes, Deputy Collector for Operations-Port of Subic, BOC;

17. Mr. Nicanor M. Briones, Former Representative, AGAP Partylist;
18. Atty. Ryan Esponilla, General Manager, Confederation of Truckers Association of the Philippines (CTAP);
19. Mr. Henry Villa, Licensed Customs Broker, Aduana Business Club Inc. (ABCI);
20. Mr. Pepito Diño, Chairman, CTAP;
21. Atty. Elias Jose M. Inciong, President, United Broilers Raisers Association;
22. Mr. Gregorio San Diego, Chairman, Philippine Egg Board;
23. Mr. Raul Montemayor, National Manager, Federation of Free Farmers /Workers;
24. Mr. Edgardo B. Lumanog Jr., Chief, Sugar Anti-Smuggling Organization;
25. Engr. Rosendo O. So, Chairman/President, SINAG;

Senate President Vicente Sotto III delivered his opening statement in reference to his Privilege Speech on the subject matter dated December 7, 2021. He likewise referred to Proposed Senate Resolution No. 922 authored by Senator Francis Pangilinan on the rampant smuggling of vegetable products in the country by some unscrupulous traders and importers with the possible involvement of some officials from the Bureau of Customs, the very agency which ironically is supposed to police these irregularities. Discussed as well are the issues raised by the trucking sectors, for the Bureau of Customs as likewise being part of the privilege speech.

According to him, the Philippines is an agriculturally based economy and that agriculture production is contributing 20% in the country's gross domestic product, and is driven by about 40% of the total Filipino labor market as farmworkers. This has brought the smuggling activity in this sector to be considered as economic sabotage under Republic Act No. 10845 or the Anti-Agricultural Smuggling Act of 2016.

The Chairman refreshed everyone's memory that this is actually not the first time that this august chamber investigated the issue of smuggling in the country. Back in the thirteenth Congress, the Committee on Trade and Commerce conducted similar hearings on two resolutions which calls for the investigation of the unregulated influx of imported vegetables as well as on the alleged big-time onion and vegetable smuggling syndicates in the country. He said that while the rampancy of smuggling on agricultural products has been around for years, its continuous existence causes price distortion in the locally produced vegetables and undue competition with cheaper contraband farm products. This situation has unfortunately aggravated further the slowdown in farm production and the untimely loss of income to the already pandemic devastated farmers, not to mention a large-scale revenue loss for the government. Through outright smuggling or the entry of imported vegetables without the required importation papers or technical smuggling or the means of falsified documents or misdeclaration, there is understandable apprehension after learning that the Bureau of Customs' twenty-five (25) reported operations of smuggling cases, amounting to one billion pesos seem not to closely match the numbers of supposed cases that should have been elevated to the courts of law by the BOC.

Author of P.S. Resolution No. 922 Senator Francis Pangilinan next took the floor. He said that he decided to file the resolution after receiving letter complaints as well as reports from media that there is an influx of vegetables allegedly from China and is being kept in warehouses located in Divisoria, Tondo, Manila and at the Carbon Market in Cebu. He emphasized that smuggling will not be possible if there were no accomplices of government officials who condone and benefit from this practice. He emphasized that an extensive investigation should be done to thresh out issues on the ownership of the warehouses where such smuggled vegetables were kept. He concluded by saying that it is important to protect and support the sector of agriculture and fisheries in order to have food security which would be beneficial to the nation.

Mr. Nikki Briones, former representative of the Agricultural Sector Alliance of the Philippines or AGAP first made a presentation. According to Mr. Briones the issue of smuggling has been a decade-long problem that has continued to be a burden to the Filipino farmers from whatever sector, be it pork, chicken, rice, vegetable, sugar and fish. He said that he has yet to see an administration that has been truly successful in countering smuggling, much less the devastating effect this has made on the livelihood of those who depend on the agriculture industry and to the consumers who suffer from the high prices of food commodities.

First, Mr. Briones presented that the total importation for different hog meat in a span of 3 years and 10 months is 1.464 million kilos. Of the total imported hog meat, there is a total of 915 million kilos or 63% imported mechanically deboned meat, fats, rinds/skin and offal where the tariff is only 5%. According to him, what should have been declared is 40% over and above the minimum access volume. He said that this is a mode for smuggling through technical smuggling or misdeclaration.

Mr. Briones continued that for the 457.897 million kilos that was misdeclared, at 100 pesos per kilo, we have 45.789 billion which should be the basis for tariff, so the 40% became 5% resulting to a loss of 35% tariff due to misdeclaration. If we sum up the loss in a span of 4 years of hog meat misdeclared importation, we have lost around P16 billion or 45.8 billion times 35%.

Mr. Briones moved on to chicken importation where the chicken's total importation is 1.3 billion or 1.4 billion kilos. Out of that, 910 million kilos of mechanically deboned chicken, fats, and other similar products were imported. He said that he does not believe that 60% of the total import are mechanically deboned chicken, fats, skin or offals. According to him, it is possible that the lost revenue for 910 million kilos, 50% of that is misdeclared which is at P90 per kilo, would amount to P40.983 billion. So, for 40% less 5%, 35% tariff is what the government is losing. Multiply this to 41 billion, it amounts to 14.3 billion in four years or 3.6 billion per

year. We are losing 7.6 billion per year due to misdeclaration alone not including undervaluation.

In closing, Mr. Briones said that to stop this smuggling in importation, we need a substantial amount of funding. He cited Thailand, which has a 4% fund in their entire budget while Vietnam has 6.3 per cent compared to the Philippines which only has 1.5%. According to him, we need to have a progressive agriculture to have affordable, quality and sufficient food for the Filipinos. True food security comes from our local farmers.

Senator Lacson showed particular interest in the period when they passed the Minimum Access Volume (MAV) because he recalled authorizing just 250 metric tons to which Mr. Briones replied that within this particular year, 480M kilos have already entered the country in a period of 10 months.

Mr. Rosendo So, Chairman/President of SINAG, thru a slide presentation explained that in the period January to October of this year, 2.6 million metric tons (MT) of rice have already been brought to the country; meat, according to Bureau of Customs records, for the same period, is at 477 million MT, which is different from DA's figures of 439 MT, so there is a difference of figures in these two agencies which shows that the other agency doesn't know what the other one is doing. Vegetable smuggling of carrots and broccoli was also discovered and caught in Subic but DA claims no knowledge about this. Smuggling of fish and onions was also discovered.

Despite the discovery of all these criminal acts, no apprehension was made and the ones involved in the acts remain unidentified. These acts involve close to 10 to 20 million pesos and yet no one is apprehended or brought to court for economic sabotage.

Mr. Ruben Poad, a farmer and provincial board member of Benquet province said that the vegetable farmers are suffering from the effects of smuggling.

According to him, highland farmers produce semi-temperate vegetables but there are no buyers of their produce because their usual buyers buy the smuggled vegetables instead, so they just throw away their vegetables. There is now a problem because these vegetable farmers are now shifting to cut-flower production and the country will eventually suffer because every Filipino needs 500 grams daily of vegetable intake.

He said that our country is a victim of double whammy from smuggling and that our farmers are suffering from the effects of smuggled imported vegetables while our government is continuously deprived of revenues. This is happening despite the fact that our country's vegetable production/vegetable supply is enough to meet domestic demands. Our farmers are industrious enough to provide the vegetable needs of our people.

As for the DA representative in response to the opening statements of the other resource persons, said that smuggling is economic sabotage and is seriously hurting our farmers and fisherfolk. The DA is looking into this matter seriously because there is a need to secure food commodities for our people but not at the expense of farmers and food supplies.

Asec. Liza Battad, the DA's point person in agri-regulations, said that the Department is vigilant against unauthorized entry of food commodities. It is committed to the implementation of stricter border controls and importation protocols. The department has always coordinated with the Bureau of Customs on this concern, we have records to show of the different activities, coordinated with other government agencies, to curb smuggling.

After which, Bureau of Customs (BOC) Commissioner Rey Leonardo Guerrero was required to provide information on the number of apprehensions, the point of origin of the vegetables based on the report that they presented to the Committee and what the BOC proposes to solve it. Based on the reply of BOC Commissioner Guerrero, the number of apprehensions for smuggled agricultural products in 2019

was 80 incidents; 309 in 2020 and 172 in 2021 consisting of various products such as rice, meat and fish.

Based on the data presented by the BOC, there has been an improvement in the number of seizures over the years, and this is largely attributed to the intensified campaign against smuggling through seizures in the ports. The data will show the actual seizures of smuggled goods at the ports.

Further, Commissioner Guerrero also reported the issuance of letters of authority through the exercise of power and authority to visit premises, warehouses, storage facilities outside ports. He added that their effort is not only focused on raiding warehouses and storage facilities, but a large number of their accomplishments are seizures as a result of inspections and examinations done at the ports, particularly for agricultural products, shown in the number of incidents and apprehensions made. According to the commissioner, a total of 80 incidents or seizures were made in 2019; 309 in 2020; and, so far, for 2021, a total of 172, broken down per commodity.

The BOC also presented summary of the criminal cases filed before the Department of Justice relative to agricultural products. Correlatively, 86 of the total apprehensions for 2021 are covered by 29 criminal complaints filed from January 2021 to present and 21 of which include the violation of Republic Act 10845 or the Anti-Agricultural Smuggling Act as one of the charges.

The BOC commissioner claimed that 29 of the apprehensions are pending case profiling, case build-up, and further investigation to determine the responsible individuals ultimately liable for the violations identified and 56 of the total apprehensions involved small value or quantity apprehended mostly in the airports of the country. Thus, the proper and necessary actions were taken against the apprehensions made in the different districts of the BOC.

Furthermore, for apprehensions stemming from the exercise of the BOC's power to visit and inspect premises pursuant to Customs Modernization and Tariff Act, proving the identity of the occupants of the warehouses and the ultimate owners of the seized goods proved to be a challenge. Nonetheless, as part of their exhaustive investigation to ensure that a complete set of evidence and documents, identity of the culprits, and other information are presented in the criminal complaints for the same to prosper. Subpoenas have been issued against any and all personalities directly connected to the premises, warehouses, and storage facilities subject of the letters of authority issue.

