

## **Committee on Government Corporations and Public Enterprises**

*30 September 2005, Friday*

*1:25 pm – 4:01 pm*

*Senator Geronima T. Pecson Room, Second Floor  
Senate of the Philippines, Pasay City*

**MEMBERS/SENATORS PRESENT:** Senators Richard J. Gordon (Chair, Committee on Government Corporations and Public Enterprises); and Juan Ponce Enrile (Member)

**GUESTS/RESOURCE PERSONS:** Secretary Raul Gonzales (Department of Justice), Mr. Alexander M. Arevalo (Officer-in-Charge-Commissioner, Bureau of Customs), General Jose Calimlim (Senior Deputy Administrator for Operations, Subic Bay Metropolitan Authority), Mr. Jesus Arranza (President, Federation of Philippine Industries, Inc.), Mr. Frank Mero (President, Automotive Industry Workers Association), Mr. Peter Geroue (President, Motor Vehicle Importers Association of Subic Bay Freeport), Mr. Herminigildo Atienza (Senior Deputy Administrator for Business Development, Subic Bay Metropolitan Authority), Mr. Andres Salvacion Jr. (District Collector, Bureau of Customs-Subic Office), Ms. Anna Joy Quito (Officer-in-Charge for Import Export Division, Subic Bay Metropolitan Authority), Mr. Armand C. Arreza (Administrator, Subic Bay Metropolitan Authority), Director Malou Recente (Department of Finance), Assistant Secretary Anneli R. Lontoc (Land Transportation Office), Mr. Carlito D. Calingo (SBMA Extension Office, Zambales (Land Transportation Office), Atty. Reynaldo Avelino (Chief, Legal Service, Bureau of Customs), Atty. Andrew Fernandez (Deputy Collector for Assessment, Bureau of Customs), Mr. Jose Tan (Regional Director, Bureau of Internal Revenue), Mr. Edgard Tolentino (Revenue District Officer, Subic), Mr. Melchor Dizon (Vice-President, Chamber of Automotive Manufacturers of the Philippines, Inc.), Ms. Florina Vistal (Truck Manufacturer), Ms. Monina Pineda (Subic Bay Metropolitan Authority), Director Jet Vitug (Region 3, Land Transportation Office, SBMA Extension Office, Zambales), Ms. Ana Joy Quito (Officer-In-Charge, Import and Export Processing Division, Subic Bay Metropolitan Authority), Capt. Dante Romano (Department Manager for Land and Asset Development, Subic Bay Metropolitan Authority),

### **AGENDA:**

- PRIVILEGE SPEECH OF SENATOR RICHARD J. GORDON ENTITLED "SMUGGLING SA SUBIC: PASAKIT SA BAYAN", AND FURTHER TO THE LEGISLATIVE INQUIRY CONDUCTED LAST 19 SEPTEMBER 2005 A RE-EXAMINATION OF REPUBLIC ACT NO. 7227, IN RELATION TO THE IMPORTATION OF USED AND/OR RIGHT-HAND DRIVE VEHICLES INTO THE SUBIC BAY FREEPORT ZONE UNDER THE JURISDICTION OF THE SUBIC BAY METROPOLITAN AUTHORITY (SBMA).

### **HIGHLIGHTS**

At 1:25 o'clock in the afternoon, the Chairman of the Committee on Government Corporations and Public Enterprises, Senator Gordon, and founding head of the Subic Bay Metropolitan Authority (SBMA), called the hearing to order.

Senator Gordon stated that the hearing is a continuation of the discussion that has been started last 19 September 2005, on the importation of used and right-hand

drive (RHD) cars through SBMA and by virtue of the privilege speech delivered by this representation on 20 September 2005. The Senator likewise, reiterated that out of an estimated 90,000 smuggled cars that passed through Subic Bay Freeport Zone alone from the years 2000 to 2003, only 128 were re-exported abroad. Thus, the Senator added that based on the computation made by the Bureau of Customs (BOC) at P100,000 per vehicle, we probably lost a total of at least P45 billions alone in these three years period because proper taxes were not collected.

In responding to the query of Senator Gordon, Retired General Jose Calimlim, SBMA senior deputy administrator for operations, stated that he was tasked to eradicate the smuggling activities in Subic. He also reported a situation in Subic where imported used vehicle are being brought out in connivance with those who are loading them into the trailer. In effect they were able to smuggled items that they really wanted, including cars usually "*Mercedes Benz*," "*Porsche*" and other luxury cars, by pretending they are imported goods, but instead they are bringing out smuggled goods, he disclosed. He added that for a period of 11 months during his time they have some apprehensions and filed 14 cases in court against 38 people.

When asked by Senator Gordon whether Subic Bay is a foreign territory, Secretary Raul Gonzales, of the Department of Justice (DOJ), said that although there seems to be some sort of an extension as to concept and purposes of trade of a foreign denomination in the definition of a Freeport, he clarified however, that the area is not a foreign territory. At this juncture, Senator Gordon stated that the issue of legitimacy as one of the major causes that weaken the auto manufacturing/assembly sector including all supporting industries that rely on the viability of the formal auto assembly industry for survival, thus, since it is committed inside the Subic Bay would be a crime in the Republic of the Philippines. As such, Secretary Gonzales affirmed the statement made by Senator Gordon saying that there is a portion in Republic Act No. 8506 that would amount to any violation if mere importation of RHD vehicles and registration are improperly converted from RHD vehicles to left hand drive (LHD) that have been indiscriminately allowed to operate.

