

The Foreign Chambers of the Philippines

American Chamber of Commerce of the Phils., Inc. ♦ Australian-New Zealand Chamber of Commerce (Phils.), Inc.
Canadian Chamber of Commerce of the Phils., Inc. ♦ European Chamber of Commerce of the Phils., Inc.
Japanese Chamber of Commerce & Industry of the Phils., Inc. ♦ Korean Chamber of Commerce of the Phils., Inc.
Philippine Association of Multinational Companies Regional Headquarters, Inc.

CORRECTIVE LEGISLATION FOR CLARK INVESTORS STALLED IN CONGRESS



How long does it take to correct a legislative mistake? Will foreign investors leave the Philippines before corrective legislation is passed? Hopefully not, but there is a growing risk, that can be avoided if Congress passes needed legislation promptly.

Following is a chronicle of the issue.



July 29, 2005. The Philippine Supreme Court ruled that RA 7227 or the “Bases Conversion and Development Act of 1992” did not explicitly provide incentives for the Clark Economic Zone, as it did for the Subic Special Economic and Freeport Zone.



September 1, 2005. The Solicitor General filed a motion for reconsideration.

September 5, 2005. The seven members of the Foreign Chambers of the Philippines wrote President Gloria Macapagal-Arroyo requesting that remedial legislation be certified as urgent through the LEDAC.



September 14, 2005. Two large American locators at Clark in a meeting of the US-ASEAN Council with President Macapagal-Arroyo at the Plaza Hotel in New York raised their concerns. Attending the meeting was House Speaker Jose de Venecia, who gave assurance corrective legislation would be passed within a month.

September 19 and 30, 2005. Senate Committee on Government Corporations and Public Enterprises jointly with Committee on Ways and Means held hearings on corrective legislation.

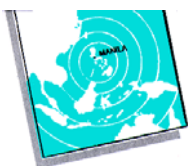


September 2005 onwards. Joint resolutions expressing Congressional support for incentives for Clark locators accumulate signatures in Senate and House.



October 12, 2005. US-ASEAN Business Council President Matthew Daley wrote to Finance Secretary Margarito Teves to express concern over the “very negative implications for the investment climate” of the Supreme Court decision and stating “we cannot underestimate the importance of a speedy and fair resolution of this situation.” This letter has gone unanswered.

October 26, 2005. AmCham wrote Speaker de Venecia urging passage of corrective legislation, because resolutions would not have the force of legislation.



November 7, 2005. In a meeting with foreign and domestic and business associations at the InterContinental Hotel in Makati President Macapagal-Arroyo

instructed DTI Secretary Peter Favila to extend PEZA incentives to investors at Clark as an interim step pending passage of corrective legislation.

December 6, 2005. House Ways and Means Committee reported out House Bills 4900 and 4901 which correct the situation cited in the Supreme Court decision by extending fiscal incentives to Clark SEZ investors on the same basis as investors at the Subic SEZ and granting a tax amnesty to existing locators.

February 3, 2006. President Macapagal-Arroyo certified HB 4900 and 4901 as urgent.

February 9, 2006. AmCham wrote Speaker de Venecia noting the presidential certification and stating appreciation for “immediate action on these bills.”

March 2, 2006. The Foreign Chambers of Commerce in a meeting with Executive Secretary Eduardo Ermita, attended by DTI Secretary Favila, DOF Secretary Teves and others, urged passage of corrective legislation. Secretary Favila noted that a draft proclamation was on the desk of the president for signature.

March 10, 2006. President Macapagal-Arroyo signed Proclamation 1035 extending PEZA incentives to locators at Clark.

March 30, 2006. AmCham wrote letter to Speaker de Venecia expressing appreciation for his assurance HB 4900 and 4901 will be passed before the Easter Recess.

April 6, 2006. House goes into recess. Bills not passed.

May 4, 2006. AmCham discussed the urgency of floor passage of HB 4900 and 4901 with House Ways and Means Committee Chairman Jesli Lapus, who commented that tax legislation is always more challenging to pass on 2nd reading because a 2/3 majority of the entire House membership is required.

May 9, 2006. AmCham Legislative Committee Chairman discussed with House Assistant Majority Leader Hermilando Mandanas (who attended an AmCham committee meeting on call centers) on the need to expedite passage of the Clark bills.


May 15, 2006. House scheduled to resume its session.

In addition to the above, the administrator of the Clark SEZ and Clark Investors and Locators Association have often expressed their concerns to the media, in Congressional hearings and otherwise about the need to correct the legislative deficiency ruled on by the Supreme Court.

There is much talk these days about amending the Constitution to liberalize restrictions on foreign investment. While this is an important reform, we urge that the concerns of existing investors, such as those who currently employ more than ten thousand Filipinos at Clark, also need urgent attention.

We strongly recommend that the House of Representatives pass HB 4900 and 4901 as soon as it resumes session, that the Senate do the same soon after and that 3rd reading (final passage) be finished before the next recess begins on June 10, 2006.

Otherwise, nearly a year will have passed since the Supreme Court decision without passage of corrective legislation. And what would happen should the Supreme Court makes it July 2005 ruling final? Then the risk to existing investors would become very real and could lead to closures, the loss of many jobs and would have a very negative impact on the country's investment image at a time when foreign investment is rising.



RICK M. SANTOS

President
American Chamber of Commerce
of the Philippines, Inc.



RICHARD BARCLAY

President
Australian-New Zealand Chamber of
Commerce of the Philippines, Inc.



STEWART HALL

President
Canadian Chamber of Commerce
of the Philippines, Inc.




EMILIO VICENS

President
European Chamber of Commerce
of the Philippines, Inc.



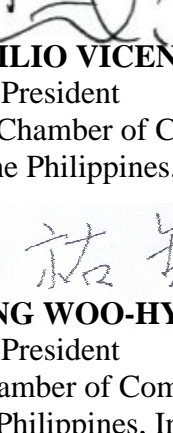
SHINSUKE IKE

President
Japanese Chamber of Commerce
& Industry of the Philippines, Inc.



HONG WOO-HYUN

President
Korean Chamber of Commerce
of the Philippines, Inc.



SHAMEEM QURASHI
President

Philippine Association of Multinational Companies
Regional Headquarters, Inc.

May 10, 2006