BOC Commissioner Guerrero also pointed out that it is also worthy to emphasize that apart from the performance of the mandates of the Bureau of Customs under the law, other issues should likewise be accounted for such as the control over the movement of cargos and vehicles within the ports; the issuance of licenses and permits; the discharge of the containers from the vessels; the scheduling of trucks, manpower, and equipment to move cargos; and the areas for inspection.

Issues which are beyond the jurisdiction of the Bureau of Customs are why the BOC strove to institute measures to significantly reduce Customs clearance times of the ports. However, container dwell times have yet to improve significantly because of pre and post Customs clearance procedures. In particular, it should be pointed out that there is inadequate space at the port to conduct full stripping of containers for both dry and refrigerated containers.

The Commissioner likewise added that due to the pandemic, the inadequacy of manpower of port operators, shipping lines, and even consignees themselves poses to be a problem. The Bureau of Customs also lacks the capability and resources to conduct enforcement. BOC currently has only 523 personnel in the customs police force with an augmentation of 100 personnel from the Philippine Coast Guard, who are spread throughout the 17 major ports and 39 subports. Out of



the 523 Customs police, 166 are assigned to the fuel marking project, while 74 are detailed with the x-ray inspection project.

Despite the challenges mentioned, the BOC said that it continues to implement the following programs: the automation of the BOC processes wherein 80.5 percent or 128 out of 159 processes of the Bureau of Customs are now automated; the acquisition of modern high-speed scanning equipment which could scan 120 to 200 containers in an hour; the activation of the inspection unit dedicated primarily for container inspection; live feed monitoring of scanned images from the x-ray scanners; the use of body cameras to cover inspection and examination activities; the monitoring and supervision of all scanning and inspection activities to a facility established specifically for this purpose, which they call the Customs Operations Center; and joint operations with the Philippine Coast Guard, the Philippine National Police Maritime Group, and the NBI for the interdiction and seizure operations.

The BOC commissioner admitted during the hearing that in some instances, agricultural products are smuggled in containers that are placed between other items or products to avoid detection. He attributed it to the fact where they have limited capacity and capability during the first border inspection. According to the Commissioner, he has explained this during previous hearings and investigations. They only apply the open-close procedure and cannot fully strip the refrigerated containers since these are perishable goods. In order for them to inspect it, it would require a cold storage warehouse at the ports for them to be able to do this, leaving them with no choice but to resort to a second border inspection, where they allow these containers to be inspected right at the premises of the cold storage facility accredited by the Department of Agriculture. Another factor is that they have no control to the issuance of permits. This emphasized his recommendation for a stronger interagency coordination against smuggling.

As to the cases filed against smugglers, the Department of Justice through its representative, Atty. Charlie Guhit, stated that a list was forwarded to the office of

the senator-members of the Committee involving data on the report on the summary of cases on smuggled agricultural products. Based on the data submitted, from 2016 to 2021, there are only 75 cases that were filed for smuggled agricultural products and out of the 75 cases, they have already resolved 63 percent or 47 cases. According to Atty. Guhit, there are still 28 pending cases. Based also on such data, 39 out of 75 cases were dismissed and there are 4 cases already filed in court. This is 5 percent of the 75 cases filed on smuggled agricultural products. He added that he does not have the information on the details of the specific cases and was not able to study it yet as stated in the matrix since it was only recently sent to him. He added that these are only data with respect to the filed smuggled cases before the Department of Justice, National Prosecution Service in Manila. As for the total number of cases that they received from 2016 to 2021 numbering to 75, 39 cases were dismissed. There are still 28 pending cases and only 4 cases were filed in court. According to Atty. Guhit, they have no data whether these 4 cases have a conviction or if these cases were dismissed by the court. He assured the committee that they will try to look into these cases and submit a status report on the matter.

Senator Lacson initially stated that he saw some figures during the presentation of the BOC, the number of apprehensions, citing as 179 in 2021, 309 in 2020 or 2019 and another one, 272. He then asked what happened to the 75 cases referred to DOJ? In his reply, Mr. Guerrero said that, he also asked the same query with their legal division. Asked what was the reply of their legal division, he answered that one case covers multiple apprehensions.

Senator Lacson clarified that even if one person had committed the crime, if there were several acts, it should be a separate case. Mr. Guerrero then referred the query to Mr. Baquiran.

Mr. Baquiran replied in the affirmative, and reiterated his statement that he filed 12 counts of acts against the consignee based on the reports presented by their commissioner where it says 172 apprehensions. He added that in the cases filed at DOJ, these apprehensions include one bill of lading (BL) only. He explained that in

one entry, there were ten or five containers. Also in one BL, there were three or four containers and he said this involves one act. According to him, the record shows that if there are five acts of misdeclared item in one consignee, they filed five counts of criminal charges also.

Senator Lacson stated that it is hard to secure and pass through these stages when you read the requirements, naming among others: (1) the registration of business name, DTI or SEC; mayor's permit; (2) accreditation to Bureau of Customs; (3) enlistment by the Department of Agriculture, the Food Safety Regulatory Authority, as a commodity importer; (4) the SPSIC which is a Phytosanitary from the Food Safety Regulatory Agencies concerned. He then asked why there is still smuggling despite these hard stages of requirements. He also said that there is this so-called first border; second border; and cold storage warehouse accredited by DA. He said that it is very difficult to understand why they could pass through these despite of the many stages at hand. He then demands an explanation so that the Committee could find solutions to the problems. As to why there are carrots, broccoli, imported pork; goods with risk classification, etc., he said that he needs a satisfactory or convincing explanation. How and why are these happening?

Explaining thereto, Mr. Zamzamin L. Ampatuan, Undersecretary for Regulations, Department of Agriculture, gave the following statements:

1. From the first border to the second border smuggling should have been detected because at the very instance that the container enters the port, it is already being inspected and it undergoes x-ray inspection and everything inside is being looked into before it gets into the second border;
2. The only thing that they have concerned about was as soon as it enters the second border, all that is declared in terms of the SPS are complied with, and there are no other things that comes into the picture from the port to the cold storage warehouses (CSW);

3. So as much as they are concerned, they are worried and probably, at the very instance that if it enters the port, there are already something that is going on there; and
4. That he does not know how it happens and they are as well puzzled on this.

Senator Lacson then suspected that there is interagency conspiracy that is why this smuggling continues.

Mr. Ampatuan replied in the affirmative. He said that there is already a technical working group looking into this matter, a DA-BOC TWG. He said that it was agreed that at the very instance these are being examined across borders, the DA could participate in the examination because according to him, there was this practice before that the DA actually was the only responsible as soon as it passes in examination. To fully address the issue of possible entry of other commodities that are being brought into or simply mixed up with some legal imported commodities, they recently put up another facility that is the second border facility for examination of agricultural products.

Hopefully, he explained that these new facilities could address this problem right after the first border so that in the process of transporting from the port up to CSW, they would still undergo a certain level of examination.

Senator Lacson clarified that when he mentioned interagency conspiracy, he said that he is not referring to a high-level conspiracy; that he is referring to the first personnel on the ground which he said he wanted to be corrected. That is the reason why he said nobody is apprehended because they were the ones talking among themselves. More or less, Senator Lacson said that these are happening, he then recommended a closer supervision on these personnel. He also mentioned that the DA has many agencies in charge of food security and importation, such as BPI, BAI, NMIS, BFAR and asked whether there was no overlapping of functions or

conflict as to who is really in charge of giving SPSIC. This was already asked in the previous hearings, but he said that there is something wrong in the delineation.

Mr. Ampatuan replied in the negative. According to him, there is no overlapping of functions because each of these agencies handles specific commodities; such as:

1. NMIS, it handles meat products, the importation of meat products;
2. BAI, it handles livestock, live animals and similar commodity that are being brought in; Fisheries, these are the fish products; for BAI, these are couple of commodities that are related to plant materials; finished commodities related to plants, ex. rice. So the conflict of functions is remote.

Mr. Ampatuan, stated that they are also currently undertaking harmonization of regulatory functions so that they are somehow coordinated and they could interact. He said that the importance of having coordinated databases is that they could confer with their partner agencies, such as BOC, in terms of importation.

Senator Lacson then asked why did he issue a regulation allowing the BAI to issue SPSICs when it is already provided in the law. That NMIS should be the one to issue SPSIC but somehow, it was circumvented by way of regulation issued by the DA. He then asked why the DA allowed Bureau of Animal Industry to issue SPSIC, which is the mandate of NMIS. This in effect is usurpation of power of another agency within the DA.

Mr. Ampatuan requested that the BAI director answer the question.

Mr. Reildrin G. Morales BAI director stated that Republic Act No. 3639 created the Bureau of Animal Industry and as read by Senator Lacson; to wit:

1. *BAI is mandated to look into and preserve the livestock and poultry population of the country against diseases;*
2. *That SPS or sanitary phytosanitary measures are actually measures against these diseases and it falls under the mandate of BAI;*
3. *In this sense, BAI is the one issuing SPS for reasons of accreditation of foreign meat establishment which is divided into two areas: (1) one area is they evaluate the animal health programs of the country who is wishing to access the markets where assessment of their programs are being made, the presence or absence of diseases;*
4. *The NMIS is focused on food safety aspect where it evaluates meat plants where animals are being slaughtered and packed.  
So that is the delineation of functions;*

So the SPS—sanitary phytosanitary and even with trade, the BAI is the one who coordinates.

