

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.

9 June 2005



The Honorable Juan B. Santos
Secretary
DEPARTMENT OF TRADE AND INDUSTRY
Industry and Investments Building
385 Sen. Gil Puyat Ave.
Makati City



Dear Secretary Santos:

Reference your "Investing in the Future" Speech to the Special Foreign Chambers SME Trade Fair launch at the Westin Philippine Plaza last 13 May 2005, the Foreign Chambers enthusiastically support your proposal to have an effective and dynamic One Stop Action Center (OSAC) to address the concerns of existing foreign investors.



This body should be given sufficient leeway and discretion towards the achievement of one (1) principal purpose, which is to address all major concerns related to foreign investments in the Philippines. To better implement its mandate, this body should report directly to the President and should have effective control and influence over all investment-related agencies of government. Among the possible functions of the body will be:



1. To rationalize all laws and regulations directly or indirectly related to the need to attract more foreign investments into the country and likewise to protect the operations of existing investments.
2. To coordinate the implementation of all of these investment-related laws by the different government agencies tasked with the same for the purpose of having uniformity in implementation and prevent confusion.
3. To effectively recommend the passage of new legislation and the repeal or amendment of existing ones to effectively address forthcoming concerns of foreign investors.
4. To address current concerns of existing investors.



We look forward to working with you and the BOI on your Investment Priorities Plan (IPP) 2005, i.e.; agribusiness, healthcare and wellness products and services, information and communications technology, electronics, motor vehicle products, energy, infrastructure, tourism, shipbuilding and shipping, jewelry, and fashion garments.

Obviously, mining is also one of the Foreign Chambers' major promotions at this time.

You already know our major concerns, but for the record we would like to reiterate areas that the OSAC can peruse within their own Departments and between Philippine Government agencies.

MAJOR CONCERNS OF INVESTORS

Despite the efforts of government to attract inward investment and the existence of legislation in support of such policy, a number of major concerns, have not, in our opinion, been properly addressed. These concerns remain a barrier to prospective inward investors and impact directly on the level of capital actually invested in the country. The key concerns are identified below:

1. Lack of transparency in the regulatory system which directly deals with foreign investments, i.e. bureaucratic red tape.
2. Inconsistency in the actual implementation of the government's investment policies by both the national and local government units which gives rise to confusion. A good example is the issue regarding the payment of real property taxes. There are contracts entered into by the national government, through government-owned and controlled corporation which mandate that the government agency shall pay the real property taxes. However, after the project gets operational, the local government units in which the projects are constructed, refuses to acknowledge the undertaking made by the national government and still insist on collecting the tax from the project proponent.
3. Non-familiarity by certain administrative agencies of existing bilateral agreements entered into by the government, i.e. tax treaties, protocol investment treaties, etc.
4. Restrictive provisions in some laws which hinder the very purpose of granting fiscal incentives to foreign investors. An example of this is the Local Government Code which grants exemption from local business taxes commencing from date of registration of the project with the BOI and not from the commencement of commercial operations. This effectively shortens the actual incentive as it does not take into consideration the fact that after obtaining the BOI registration, some project proponents will still have to undertake preliminary activities (like the construction of the infrastructure project) during which there would be no income earned by the project. Furthermore, the Real Property Tax provisions also do not take into consideration the issue on whether the real property (land) is actually being used or not, which is more of a disincentive to those who utilize and

improve on the land as compared to those who merely hold it idle purely for speculation purposes.

5. Non-familiarity of government agencies in regard to the business operations of certain specialized industries or sectors, thus, creating confusion in the interpretation of certain laws, i.e. the classification of IPPs as "contractor" and not as "manufacturer" for the purposes of local business tax.

We thank you for the opportunity to share our views and we pledge our support to helping you, the OSAC, and the DTI/BOI achieve its goals.

Sincerely yours,




RICK M. SANTOS
President

The 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.



WILLIAM BAILEY
President

European Chamber of Commerce
of the Philippines, Inc.



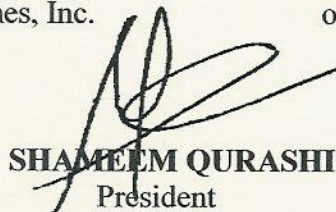
RYUKICHI KAWAGUCHI
President

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



LEE GIL GU
President

Korean Chamber of Commerce
of the Philippines, Inc.



SHAMEEM QURASHI
President

Philippine Association of Multinational Companies
Regional Headquarters, Inc.