

# Joint 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.

June 22, 2017

**HON. NICANOR E. FAELDON**

Commissioner  
Bureau of Customs  
G/F, OCOM Bldg.,  
Port Area, Manila

Dear Commissioner Faeldon:

We write in relation to the draft Customs Administrative Order (CAO) on Customs Service Fees of the Bureau of Customs which implements Sec. 1211 of R.A. No. 10863, Customs Modernization and Tariff Act (CMTA).

The Joint Foreign Chambers has long opposed the charging of overtime fees by BOC personnel for overtime work rendered against shippers, airlines, shipping lines, logistics providers, port operators and other third parties. While we fully support the payment of fixed overtime pay to the employees of the BOC required to render overtime work, we do not see the legality on why overtime pay should be charged to the importer, shipper or person served by these BOC employees, as the case may be. We have been successful on this advocacy with the removal of the provision on Assignment of Customs Employees to Overtime Work in the CMTA

While a section on the Time of Unloading of Cargo (Sec. 1211) allows the unloading of cargo from a vessel or aircraft from a foreign port during official non-working hours subject to payment of service fees by shipping lines, airlines, or other interested parties at rates prescribed by the Commissioner, this is no longer necessary as long as BOC observes the Memorandum Circular issued in 2012, providing that customs officials will provide 24/7 services at the government's expense. The BOC carried this out under Customs Administrative Order 7-2011, providing for a 3-shift work schedule for BOC personnel assigned at international ports of entry.

BOC employees are public servants and the charging of overtime pay of these employees to the importer, shipper, or persons served runs diametrically opposed to the principle "that public servants are the trustees of the public's welfare. The aphorism that public service is a public trust finds more meaning when the exigencies of the service require the rendition of extended work to serve the public. A public servant should not place his own personal convenience above that of the needs of the public he serves."<sup>1</sup>

In accordance with sound international procedure, we believe that charging to the public of overtime pay of BOC employees should be curbed, as properly rectified under the law, and that the current wording of the draft CAO should be revised.

Furthermore, the proposed charges would weaken the competitiveness of the Philippines by making international cargo rates and airline tickets more expensive. The revenue generated by the proposed fees should thus not be sourced from users but from the regular appropriated budget of the BOC to cover services by BOC personnel and all other expenses of operating the BOC.

<sup>1</sup> Gatmaitan vs. Court of Appeals, G.R. No. 149226, June 26, 2006



**AMCHAM  
PHILIPPINES**

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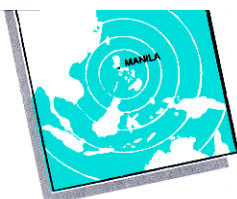
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In this light, we also express support for the position of the Board of Airline Representatives and the Export Development Council and request reconsideration of the draft CAO to remove the imposition of service fees, dues, and charges, against airlines, et al.

Finally, we would like to request that stakeholders be invited to consultations on the draft CAO before its promulgation.

Thank you very much. We look forward to a continued partnership with you in the future in your campaign to create a BOC that will be respected for its honesty, efficiency, and dedication to the public interest.


Best regards,



**BRUCE WINTON**

President

American Chamber of Commerce  
of the Philippines Inc



**TOM GREALY**

President

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



**JULIAN PAYNE**

President

Canadian Chamber of  
Commerce of the Philippines



**GUENTER TAUS**

President

European Chamber of  
Commerce of the Philippines



**HIROSHI SHIRAISHI**

President

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



**HO-IK LEE**

President

Korean Chamber of Commerce  
of the Philippines, Inc.



**DAN MOLLOY**

President

Philippine Association of  
Multinational Companies  
Regional Headquarters, Inc.

cc: Secretary Carlos G. Dominguez, Department of Finance  
Secretary Benjamin E. Diokno, Department of Budget and Management  
Secretary Ramon M. Lopez, Department of Trade and Industry  
Secretary Wanda C. Teo, Department of Tourism  
Private Sector Co-chairman Guillermo M. Luz, National Competitiveness Council