### **MARCH 28, 2022**

On the second hearing of the Committee of the Whole, the body would like to build on the initial findings which were produced during the first hearing. The resource persons for the second hearing were as follows:

1. USec. Waldo R. Carpio, *Special Concerns*, DA;
2. ASec. Federico Laciste, Jr., DA;
3. ASec. Gina Jamoralin, *Office of the Undersecretary for Multilateral Affairs and International Economic Relations*, Department of Foreign Affairs (DFA);
4. Atty. Charlie Guhit, *Senior Assistant State Prosecutor, Office of the Prosecutor General, National Prosecution Office*, Department of Justice (DOJ);
5. Atty. Ferdinand Fernandez, *Senior Assistant State Prosecutor*, DOJ;

6. Atty. Loverhette Jeffrey Villordon, *Assistant State Prosecutor*, DOJ;
7. USec. Ruth Castelo, Department of Trade and Industry (DTI);
8. ASec. Allan Gepty, DTI;
9. Atty. Vincent Maronilla, BoC;
10. Collector Maritess T. Martin, BoC;
11. Atty. Willie Sarmiento, *Chief, Law Division*, BoC;
12. Mr. Daniel Torralba, BoC – Port of Subic;
13. Rep. Rico B. Geron, AGAP Partylist;
14. Hon. Ruben E. Poad, *Chairperson, Committee on Agriculture*, Sangguniang Panlalawigan ng Benguet;
15. Hon. Robert Namoro, *Vice-Chairperson, Committee on Agriculture*, Sangguniang Panlalawigan ng Benguet;
16. Ms. Agot Balanoy, League of Associations at La Trinidad, Vegetable Training Areas;
17. Atty. Elias Jose Inciong, *President*, United Broiler Raisers Association (UBRA);
18. Mr. Raul Montemayor, Federation of Free Farmers or Workers;
19. Engr. Rosendo So, *Chairperson*, Samahang Industriya ng Agrikultura (SINAG);
20. Mr. Chester Warren Tan, National Federation of Hog Farmers;
21. Mr. Alfred Ng, National Federation of Hog Farmers; and
22. Dr. Ernesto Ordoñez, Alyansang Agrikultura.

Ms. Balanoy from the League of Associations of La Trinidad Vegetable Trading Areas was the first to make a presentation on the Benguet vegetable industry. She reported that they supply the whole country with 60% to 70% of the country's needs of the semi-temperate vegetables. She stressed that in 2012, the DA reported that the vegetable industry of Benguet is worth P14 Billion. At an average, Benguet vegetable industry distributes 1.5 million kilograms per day of assorted vegetables to all the key markets in the country. It can reach to 3.3 million kilograms.

In her presentation, Ms. Balanoy claimed that vegetable smuggling has been going on for months and that they have monitored it accordingly since July and August 2021.

Despite their monthly documentation, the DA denied the so-called vegetable smuggling, specially from China. However, as per the League's monthly documentation, it has stopped for a while after the Senate Hearing, but in December 24, 2021, there had been a continuing smuggling of carrots.

Data from the Bureau of Plant Industry and even from the GATT WTO list shows no fresh carrots or fresh vegetables in the enumerated items which are allowed entry to the country.

Ms. Balanoy especially mentioned the Korean strawberries which are imported to the country under the "ornamental plants" classification. She stressed that strawberries are fruits and not ornamental plants, thus, the misdeclaration tantamounted to smuggling.

Data until March 24 and 25, 2022 and thru validation of informers via SMS (as shown in the presentation) would prove that there is indeed an ongoing smuggling, goods are openly displayed in Divisoria, and that loading and unloading of smuggled goods are done even in broad daylight.

On the effects of smuggling to farmers and the vegetable industry, Ms. Balanoy presented that the orders from their consumers declined between 20% to 40% and monetary loss is about a P2.5 Million per day on the part of the farmers. She underscored that one of the vegetables that is being smuggled into the country is carrot. This illegal importation of carrots led to the overproduction of farmers and consequent effect of these not being sold in the market. The unsold carrots, even with a P25.00 per kilo cost of production were just then given away or donated as relief goods to calamity-stricken areas.



Pricing of big carrots is pegged at P7.00 per kilo (the lowest since there is smuggling) to P95.00 per kilo (with no smuggling).

Wholesale price in La Trinidad for medium-sized carrots ranges from P0.00 to P35.00 per kilo.

There are a lot of unsold local or Benguet carrots because consumers prefer to buy the imported carrots from China, which can be stored for two months as against the two to three days for local produce. A lot are dumped or given away by tons.

Senate President Sotto reacted to the long lasting carrots from China, placing his observation that consumers should not buy them since there is preservative applied to it.

Ms. Balanoy also reported about the different actions being taken to address smuggling:

1. A Resolution coming from the Sangguniang Panlalawigan officials call for a Senate investigation, from the City Council of Baguio denouncing vegetable smuggling, but no action has been heard to this date.
2. PHILRECA accordingly has filed in Congress but still awaits results.
3. A dialogue was held on March 19, 2022 with DA (ASec. Laciste) and BPI (Dir. Culaste).

The Bureau of Customs (BOC) and the Department of Agriculture (DA) updated the body on the pending queries which were posited by the members in the first hearing.

Mr. Maronilla of BOC reported that they already coordinated with the DA on the matter. He said that insofar as the BOC is concerned, their data is based on actual import volumes. He then wanted to verify from the DA if the same is the basis for the data the latter presented or is it based from actual import permits that were issued but disregarded whether these import permits were actually used. He then reckoned that the discrepancy lies in the DA's numbers based on the actual volume of permits issued and not on the actual importation.

Asec. Laciste of the DA averred that since they have no centralized database yet, it is difficult to monitor and determine the number of actual importations *vis-à-vis* the permits issued. He further stated that one of the recommendations is to have a fully automated transaction on import and export processes, including requests for inspections. Once this is put in place, monitoring will be easier.

On the question of Senate President Sotto regarding the BOC's digitalization efforts which has long been insisted by Senator Lacson, Mr. Maronilla answered that they have already ventured into projects that automated some of their processes. But the major automation project that they have currently ventured into is the Philippine Customs Modernization Project which is funded by the World Bank. At this point, initial procurement of the Quality Assurance Advisers is already underway. Hopefully, after that, the BOC will be able to start with the procurement of the customs processing system which will replace and modernize their current system to make it at par with international standards. He further said that the CPS will cover the entire customs processing system. Pending the realization of the customs' processing system under the World Bank project, they have also ventured into modernizing some of their existing processes already. So, once the customs processing system is complete, that will integrate a full automation already of the entire processing system of the BOC. For now, it has already automated its clearance system in terms of actually activating their customer portal where the public can already transact with the BOC online. They also have an E-TRACC system where duty free shipments and shipments going to the PEZA zones and the customs bonded warehouses are tracked via GPS.

Senator Lacson pointed out that in order to pursue customs modernization, the Customs Modernization and Tariff Act (CMTA) was enacted in 2016. He checked with the BOC then as to how much would be needed in order to fully automate the Bureau. He remembered that the response to that was P15 Billion. Senator Lacson said that he even volunteered to look for the funds to fully automate the BOC but the latter was seemingly uninterested at that time. He then gave an observation that it is already 2022 yet the BOC has not really started to automate its processes. He then asked why the BOC was not interested to automate then.

Mr. Maronilla answered that the BOC has actually ventured independently into a lot of modernization projects. The BOC will provide the COW these modernization efforts to automate a lot of their processes.

Senate President Sotto reiterated the discussion on the basis of importation whether on actual import volume or import permits granted. He then asked the BOC and DA resource persons to clarify and explain it further.

ASec. Laciste explained that pertaining to import permits, they have issued and approved import permits as against the arrival of imported goods. However, these have not been balanced since the number of imports that actually arrive are not as stated in the permits issued. The importers do not really use in full the volume stated in the import permits.

To answer the query of Senate President Sotto, Mr. Maronilla stated that the BOC is able to capture the actual import volume that arrives and compare it with the import permit. Hence, that particular data is available whenever required. But only the DA knows the actual volume allowed by them. Thus, it could be bigger than the actual import volume that arrives. This happens because of the fact that the import volume permitted is not usually exhausted by the importer. Therefore, when the DA is asked regarding import data, their available figure is based on import permit that they have issued which is not the same as the actual import volume received and recorded by the BoC.

In reaction, ASec. Laciste insisted that this discrepancy is due to the fact that there is no real-time record of imports because the system is not yet automated.

Senator Lacson then propounded several questions to the resource persons in relation to the extensive presentation made by the League of Associations at the La Trinidad Vegetable Trading Areas from Benguet, clinched that the presentation really showed an incontrovertible proof that there really is blatant smuggling. He then added that there are two basic issues that must be addressed by the BOC and the DA: First, as a condition *sine qua non* for importation, should it not be that the importer first register and be accredited by the BOC-Accounts Management Office?

Mr. Maronilla replied that the following are the documents needed by an importer for the accreditation of AMO: (1) permits from the local government units, (2) usual tax compliances if the importer is already transacting business or proof of registration in the Bureau of Internal revenue (BIR) if the importer is doing business for the first time, and (3) financial statements and site visit to convince the BOC of the importer's capability to do importation business.

Senator Lacson stated that the aforementioned documentary requirements are also the requirements needed for food safety regulatory authorities in order for the business to be registered. He then inquired with the DA the documentary requirements needed by an importer to be registered at the Food Safety Regulatory Agencies (FSRAs). ASec. Laciste of the DA confirmed that the same documents were also needed by the DA.

Senator Lacson requested the DA to explain the proliferation in the market of imported vegetables and meat products despite the difficulty in securing the voluminous documents needed in doing importation business in the country.

ASec. Laciste replied that automating the whole process of importation will solve the decades-long problem of smuggling. He added that due to the limited

manpower of the DA, the agency partnered with the BOC and the Department of Trade and Industry (DTI) sometime in 2021 to address the problem on smuggling.

Senator Lacson is not convinced with the reply of ASec. Laciste. He cited the case of the African swine fever (ASF) in the Municipality of M'lang in North Cotabato which affected 10 out of 37 villages in the area. He inquired on the remaining budget for the ASF. ASec. Laciste replied that he has no exact idea on the remaining budget for ASF concern.

Senator Lacson posted the same question to BOC regarding the proliferation of imported vegetables and meat products in the market despite the difficulty in securing the voluminous documents needed in doing importation business.

Mr. Maronilla admitted that BOC may have lacked in post compliance in the importation of goods. He proposed to include in the process the pre-shipment inspection of agricultural products.

Senator Lacson opined that no one has been convicted of smuggling despite the passage of three agricultural-related laws, namely: Republic Act (R.A.) No. 10611 or the Food Security Act which was passed in 2013; R.A. 10845 or the Anti-Agricultural Smuggling Act which was passed in 2016; and R.A. 10863 or the Customs Modernization and Tariff Act which was also passed in 2016. Mr. Maronilla responded that BOC has already filed cases of anti-agricultural smuggling with the DOJ.