On query of Senator Gordon, Officer-in-Charge-Commissioner Alexander M. Arevalo of the Bureau of Customs, stated that they are aware that this happened in other ports, particularly the smuggling of vehicles via the use of containers. Senator Gordon commented that there is now ground to go after these people through the LTO in order to find out if the proper taxes have been paid.

Replying to Senator Enrile's queries, regarding the policy direction of the administration with respect to the importation of vehicles, Secretary Gonzales said that what had been taken up in the cabinet were only with reference to legitimate importations of the vehicles. He added that the compelling reason why RA No. 8506 was adopted is because of road safety, as long as the law stands, unless we amend it by saying, that as an exception they must have to be converted first to become roadworthy.

Senator Enrile briefly commented on the above issues, saying that if we continue to adopt policies like this we will never progress because we will only keep burdening our people with the importation of numerous brand-new luxury cars which avoided the payment of proper tax by merely incorporating some jump seats. He emphasized that Congress should also put its foot down on smuggling / or violations of the Customs and Tariff Code of the Philippines attributed to the people directly responsible by filing criminal charges before the appropriate courts so that the country would not be a market of the used car dealers. For the record, Senator Gordon stated that he is in favour of bringing in cars that will benefit our country so long as they pay the correct

taxes, government therefore, must now study how imported cars / second hand vehicles smuggled and sold chiefly after being converted into LHD vehicles could be taxed properly.

In reply to Senator Gordon's query as to the effectiveness of the Tariff and Customs Code of the Philippines and whether or not pertinent and existing laws and regulations are being violated in the public auction sale of converted LHD vehicles from the RHD and second hand vehicles and related machines at the Subic Freeport Zone. Mr. Peter Geroue, president of Motor Vehicle Importers Association of Subic Bay Freeport (MVIA), explained that in effect some vehicles are subject to public auction sale while others are for negotiated sale.

For his part, Mr. Jesus Arranza, president of the Federation of Philippine Industries, Inc. (FPPI), reported his experiences on these smuggled items, not only cars, but for all sorts of goods like ceramics tiles, electrical materials, electrical switches, lights, and bulbs, and this is not only coming in smuggled, but they even circumvent the law on mandatory standards. During his stint, as part of the Anti-Smuggling Task Force they were able to apprehend cars already registered with the LTO while still loaded in vessels, Mr. Arranza disclosed.

At this juncture, Senator Gordon stressed that this was the manifestation made by this representation last 19 September 2005 public hearing that the plate numbers taken out and brought to Japan or Korea when they came back to the country were already on the cars. Expressing his support for the observation of Senator Gordon, Mr. Arranza opined that it could be useful to require BOC to submit a copy of the list of brokers, bonded warehouse and the bonding companies, in order to identify whether or not such entities are legitimate. He said they had received reports that importations are now being done through bonded trading warehouses and was converted from a bonded trading into industry. Thus, Senator Gordon see the need for Congress to create a congressional oversight committee to check on the performance of the BOC in order to stop smuggling in the country.

For his part, Automotive Industry Workers Association (AIWA) Head Frank Mero, reported that the effect of this importation of secondhand vehicles from 1998 to present was the displacement of more workers from assemblers, car parts maker and dealers.

Replying to Senators Biazon and Enrile's queries, BOC District Collector Andres Salvacion Jr, said that the BOC's target collection in 2004 is 2.7 billion while the actual collection is more than this amount. Thus, according to Mr. Andres, in order to carry out the BOC vision a total of P3.9 billion target is proposed for the year 2005. Unfortunately this is only around 48% out of the P3.9 billion target, there is a reduction because the importation in general declined especially the importation of used cars or motor vehicles. As to uniform rate of payment of taxes, he likewise, clarified that they imposed the valuation under a straight depreciation based on the blue book value, because the transaction value is base only in the declaration of the invoice, while a blue book value is an established value in the factory that will be depreciated according to their year of model. Senator Biazon expressed dismay over the excuses being given by Mr. Andres and their failure to meet their assigned revenue targets that, to start with, are too low to even put a dent on smuggling operations in the country. Unless the objective of shifting from blue book to transaction value is to increase the collection, but what happens is by adopting transaction value, the collection decreases because of "*cash-sunduan*," Senator Biazon stressed.

For the record, BOC OIC-Commissioner Arevalo said that he held himself accountable for the performance of the BOC, particularly at SBMA. He added that he

will do everything in order to determine possible violations of the Customs and Tarrif Code of the Philippines for possible prosecution.

Thereafter, Senator Gordon stressed that since the local automotive industries, are also losing market share from smuggled vehicles that come into the country through Clark and Subic, and for purposes of public safety such conversion should only be made within the Subic Special Economic Zone so that proper monitoring and supervision can be made by the SBMA officials. He further stated that he has documents showing that billions of pesos worth of foreign-made cigarettes, liquor and oil, are being smuggled through Subic and Clark during the past years. Thus, he stated that they are not entitled to duty-free privileges inside the Subic Bay, he then suggested that the SBMA Administrator do the same.

Thereupon, the hearing was suspended at 4:01 p.m.