Senator Villar clarified that the thresholds of P10 Million for rice and P1 Million for other agricultural products under R.A. 10845 are considered economic sabotage and are non-bailable offenses.

Atty. Charlie Guhit of the DOJ stated that the Department was able to file four cases of agricultural smuggling and are presently pending before the Regional Trial Court (RTC) in Manila. He added that in the case being handled by Assistant State

Prosecutor Villordon, the accused is out on bail by virtue of an order by the court granting the petition for bail. He further added that another case was ordered dismiss by the RTC because the court granted the demurrer to evidence by the accused. He remarked that in the case being handled by Atty. Fernandez, the accused was granted by the court for reinvestigation. He further remarked that another case is yet to receive an order from the court for the arraignment of the accused. As of date, the court has not issued an order for arraignment.

Inquired by Senator Lacson on which office in the DA is in charge of the issuance of the Sanitary and Phytosanitary Import Clearance (SPS-IC), ASec. Laciste replied that the Bureau of Animal Industry (BAI) is in charge for the issuance of the aforementioned clearance for the whole imported meat.

Senator Lacson questioned the DA regarding the issuance of an administrative order placing the BAI to be in charge for the issuance of SPS-IC wherein the law specifically mandated the National Meat Inspection Service (NMIS). He instructed ASec. Laciste to inquire with the DA who is the Department Secretary who issued such administrative order.

Ms. Balanoy, through the Presiding Officer, inquired with the BOC and the DA on the non-action of the two (2) agencies on her report regarding the Chinese supplier of carrots.

Senator Pangilinan interjected that "*Pag walang nangyayari, may kumpromiso*". He opined that there may be people who are involved but cannot be investigated nor apprehended. He requested Ms. Balanoy to further explain her earlier presentation particularly the involvement of a certain Congressman Yap in agricultural smuggling.

Ms. Balanoy explained that part of her presentation earlier was based on the report of Senator Lacson which was published in Manila Times in 2017. As a former

member of the media, Ms. Balanoy stated that an investigative report cannot be exposed without evidence.

Senator Pangilinan requested that a copy of the aforementioned report be submitted by Ms. Balanoy to the Committee.

Senator Lacson confirmed that the name mentioned by Ms. Balanoy in her earlier presentation is part of his privilege speech he delivered during the Plenary Session that time.

After which, Senator Pimentel informed the Committee that a treaty known as the Regional Comprehensive Economic Partnership Agreement (RCEP) is currently pending before the Senate, and one of its important features is the Rules of Origin – which is one of the benefits of the treaty with regard to trade matters– as to the origin of the goods.

ASec. Allan Gepty of the DTI explained that the rules of origin are material for purposes of claiming preferential arrangement on importation, but not so much on labeling.

Senator Pimentel highlighted the fact that it is important to disclose the origin of the goods being sold in the market. He asked on whether a law is needed to require retailers, vendors or supermarket owners to find out the origin of items or it could be done through an Executive Order, to which USec. Castelo explained that at present, labeling is required for manufactured food products and medical devices under the Consumer Act of the Philippines and it does not, however include labeling of agricultural products.

Senate President Sotto expressed dismay as to why the agencies could not stop smuggling when they are aware of its existence and prevalence.

Representatives from the *Sangguniang Panlalawigan* of Benguet, Mr. Ruben Paoad and Mr. Robert Namoro, urged the National Government to intensify efforts to stop vegetable and fruit smuggling. The Benguet vegetable industry has been severely affected, and if the smuggling remains unabated, it will also hurt the other sectors that use Benguet vegetables and fruits. It is not only the market vendors that have been impacted but also other workers in the industry, such as carrot washers.

Mr. Namoro requested Asec. Laciste to verify the statements he said during the dialogue between Benguet farmers, DA & DTI. Based on the transcript of the dialogue, Asec. Laciste mentioned that high-profile personalities and politicians call him not to apprehend or file cases against some smugglers.

Asec. Laciste verified that there were indeed politicians who had called him, but he asserted that cases had been filed against the apprehended smugglers. Senate President Sotto instructed Asec. Laciste to submit the names of the politicians who called him.

The discussion continued when Atty. Elias Jose Inciong, President of UBRA, declared that it is more rewarding to import and smuggle fruits and vegetables under the current administration of Secretary William Dar of DA. Atty. Inciong pointed out the pro importation stance of Secretary Dar as evidenced by the appointment of Undersecretary Fermin Adriano, who was a former consultant of Fisheries and Aquaculture Board of the Philippines Inc importers group whose head is also the president of the meat importers group. Secretary Dar recommended tariff reduction for imported meat. The Philippines is becoming dependent on importation.

Atty. Inciong stated that if the DA's policy of pro importation continues, the local industry will die, and local farmers will become importers themselves. At a critical time in international trade, with the problem of climate change, there is a need to look at the entire agriculture sector and review the policies. Many laws have been passed, but these are not being implemented. Atty. Inciong cited Sec. 13 of



the Agriculture and Fisheries Modernization Act of 1997 (AFMA) that mandates the DA, people's organizations, NGOs, and the private sector to develop a medium- and long-term comprehensive agriculture and fisheries modernization plan. Sections 41 and 42 of the AFMA mandate the set-up of a National Information Network at the regional, provincial and municipal levels that will provide supply and demand data, price and price trends, and product standards. Atty. Inciong lamented the lack of data - that we do not even know the cost of chicken in the United States. These data are needed for the sector to be competitive.

Former DA and DTI Undersecretary Ernesto Ordoñez, the chairperson of the Alyansa Agrikultura, urges Senate President Sotto and the Senate to restore the oversight committee that consisted of National Government agencies and the private sector to curb smuggling. The oversight committee on smuggling, formed under President Arroyo's administration, had succeeded in the past but was abolished because it caught a Congressman and a son of Secretary. It was again restored during President Aquino's term but was similarly abolished by BOC Commissioner Nicanor Faeldon. Mr. Ordoñez emphasized the importance of the role of the private sector in curbing smuggling.

Chester Tan, President of the National Federation of Hog Farmers, Inc., requested Asec. Laciste to provide updates, i.e., the actions done by DA and DTI, on the following:

- confiscation of P100 Million worth of smuggled agriculture & fishery products, including pork suspected to be contaminated with African swine fever (ASF) in Navotas last May 27, 2021 – 12 reefer vans;
- seizure of smuggled red onions worth P101 million in Subic port last July 8 & 9, 2021 - 29 reefer vans;
- seizure of 5,610 boxes of mackerel misdeclared as round scud fish in a warehouse in Pulilan, Bulacan last September 1, 2021; and

- confiscation of misdeclared assorted fresh vegetables worth P15 M in Subic port last October 11, 2021 – five (5) reefer vans.

Mr. Chan also asked ASec. Laciste for an explanation of the Bureau of Animal Industry's (BAI) recommendation to strengthen the second border inspection instead of the first border inspection. He cited the ideal set-up is a strong first border inspection, which is being done in other countries.

ASec. Laciste explained that the 100 million ASF sometime in May 27, 2021 in Navotas is filed with the DOJ for economic sabotage. He also informed the Body that with regard to the onions that were taken last July, all of them were likewise disposed. Pertaining to the 5,000 boxes of BFAR products, ASec. Laciste mentioned that these were adjudicated under BFAR Law. BFAR required the importer to pay around five times more than the value of the goods. With regard to the vegetable last October, it is still pending for condemnation and is awaiting disposal.

Mr. Tan, as permitted by the Senate President, asked about border protection because DA wants BOC to join in the inspection of the second border instead of the first border. ASec. Laciste explained that there is a problem with regard to space for the breaking of items. Hence, the current practice is after the first border, 100% inspection is in the second border.

Senator Lacson suggested that it will be better if there will be numerous people like the stakeholders guarding the inspection. Mr. Maronilla agreed and informed the Body that BOC had a meeting last month with the farmers coming from Nueva Ecija who requested that they can join BOC process, to which the latter agreed.

The rice industry was also discussed by Mr. Montemayor from the Federation of Free Farmers when he mentioned that with rice, there are four major categories for imports: (1) palay that is mostly seeds, (2) binalatan lang na pilay na hindi

pinakinis, (3) semi-milled or wholly milled rice, and (4) durog na bigas (broken rice). He mentioned that most of the rice from Vietnam in 2020 are semi-milled and wholly milled rice but upon arrival in our country, the BOC's classification is broken rice with a 300,000-ton discrepancy in volume. There is a huge discrepancy. He concluded that the discrepancy occurred in the declaration with the BOC.

He continued that in 2021, you can still see that 2,000,000 tons went out of Vietnam as semi-milled rice but arrived in the country as 872,000 tons of broken rice. There is no ITC data but if analysis is done on the grade of the rice, there should be 2.8 million tons.

He also mentioned that in December 2021, there is a shipment from Vietnam of 4,000 tons of 5 percent broken rice but BOC classified it under broken rice with a declared value of \$362. Reference price is \$308 only. The shipment was undervalued. The Government lost in this single transaction amounting to P4.082 Million.

He then proceeded to also state that in January 2021, there are 24 tons of basmati rice but were classified by BOC as parboiled rice. The reference price should have been 800 to 1,190 but the declared price by BOC was 770. The loss here of the Government is around P241,000.00.

He complained that if there is difference in the declared value with the reference price, it can still be questioned. Shipment can still be released but the importer should post a bond equivalent to the tariff differential.

He then proceeded to enumerate problems in the system: (1) importer is still allowed not to state the variety or grade of the rice being imported; (2) how would the BOC know that the declared lien of the importer is correct? Hence, BOC should have the capacity to check the veracity of the importer's declarations; (3) the memorandum from Commissioner Guerrero should include all classes of rice being imported complete with reference price; (4) ensure that the correct classification

matches the correct reference price; (5) application of correct tariff rate; (6) correct freight and insurance; (7) automatic system wherein importation is less than the reference price by a certain percentage; and (8) sanctions for violators.

Touching upon the status of the smuggling cases, Atty. Guhit of DOJ said that out of the thirty cases mentioned during the previous hearing, eleven cases were not in the docket section of their records office, as such these eleven cases were not yet filed with the NPS.

Mr. Maronilla mentioned that he will coordinate with the DOJ to reconcile with their own records of cases filed by the BOC. He said that according to their records, the cases in the Port of Subic were already filed. He will update the Committee on the case against the Pulilan Cold Storage.

He added that on the importation of twelve containers found in Navotas City, the case was already submitted for resolution after a preliminary investigation was conducted. With regard to the red onions from Port of Subic, the resolution was already for approval.

With regard to the data of inspection and seizure dated July 9 and 13, Port of Subic, also for importation of red onion, was already resolved pursuant to a resolution dated January 19, 2022. The case was for automatic review since it was dismissed during the preliminary investigation.

As to the importation of red onion on July 14 and 16, 2021 at the Manila International Container Port, the matter is still pending preliminary investigation.

The inspection and seizure dated July 19, 2021, from the Port of Davao for red onions was already resolved pursuant to a resolution dated March 10, 2022. He said the prosecution found probable cause so an information was filed before the court.

Senate President Sotto wondered why red onions are always the subject of seizure committed by various importers. Ms. Castelo from the DTI said that these products are easier to dispose and there are no visual distinctions between local and imported red onions.

In closing, Senate President Sotto highlighted points that were established during the public hearing:

- To solve the smuggling, there must be an inter-agency cooperation.
- All concerned agencies should have the authority and capacity to act expediently and effectively.
- Since inter-agency cooperation is necessary, DOH's attention should be called with regard to the formaldehyde in the imported vegetables from China.
- Some cases have not been filed and the Committee expects to be updated about this during the next scheduled hearing.

There are numerous laws in place, what is needed is full implementation of the laws.

#### **APRIL 12, 2022**

On the third and final installment of the Committee of the Whole hearings on smuggling, the Chairman wanted to put closure on the hanging issues as well as trying to ferret out the truth on certain personalities involved in smuggling activities.

The following resource persons were present for the final hearing:

1. ASEC. Federico E. Laciste Jr., DA-Wide Field Inspectorate, Department of Agriculture (DA);
2. Dr. Reildrin G. Morales, Director, Bureau of Animal Industry (BAI)

3. Dr. Jose Eduardo David, Chief, National Veterinary Quarantine Services Division, BAI;
4. Dr. Kiara V. Garcia, Executive Assistant, BAI;
5. Mr. Eduardo B. Gongona, Director, Bureau of Fisheries and Aquatic Resources (BFAR);
6. Dr. Jocelyn A. Salvador, OIC- Executive Director, National Meat Inspection Service (NMIS);
7. Mr. Leonard Bayog, Staff, NMIS;
8. Atty. Armando R. Crobalde Jr., OIC Director, Legal Service, DA;
9. Ms. Amparo C. Ampil, Chief, Food Agriculture and Fisheries Policy Division;
10. Dr. George Y. Culaste, Bureau Director, Bureau of Plant Industry (BPI);
11. Mr. Edsel T. Batalla, Director, National Intelligence Coordinating Agency (NICA);
12. Mr. Macwell Evan S. Basio, NICA;
13. Mr. Arnel Marcos Sanchez, Special Assistant - Office of the Undersecretary for Multilateral Affairs and International Economic Relations (DFA-OUIMAIER), Department of Foreign Affairs (DFA);
14. Atty. Charlie Guhit, Senior Assistant State Prosecutor, Office of the Prosecutor General, National Prosecution Service, Department of Justice (DOJ);
15. USEC. Ruth B. Castelo, Consumer Protection Group, Department of Trade and Industry (DTI);
16. Ms. Marielle Ann K. Villegas, DTI – Consumer Protection Group;
17. Gen. Rey Leonardo Guerrero (Ret.), Commissioner, Bureau of Customs (BOC);
18. Atty. Vener S. Baquiran, Deputy Commissioner, Revenue Collection Monitoring Group (RCMG);
19. Atty. Vincent Philip C. Maronilla, Assistant Commissioner, Post Clearance Audit Group (PCAG);
20. Mr. Nicanor M. Briones, Former Representative, AGAP Partylist;

21. Mr. Ruben E. Poad, Chairperson, Sangguniang Panlalawigan ng Benguet;
22. Mr. Robert M. Mamora, Vice-Chairperson, Sangguniang Panlalawigan ng Benguet;
23. Ms. Maria Zapata, President, Confederation of Truckers Association of the Philippines (CTAP);
24. Mr. Raul Montemayor, National Manager, Federation of Free Farmers/Workers;
25. Mr. Edgardo B. Lumanog Jr., Chief, Sugar Anti-Smuggling Organization;
26. Engr. Rosendo O. So, Chairperson/President, Samahang Industriya ng Agrikultura (SINAG);
27. Mr. Chester Warren Y. Tan, Chairperson/President, National Federation of Hog Farmers, Inc.
28. Mr. Alfred Ng, Vice-Chairperson, National Federation of Hog Farmers, Inc.;
29. Dr. Ernesto Ordoñez, Chairperson, Alyansa Agrikultura;
30. Mr. Ricardo "Ric" Samaniego, Chairman and Founder, Philippine Coalition of Consumer Welfare Inc.;
31. Mr. Gregorio San Diego, Chairperson, Philippine Egg Board.

Dr. Ernesto Ordoñez of Alyansa Agrikultura was first to speak. At the outset, Dr. Ordoñez clarified that smuggling can be measured, contrary to the supposition of the Secretary of the Department of Finance to the contrary. All that one has to do is to get the United Nations (UN) report and compare it with the Bureau of Customs (BOC) report. The gap in those reports is not just caused by technology, the gap is smuggling. If the UN reports 100M while the BOC reports just 70M, 30M has just disappeared and that might be smuggling.

To combat smuggling, it is not sufficient that the BOC is under the supervision of the Department Finance (DOF). Unless the private sector actively participates, the fight against smuggling will not succeed.

He also emphasized the primacy of an anti-smuggling oversight body which directly involves the private sector. He shared to the COW that there have been previous wins against smuggling, wherein the private sector was part of an oversight group reporting to the President. Though these committees namely the Cabinet Oversight Committee Against Smuggling, and the Anti-Smuggling Committee of National Competitiveness Council were successful in reducing smuggling by 25% and 35%, respectively, and were able to successfully catch "big fish", these committees were eventually abolished because they were very effective in their task and someone in the higher level decided not to continue the initiative. He added that the reasons for the success of these now defunct oversight committees were the conduct of monthly reviews and recommendations for the BOC Commissioner, and the observance of transparency and accountability in all its processes.

Lastly, he recommended the restoration of a higher oversight body that will meet monthly composed of the following parties: Office of the President, Department of Finance, Agriculture, Trade and Industry, Justice, Interior and Local Government, and one private sector each from Agriculture and Industry. He likewise proposed that the work of this committee be periodically reviewed by the Senate.

After which, Ms. Balanoy of the League of Associations at the La Trinidad Vegetable Trading Areas gave an update on the actions taken by the concerned agencies after the series of Senate hearings. She shared that the DA conducted an operation at Procy Market in Sariaya, Quezon on April 6, 2022 while the BOC, DTI and DA raided some markets in Divisoria on April 4, 2022, which yielded the confiscation of 46 boxes of smuggled carrots and broccoli vegetables. All smuggled vegetables on display during the operations were confiscated. She however lamented that it would have been better if operations focused on cold storages rather than markets so that the volume of seizure would have been significantly greater.

Nonetheless, Ms. Balanoy is still grateful that on account of the last Senate hearing, immediate actions were made by the government. She added that as an



immediate effect of said operations, the volume of demand for locally-grown vegetables, particularly for carrots, increased. The price of local carrots as of April 8, 2022 likewise grew as compared to January-April 7, 2022 levels.

Unfortunately, last April 9 and April 11, 2022 days after the earlier operations on confiscation of smuggled vegetables, smuggled vegetables once again surreptitiously entered the market.

Department of Agriculture is in close communication with them as to any information that may help ease the vegetable smuggling activities.

Ms. Balanoy went on to request clarification on certain reports that were forwarded to them about the alleged participation of BPI Director Culaste and Usec Cayanan from the DA on the purported request for release of two (2) containers of questionable fresh vegetables from China. Miss Balanoy mentioned that she has high hopes for the current Senate Hearing and that the same can at least go after the smugglers, high profile protectors and even politicians.

Responding to the request for clarification of Ms. Balanoy, Dir. Culaste explained that no smuggling occurred because the importation papers of Cambridge Cooperative, the importer of the questioned two (2) containers of vegetables were complete.

He also explained that the 2 containers were initially held up because of a pending electronic request for inspection (ERFI). Upon inspection by the Plant Quarantine Inspector, it was discovered that the temperature of the shipment when it arrived the Philippines was negative one (1) while the required temperature for frozen food is negative eighteen (-18). He went on by saying that importation of frozen vegetables is allowed. Frozen vegetables are low risk commodity with lower risk of introduction of pest and diseases.

On the basis of the findings of the Plant Quarantine Inspector, Dir. Culaste issued a Show Cause Order to Cambridge Cooperative requiring the latter to explain within 72 hours why the temperature of their containers were at negative one (1) at port in the Philippines, while the required temperature for frozen foods is at negative eighteen.

Cambridge Cooperative submitted all the necessary documents and the documents revealed that when the commodity was shipped out from the country of origin, the temperature was at negative eighteen. The temperature only changed to negative one when it arrived the destination. For Dir. Culaste, the shipment was still frozen regardless of whether the temperature is negative one or negative 18. Since the importer has complete documents, the goods are not smuggled hence, he decided to release the shipment.

Notwithstanding the given explanation, Ms. Balanoy, sought further clarifications on the information received by them that the shipment actually consisted of fresh vegetables and not frozen vegetables.

Director Culaste answered and reiterated his stand that these products are not smuggled and that the same were accompanied with complete documents for frozen vegetables and that the issue on hand is the discrepancy in temperature.

Given the exchange of arguments between Ms. Balanoy and Dir. Culaste, Senate President pointed out that there may be a misdeclaration which is essentially technical smuggling.

As originally intended, the Senate President mentioned that he received a list of smugglers who are said to be protected by officials of the BOC and DA. Prompted by the Chair, Mr. Edsel Batalla of the National Intelligence Coordinating Agency confirmed the list of alleged smugglers and their 'protectors' albeit the list needs further validation. Mr. Batalla painstakingly emphasized that validating the names is a long and tedious process. He did confirm that the list contains more than 20

names (later on in the hearing, he confirmed that there are 20 identified names of smugglers and about 5 names of 'protectors' who are allegedly high-ranking government officials). Some of the names confirmed in the raw list include: a certain Manuel Tan (who operates in Subic, Cagayan de Oro, and Batangas), Andrew Chang (who operates in Subic, MICP, EOM and Batangas), Lea/Luz Cruz (who operates in Subic, MICP and Cagayan de Oro, and is tagged as the Onion Queen), and Jun Diamante (who operates in CDO). The list is based on information gathered by the Sub-Task Group (STG) on Economic Intelligence, which is tasked to process all gathered information resulting from the operations and activities of the STG. The Chair requested that the confidential information be submitted to the Committee.

Pressed by the Chair, BOC Commissioner Rey Leonardo Guerrero confirms that some of the names mentioned sounded familiar, but has no definitive list on hand.

Senate President raised two (2) clarificatory questions for BOC Commissioner Guerrero. These pertain to the following:

- 1) 542 seizures since 2019 as stated in the press release on the intensified efforts against agriculture smuggling by the BOC dated April 7, *versus* 561 total apprehensions as claimed in the previous Committee Hearing;
- 2) 103 cases filed against importers and brokers as stated in the said press release, *versus* the four (4) cases filed that was admitted during the Second Hearing;

The DOJ, represented by Atty. Charlie Guhit, clarified that based on the Docket Section of the National Prosecution Service from 2016 to 2021, the four (4) cases filed before the courts involve agricultural smuggling that the DOJ found a probable cause. Other cases that were filed were related to violations of customs law, or were subject to preliminary investigations.

Senator Cynthia Villar interjected that based on RA 10845, Anti-Agricultural Smuggling Act of 2016, a minimum value of PhP1 million for agricultural commodities or PhP10 million for rice would be considered as a large-scale smuggling and, thus, would tantamount to an economic sabotage, which is a non-bailable offense. Sen Villar observed that with the reported amounts of seized smuggled agricultural goods, there seems to be no reports of convictions of the people behind these smuggling operations.

Atty. Guhit of the DOJ responded by describing the legal process that would lead to a conviction. He noted that conviction is determined by a competent court when an accused is found guilty beyond reasonable doubt of the non-bailable offense. For a case to be filed in courts, the DOJ must first conduct a preliminary investigation. In this stage, the respondent is not yet accused. Once the DOJ gathered information and deemed it has probable cause, the DOJ then files a case before a court of law and submits evidence gathered during the preliminary investigation. Of the four (4) cases filed in the court, one case was dismissed, one was for arraignment, one is for reinvestigation and one case has the accused posted a bail. In short, Atty. Guhit remarked that it is still too early to say that no one is imprisoned due to RA 10845.

The Senate President voiced his frustration on the slow juridical process involving convictions of reported cases of agricultural smuggling.

Senator Lacson raised a hypothetical question of whether a government official can be held liable for offense under Section 3 of RA 3019, Anti-Graft and Corrupt Practices Act, if the said official ordered a release of shipment that subsequently caused a material injury to a domestic industry. Atty. Guhit opined that assuming injury on the part of the government or undue advantage was given to a certain company, the government official may have committed a violation of RA 3019. For a government officer with salary grade 27 and above, the case may be filed in the Ombudsman. Senator Lacson clarified that the purpose of his

hypothetical question is to educate or increase awareness among public officers to be more judicious in dispensing their official duties.

Another issue which Senator Lacson wanted to query on was the smuggled African Swine Flu (ASF) infected pork. He raised the issue of smuggled African swine flu (ASF)-infected pork based on the report submitted by the DTI. Confirming this report, DA Asec. Laciste, Jr. replied that this happened in May 27, 2021. Despite the Senate COW hearings on the issue, smugglers blatantly disregarded the laws. In response to Senator Lacson's question of whether there was a case filed against the smugglers of ASF-infected pork, DA Asec. Laciste Jr. shared that there were two (2) cases filed in violation of the Food Safety and Economic Sabotage laws. Senator Lacson directed the DA to submit the details of the said cases because of the damage it has caused to the domestic swine and hog industry.

Going back to the alleged list of "players" or smugglers protected by government officials, Senator Pimentel requested clarification from BPI Director Culaste with regard to the value of the two container vans that contained smuggled agricultural products that were seized. However, the latter had no readily available information at hand. Senator Pimentel also raised the issue of the government's seemingly reactionary response in anti-smuggling efforts since the passage of RA 10845. It was only in April 2021 that the National Intelligence Coordinating Agency (NICA) started information gathering with respect to activities covered by the law. Pressed to confirm the list of smugglers and protectors, NICA Director Batalla replied that there are 20 smugglers and five (5) 'protectors' in their list.

He also made an inquiry into the raw information which are currently being validated by the National Intelligence Coordinating Agency (NICA). He questioned Director Edsel Batalla on how long have they been in possession of these raw information and their timeline to validate the same. Director Batalla replied that the information was born out of the activities and operations of the STG-EI which started on April 2021. Director Batalla explained that the process of validating the raw information is a tedious one because they need to recheck the database

including that of other agencies and informants. Director Batalla likewise mentioned that there is also a need to recruit other informants and do lifestyle check like that of the interagency drug information database validation. Senator Pimentel also asked regarding the names of the suspected smugglers and protectors. Director Batalla answered that the protectors of smugglers have also positions in the government. He also mentioned that the list - which is still subject to validation, consists of more than 20 personalities who are suspected smugglers and around five personalities who are suspected protectors.

Senator Lacson asked Assistant Secretary Federico E. Laciste Jr., head of STG-EI, what security classification are they providing NICA with regard to the raw information. ASEC Laciste answered that the raw information being submitted are classified as F6. However, they are also receiving other information from PNP, CIDG and NBI operatives.

Senator Lacson likewise asked Director Batalla about NICA's timeline to process intelligence information. Director Batalla explained that it depends if there are information from their counterparts, other intelligence community, or other several sources to confirm. However, if the information received are limited then NICA will do ground investigations. Senator Lacson emphasized that there should be a sense of urgency because the problem involves food security which is as important as economic security or any other aspect of national security. He further requested to Director Batalla to fast tract the process in order to unmasked those involved in smuggling including co-conspirators in government. Senator Lacson also stressed that after hearings there are no follow-ups for execution or implementation to solve the problem. Moreover, after Senate investigations on smuggling of vegetable, the smuggling will momentarily stop but will again resume after two to three weeks. Senator Lacson even requested Director Batalla to fast track the processing of information for timely and proper filling of cases against the smugglers and their protectors.

The Senate President reiterated the statement of Sen. Lacson adding that the so-called protectors might be voted into office.

What may be considered as a material absence will be that of DA Secretary Dar. The Senate President mentioned that the Committee invited Secretary Dar three times to attend the hearing. The Committee received a copy of letter from Secretary Dar dated April 7, 2022 conveying his absence in the Senate investigation. However, the Committee did not receive any explanation for Secretary Dar's absence.

Asec Laciste explained that during the first hearing, Secretary Dar was attending the Management Committee meeting. Further, Asec Laciste said that Secretary Dar was not able to attend the hearing because he has a prior engagement.

Senate President emphatically said to Asec Laciste that the Committee is willing to adjust the time, date and place for Secretary Dar so that he can attend the hearing and answer the important issues and allegations raised in the subject proceedings.

In support of the statement of the Senate President, Senator Lacson said that the Secretary is needed because of the many issues and questions that have to be brought to his attention. One of the issues raised was the lack of support of the Department of Agriculture in research and development. He explained that due to the augmentation of the Senate, around 1.2 Billion of laboratory equipment were able to procure during 2018 to 2022. As a result thereof, UP Biotech is now producing tons of organic fertilizers. If ten percent of 4.4 million hectares were given biofertilizer invented by the UP Biotech, then the government could have saved 3.57 billion pesos. Senator Lacson further said that the Department of Agriculture need to up-scale the production, distribution and application of the biofertilizers of the UP Biotech. Senator Lacson noted that Secretary Dar made a number of agricultural

promises which were all left unfulfilled and can only be properly addressed by Secretary Dar's presence.

He added that certain short-term and long-term needs of farmers like harvester equipment in Nueva Ecija have not been delivered by that agency and these could be readily responded to by the Secretary if he was present. He also said that the election campaign has brought them to places where farmers have told them of these problems that confront them.

Sen. Lacson added that the Committee can consider conducting the hearing in the house of the Secretary, if need be. He commented that the Secretary must make himself available, the Secretary cannot "keep quiet all the time".

In the course of the hearing, Congressman Eric Yap manifested that the Benguet farmers are experiencing hardship due to smuggling. He urged the Department of Agriculture and Bureau of Customs to unmask the politicians who work for the release of the smuggled goods/vegetables. Congressman Yap made it an issue that vegetable smuggling cannot be solved because of politicking. He further said that DA during the previous budget hearing, promised to give 13 trucks "each per municipality". Nonetheless, despite the repeated follow-ups and in order to help the farmers, this promise was again left unheeded. The Department of Agriculture informed Congressman Yap that until now it is still in the process of procurement. Congressman Yap then seeks the help of the Committee for possible extension of fuel subsidy, which is now being provided to rice farmers, and to that of vegetable farmers. Congressman noted that farmers in Benguet are really affected by the current increase of fuel price in the market.

For added information, Senator Lacson said that aside from the 5 Billion Pesos for rice tariffication for agri-machineries, there is also a 13 Billion pesos budget for agricultural machineries and 1.1 Billion peso special provision for fuel subsidy for farmers and fisherfolk. Again, Senator Lacson call Secretary Dar to attend the Senate hearing in order to provide the status of these budget which were previously given



by Congress in the total amount of 18 Billion Pesos. He also wanted to know why Secretary Dar fail to deliver his promises not only to Benguet, but as well as to other parts of the country-harvesters.

On the data presented by the DA in the previous hearing, Mr. San Diego, President of UBRA and the Philippine Egg Board, said that he has serious reactions on the issue of data system accuracy, first raised by Atty. Inciong in the last hearing. Data being presented by the DA are in conflict with data being presented by the BOC and other agencies, so there is uncertainty on what data to believe in and use. These data are being presented by Sec. Dar, whose intention is to paint a rosy picture of the agricultural sector. For example, the Secretary says that we have increase in rice production, but how come rice bran has become very scarce for feeds. Rice importation is also ever increasing, even as the secretary says that rice production is increasing. Even if importation is rampant, prices of these imported agricultural products remain high. So why continue to import, because these products can be locally produced? Only egg layer production remains locally produced and because of this, other agricultural producers have transferred to egg production, because there is no competition from imports, resulting in the closing down of small egg layer producers due to surplus in production.

There is also the phenomenon of multinational corporations in the broiler industry that has set up business in the Philippines. While other countries like Indonesia have protected their local industry from imports, local producers have long been struggling against foreign competition. Government has also been saying that it is only through imports that local prices will go down, which is time and again proven to be false. Because of imports, local agricultural producers, particularly of tomatoes and onions, have suffered from low prices, not enough even to recoup production expenses.

Senate President agreed that importation is really the culprit in the current sufferings of local farm producers. Together with Senators Tañada and Maceda, he saw then the dangers of the GATT-WTO agreement to local farmers in the debates

surrounding the approval of the agreement, which forced our agricultural economy to open up to imports and would result in our local farmers' destruction. Now, their fears then are proven to be correct. Sen. Villar said that Ms. Lea Cruz was blacklisted in 2014 in connection with importation of onion, but she is still in the picture now.

Sen. Pangilinan asked Dir. Culaste for the list of names of importers of Korean strawberries who misdeclared strawberries as ornamental plants, raised in the previous hearing by Benquet's ornamental flower producers, which the later obliged by mentioning on record the fourteen (14) names of said importers. Mr. Culaste clarified that the importation of strawberries from South Korea is a result of an administrative circular wherein Korean strawberries are allowed entry into the country and in return our local okra exporters are allowed entry in the Korean market.

Mr. Culaste clarified, in response to Sen. Pangilinan's question about the entry of Korean strawberries in Cebu, that such strawberries in Cebu came from the US and had an import permit.

Senator Pangilinan added that it is very important for the Senate to know the names behind this smuggling because the Senate has evidence. He then posed the following queries:

- Were cases filed against the warehouse owners where evidence was discovered;
- Were they not looking for the four container vans that slid through Cebu. Don't they have records and names?

Senator Pangilinan directed them to secure the names of the warehouse owners and file a case. He added that it would be better if the Committee knew the names of the caller politicians or the names of the warehouse owners and importers who brought in the container vans. He remarked that it is unbelievable and incredible to say that these four container vans came and gone without names,

documents, no one saw them, and that the government can do nothing. According to him, there were four container vans smuggled from China, and these four container vans were identified with carrots therein, yet, the government was still helpless, he asked.

Senator Pangilinan also stated that when he went to Occidental Mindoro, there was such a "*harabas*" pest, where all plants were destroyed. As has been the case in many of these non-endemic pests, it was endemic in Occidental Mindoro, and that the track record of the pests shows that it came from the smuggled or imported products. He stated also that the *cocolisap*, *African swine fever* and the *harabas* pests destroys about hundred million pesos from Occidental Mindoro farmers of onions. He also calls for the resignation of the BPI director when he said that he could do nothing when smuggled products came in without the permit, so that the government could find someone who could protect the farmers.

Mr. So agreed with Senator Pangilinan on *harabas* pests in Occidental Mindoro. He said that the farmers are really suffering not only in Occidental Mindoro but in other places because the pests escalated already in other places, adding that the price of onions has reduced from P8 to P6 pesos. He also mentioned when he was at the gasoline station one day, that one of the farmer's child had with him onions asking people if they could possibly trade it with foods. While the importation and smuggled goods are continuously coming in, he added. According to him, a big problem is the space for the local produced because smuggled and imported products are being accommodated, that is the priority of the cold storage that was why the local products going to the cold storage could not come in.

On the issue of calls allegedly received by Dir. Culasta name-dropping prominent personalities in government for the dropping of the case against an importer, Senate President Sotto ask what was the bottom line of the name dropping. In reply, Mr. Culaste admitted that there were calls received but they qualified it as name dropping only.

The Senate President posed the following queries:

- Whether the call came from a government official and why he received the call;
- Whether he knew the caller; and who was name dropped?

Replying thereto, Mr. Laciste replied in the negative. He said that he received the call and the caller offered to talk about the case and it stop there, only to find out that it was name dropping.

Asked whether he knew the caller, Mr. Laciste replied in the negative, adding that he has many calls during that time. As to who was the person name dropped by the caller, he replied that it was Colonel Nelson Yabut because after a few days he said that he validated the call and Col. Yabut replied in the negative.

Consistent with the previous hearings, the Senate President asked to be apprised of the status of cases which were responded to by DOJ representative, Atty. Guhit. Atty. Guhit stated that he has only the data on filed cases. According to him, he will coordinate with the handling prosecutor and will inform the body once he has the information.

Mr. Namoro also stated that after three hearings, there were no clear answers on the issues concerning the farming industry, starting from the justice system. He said that this problem lingers for so long and the names mentioned until now are still for validation. He asked whether the names were changing every now and then, and what happened to those names before. Nothing, he replied to his own query. He said that he is very frustrated. According to him, he is representing the officialdom in the province of Benguet, the farming province of the Northern or the Cordillera. He observes that the statement coming from the agencies who were tasked to safeguard the safety or the welfare of their farmers seem to be sleeping on the job. It is impossible that there were no big men behind this smuggling, he said. To the concerned agencies, he asked, when they have the mandate, why are they pointing

fingers to each other as to who will act upon it? He stressed that he is very much frustrated. He then recommended to the body, that something must be done about this smuggling for the welfare of the farming industry, not only in Benguet but, for the whole Philippines.

Mr. Guhit interjected and said that he was informed by the handling prosecutor that the accused in that case is Marilou Hernandez of Buensuceso Enterprises where onions were declared as apples, consisting of five containers. He said that she was on bail because apparently, the evidence of guilt was not strong, as determined by the court.

Senate President inquired if onions declared as apples is not a strong evidence of smuggling. Replying thereto, Mr. Guhit stated that he wishes that he could answer the question but it is for the court's determination.

Asked by the Chair how much was involved, Mr. Guhit said that he would coordinate again with the prosecutor.

Asked by Senator Lacson that obviously it was more than one million, Mr. Guhit replied in the positive because it is large-scale smuggling.

Senate President then asked whether Representative Yap wrote a letter to the House of Representatives asking the Committee on Agriculture to exercise oversight functions on this vegetable smuggling, Representative Yap replied in the affirmative saying that the letter was last November 2021. He said that while their hearing is not yet entertained in Congress, he called Commissioner Rey Guerrero to watch the smugglers of vegetables because farmers in Benguet are really suffering. He said that farmers kept coming to him asking help and they are frustrated. He said that his call gave a positive result.

In relation to the case filed, Atty. Guhit again informed the Committee that the case was in 2018 where accused was jailed for one and a half year. He said that

the problem in this case was all the original records were burned in the Bureau of Customs during the fire incident that was why the prosecutor handling the case had a difficulty handling the case.

Senator Lacson remarked that even though documents in a smuggling case were burned, the same could be easily retrieved from back up files. Senator Lacson expressed his view that burnt original records is not acceptable reason why a pending smuggling complaint was dismissed.

Agricultural Sector Alliance of the Philippines (AGAP) former Representative Nicanor Briones expressed sadness that the above cited smuggling case was very near conviction. Mr. Briones revealed to the COW that AGAP previously had plans to lodge a Protest by way of the declaration of a "Pig/Fish Holiday" (Non-Sale of food commodities for a certain period of time). Mr. Briones observed that the farmers nowadays are more miserable or struggling financially than they were two decades ago due to mushrooming of cartels, Indiscriminate Importation Policies and Rampant Smuggling. Mr. Briones accused the DA and BOC personnel of conniving with each other.

Philippine Coalition of Consumer Welfare (PCCWI) disclosed that 300 Billion pesos in the GAA were UNUSED FUNDS Senate President Sotto blamed excessive importations as the culprit in the Nation's Economic stagnation.

Alyansa Agrikultura Chairperson Ernesto Ordoñez maintained that Senators Sotto and Lacson are the best legislators in combating corruption. Dr. Ordoñez complained about the cordon sanitaire in the office of BOC Commissioner Leonardo Guerrero. Aside from the lack of computerization, BOC's weaknesses include incompetence/ignorance.

DTI Consumer Protection Group Undersecretary Ruth Castelo told the Committee that DTI, in coordination with BOC and DA had been uncovering illegal

activities. Senate President Sotto instructed DTI USEC. Castelo to transmit DTI's findings to the NICA.

United Broilers Raiser's Association (UBRA) President Elias Jose Inciong proposed that the Senate review DA SO No. 35 (Reconstitution of the Office of Strategic Communication (OSC)). UBRA President Inciong divulged that DA proposed to the Tariff Customs to lower the tariff on corn without prior consultation with the stakeholders.

### **MAY 17, 2022**

On 17 May 2022, more than a month after the Committee's last hearing, an intelligence report was submitted to the Senate President containing a validated list of the alleged protectors and smugglers of agricultural products. The list contains the following names, with corresponding annotations:

1. David Tan (aka David Bangyan)	Cebu, MICP, Port of Manila, Batangas
2. Gerry Teves	Meat Products No. 1 Smuggler playing in all majoy ports (i.e. Subic, MICP, POM, Batangas, Cebu)
3. Mayor Jun Diamante	All agri products playing in port of Davao, CDO, Cebu, Subic
4. Manuel Tan	Agri-fishery products playing in Subic, DO, and Batangas
5. Jude Logarta	Cebu
6. Leah Cruz (aka Luz Cruz and Lilia Matabang Cruz)	tagged as "Onion Queen," DA SPSIC Controller/Manipulator (i.e. Subic, MICP, CDO)
7. Andy Chua	
8. George Tan	
9. David Bangayan	
10. Paul Teves	

11. Tommy Go	
12. Wilson Chua	
13. Toby Tiangco	BFAR products, smuggling protector
14. Usec. Ariel Cayanan	DA Central Office
15. Dir. George Culaste	BPI
16. Dir. Eduardo Gongona	BFAR
17. Laarni Roxas	BPI PQSD (Region 3)
18. Rey Leonardo B. Guerrero	Commissioner
19. Raniel T. Ramiro	Deputy Commissioner, IG
20. Atty. Vener Bquiran	Deputy Commissioner, RCMG
21. Dir. Geoffrey Tacio	Customs Intelligence and Investigation Service
22. Atty. Yasser Abbas	Import and Assessment

### **III. FINDINGS**

#### **1. The amount of technically smuggled agri-fishery commodities for the years 2019 to 2022 is estimated at P667.5 Million.**

The BOC reported that the number of incidents and apprehensions made for agricultural products are 80 incidents of seizures in 2019; 309 in 2020; and 172 in 2021.

The Task Group on Food Security submitted that from 2019 to 2020, the Compliance and Regulatory Enforcement for Security and Trade Office (CREST-O) reported misdeclared meat products in two (2) container vans with an estimated value of P10 Million.

For 2021, the Sub-Task Group on Economic Intelligence (STG-EI) reported misdeclared agri-fishery products (assorted vegetables, ASF-infected meat, poultry products, various meat products, etc.) in 153 container vans, 5,000 boxes of BFAR products, with an estimated value of P548.5 Million.



For 2022, CREST-O and STG-EI reported misdeclared vegetable (fresh/chilled) and agri-fishery products (poultry, pork, meat, fishery products) in 23 container vans with an estimated value of P109 Million.

**2. Thirty-one smuggling cases are pending from May 28, 2021 with the total amount of smuggled goods estimated at P848,327,873.83.**

According to the DOJ's Updates on Government Operations on Smuggled Agricultural Products, out of the thirty-one (31) smuggling cases since May 28, 2021, twenty-three (23) are still pending action, three (3) are resolved and endorsed for automatic review, two (2) are resolved and are ready for filing with courts, two (2) are for approval of resolution, and one (1) case is submitted for resolution.

**3. There are discrepancies in the United Nations Comtrade Report and the Bureau of Customs/Bureau of Animal Industry Data**

The Samahang Industriya Agrikultura provided the Committee with the data from the UN Comtrade Database and compared the provided figures with the data of the Bureau of Customs or of the Bureau of Animal Industry.

Product	UN Comtrade Report	BOC/BAI Record
Imported rice	2.54 million metric tons	2.233 million metric tons
Imported pork (prime cut)	119.3 million kilos	73,787,222 kilos
Imported pork (offals)	119.175 million kilos	105,572,173 kilos
Imported pork (fats)	33,335,245 kilos	36,677,531 kilos
Imported chicken	326,681,482 kilos	402,700,069 kilos
Imported onions	107.630 million kilos	84.587 million kilos
Imported garlic	91,226,345 kilos	84,587,353 kilos

Imported spinach, lettuce, legumes, peas, asparagus, celery, spinach, brassica, carrots, cauliflowers, leeks, beetroot, artichokes, beans, and broccoli	13,360,377 kilos	894,156 kilos
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The Committee believes that the discrepancies in the recorded data are due to smuggled goods.

**4. Discrepancies in HS Code Classification is one of the means of misdeclaration to smuggle rice imports**

Mr. Montemayor from the Federation of Free Farmers mentioned that with rice, there are four major categories for imports: (1) palay that is mostly seeds, (2) binalatan lang na palay na hindi pinakinis, (3) semi-milled or wholly milled rice, and (4) durog na bigas (broken rice). He mentioned that most of the rice from Vietnam in 2020 are semi-milled and wholly milled rice but upon arrival in our country, the BoC's classification is broken rice with a 300,000-ton discrepancy in volume. There is a huge discrepancy. He concluded that the discrepancy occurred in the declaration with the BoC.

He continued that in 2021, you can still see that 2,000,000 tons went out of Vietnam as semi-milled rice but arrived in the country as 872,000 tons of broken rice. There is no ITC data but if analysis is done on the grade of the rice, there should be 2.8 million tons.

He also mentioned that in December 2021, there is a shipment from Vietnam of 4,000 tons of 5 percent broken rice but BoC classified it under broken rice with a declared value of \$362. Reference price is \$308 only. The shipment was

undervalued. The Government lost in this single transaction amounting to P4.082 Million.

He then proceeded to also state that in January 2021, there are 24 tons of basmati rice but were classified by BoC as parboiled rice. The reference price should have been 800 to 1,190 but the declared price by BoC was 770. The loss here of the Government is around P241,000.00.

**5. Smuggling due to failure of fully digitalizing inspection processes.**

The implementation of the National Single Window System to eliminate human intervention for a more transparent inspection process was planned by the BOC in 2015. However, the BOC raised that it could not be implemented at this time because of technical and legal matters.

However, the BOC reported that PNSW2 of the Single Window 2 is currently being implemented under the new project known as the TradeNet Platform by the Department of Finance. Out of 72 agencies that are supposed to be on-boarded, 22 are already on-boarded and the remaining 51 will be at the end of 2022.

Because of the delay in the National Single Window implementation, other agencies have resorted to the implementation of their own information systems which are now having challenges integrating them into a single window.

**6. Lack of first border inspection as one of the primary problems that contributes to the consummation of smuggling**

As admitted by Commissioner Guerrero during the course of the hearing, agricultural products are smuggled in containers that are placed between other items or products to avoid detection. And he attributed it to the fact that they have limited capacity and capability during the first border inspection.

As what is currently being done, only 10% examination is made on containers once they arrived in the premises of the BOC. The remaining 90% scrutiny is performed in the cold storage warehouses, which is called the second border inspection. This has been the practice because of the absence of any capable facility that will serve as the first border inspection. Likewise, as pointed out by the BOC, there is inadequate space at the port to conduct full stripping of containers for both dry and refrigerated containers. These factors limit the BOC to perform its mandate under our existing laws as regards the required inspection – which can be remedied, if only the agency is willing. As cited by Asec. Laciste of the DA, the ideal set-up is a strong first border inspection which is being done in other countries.

#### **IV. CONCLUSION**

The BOC and the DA implement the *Twin-Border Inspection for Agricultural Products* to further establish sanitary and phytosanitary measures, food safety standards, and other regulatory measures and control procedures, particularly described as:

- *First Border Inspection* which is conducted at the Reefer Designated Examination Area (DEA) through a spot check examination or a 10% examination which is witnessed by representatives from the concerned agency of the DA (*i.e.*, BAI, BFAR, and NMIS) and Customs personnel. DA representative/s will then issue a Request for Inspection (RFI) when the shipment is cleared for transfer to DA-accredited cold storage warehouses.
- *Second Border Inspection* which is conducted at DA-accredited cold storage warehouses through 100% physical examination by DA representatives and witnessed by Customs Examiners and agents. DA representatives will issue Veterinary Quarantine Meat Inspection Laboratory (VQMILC) or other similar clearance documents when the shipment is cleared for withdrawal from the cold storage warehouse.

It is undeniable that smuggling persists up to this day despite border protection and anti-smuggling efforts of the BOC are being implemented through the conduct of intelligence and enforcement operations by its risk management system, which involves the examination and inspection of shipments at the ports, and raids on warehouses and storage facilities containing smuggled goods.

Apart from the performance of the BOC under the law, other issues should be accounted for, such as, the control over the movement of cargoes and vehicles within the Ports, the issuance of licenses and permits, discharge of the containers from the vessels, scheduling of trucks, manpower, and equipment to move cargoes, and the areas of inspection.

There is inadequate space at the port to conduct full stripping of containers for both dry and refrigerated containers. Also, due to the pandemic, the inadequacy in the manpower of the port operators, shipping lines, and even consignees themselves, poses a problem.

The BOC also lacks the capability and resources to conduct enforcement. BOC presently has 523 personnel in the customs police force, with an augmentation of 100 personnel from the PCG, spread throughout 17 major ports and 39 subports.

## **V. RECOMMENDATIONS**

### **A. EXECUTIVE ACTION NEEDED**

1. Strengthen and rationalize inter-agency collaboration. All concerned agencies should have the authority and capacity to act expediently and effectively.

The coordination and collaboration between the BOC and the DA should be enhanced as far as the exchange of information that would reinforce execution of mandate at the first and second border inspection areas.

2. Allocate more resources to law enforcements agencies tasked to address smuggling. In 2019, the BOC requested for the recruitment/hiring of 1,500 enforcement personnel with a proposed budget of P1.8 Billion.

3. Agencies mandated to enforce the law, considering the nature of the powers they are exercising, should be subject to a more stringent disciplinary measure.

4. Remove human intervention that provides an avenue for negotiation by fully digitalizing/automating trade transactions and monitoring not only on centralized database but also on import processes, requests for inspection, etc.

5. Automatic delisting of offenders.

6. Provide trainings for all agencies concerned in relation to technical capabilities in determining quality, description, and types of agricultural commodities.

7. Set up meeting with private sector for the latter to give solutions.

## **B. LEGISLATIVE ACTION NEEDED**

1. Require pre-shipment inspection for all agricultural products. *House Bill No. 9322* seeks to amend various provisions of the CMTA, including a new provision on pre-shipment inspection for containerized cargoes, where importations of agricultural products are covered.

2. Institutionalize Sub-Task Force of Economic Intelligence which will create greater effectiveness because of inter-agency cooperation between STG-EI and BOC. The same Sub-Task Force will be mandated to monitor and check distortion in smuggling.

3. Require importer to provide full specifications of their imported goods.
4. Disallow importation of offal but only allow importation of "good meat".