CONSUMER GOODS AND RETAIL TRADE ADVOCACY PAPER 2018

EU - PHILIPPINES
BUSINESS NETWORK

ABOUT EPBN

EU-PHILIPPINES
BUSINESS NETWORK

OUTREACH

SUPPORT SERVICES

ADVOCACY

The EU-Philippines Business Network (EPBN) established in January 2014, is a project co-funded by the European Union and implemented by a consortium of European business organizations based in the Philippines. Led by the European Chamber of Commerce of the Philippines (ECCP), partner chambers include the Belgian-Filipino Business Club, British Chamber of Commerce Philippines, French Chamber of Commerce of the Philippines, German-Philippine Chamber of Commerce and Industry, Italian Chamber of Commerce of the Philippines, Nordic Chamber of the Philippines, and Spanish Chamber of Commerce of the Philippines.

The overarching objective of EPBN is to support European companies, especially small-medium enterprises, to increase exports to and investments in the Philippines by facilitating market access and ensuring a level playing field for all companies.

Adopting a threefold approach of outreach, support services and advocacy, EPBN provides a strong support system at every stage of entry to the Philippine market for European businesses. In delivering these services, EPBN cooperates closely with its partner organizations in other Association of South East Asian Nation (ASEAN) countries to provide information on ASEAN as a market, promoting the Philippines as a gateway to the region.

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ADVOCACY PAPER 2018

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Positions expressed in the advocacy papers are the result of the activities of the 14 Sector Committees working under the EU-Philippines Business Network.

METHODOLOGY

The 2018 edition of the EPBN Advocacy Papers features issues and recommendations formed after extensive discussions between members of the EPBN sector committees, dialogues and meetings with representatives from the Philippine Government, the EU Delegation to the Philippines and other EU national chambers and embassies. The EPBN has also taken into consideration the information gathered from organizing different events, participating in numerous hearings and committee meetings in both chambers of the Philippine Congress, as well as in private sector consultations held by several executive and regulating agencies of the government.

Further, the recommendations stated in each paper were created based on the discussions during the quarterly sector committee meetings, most of which were conducted with a representative from a concerned government agency based on the issues to be discussed. In close cooperation with the sector committee leaders and members, the EPBN secretariat thoroughly analyzed every issue and advocacy recommendation to ensure that they are in line with EU business interests and priorities. Once the secretariat has finalized the first draft of each sector paper, it was then circulated to the Committee members, Market Access Team Meeting for consultation and subsequently, gathered inputs to be included in the final draft of the papers.

The assessment of the status of each recommendation included in 2017 EPBN Advocacy Papers were examined under the following criteria:

Completed/Substantial Progress: Recommended action has either been completed or there has been significant progress towards the realization of the recommendation.

Some Progress: Movement towards realizing the recommendation has been made, but substantial work still needs to be done to fully achieve and complete the proposed measure.

No Progress/Retrogression: Minimal progress or no movement towards attaining the recommended reforms were done, or the status of the issue has worsened and has evolve to an even bigger bottleneck for EU businesses in the former year.

ABOUT THE THEME

EU-PHILIPPINES BUSINESS SUMMIT

EU AND THE PHILIPPINES:
Jointly Pursuing Competitiveness for Inclusive Growth

Since its launch in January 2014, the EU-Philippines Business Network (EPBN) has strived to create an attractive investment and trade environment for EU businesses in the Philippines.

This 2018, we look at how the current administration's initiatives and programs in line with its Socioeconomic Agenda and priorities have substantially progressed – Build, Build, Build Program, tax reform, ease of doing business, labor protection furthered through the Executive Order on Contractualization, sustainable development and climate adaptation, and universal healthcare, among many others. In addition, the Philippines' economy is maintaining steady growth, the EU continues to be one of the top trading partner of the Philippines, and the EU-Philippines Partnership Cooperation Agreement has been put into force – a major milestone for the EU-Philippine relations.

With this, the EU-Philippines Business Network (EPBN) is organizing the EU-Philippines Business Summit 2018 with the theme "EU and the Philippines: Jointly Pursuing Competitiveness for Inclusive Growth" on 18 October 2018, at Solaire Resort Hotel, Paranaque. During the Summit, EPBN will hand over the 4th edition of the EPBN Advocacy Papers which contains a wish list of reforms towards a competitive, fair and more inclusive economic environment. We sincerely hope that the EU-Philippine economic ties will be deepened further. Rest assured that European business community will remain as the Philippine government's partner in achieving competitiveness and inclusive growth.

MESSAGE FROM THE AMBASSADOR

H.E. Franz Jessen
Head of Delegation,
Delegation of the European Union of the Philippines

The EU sees trade and investment as part of the answer to challenges faced in the country in terms of inclusive and pro-poor growth. Indeed, the EU and its industries have a positive agenda that is values-based and comes with an open dialogue to ensure nobody is left behind in strengthening its trade relations. It also recognizes the importance of opening new markets that contributes to growth on both ends. This is why the EU has even in times of economic turmoil led global efforts to fight protectionism, and promoted open trade and investment at home and abroad.

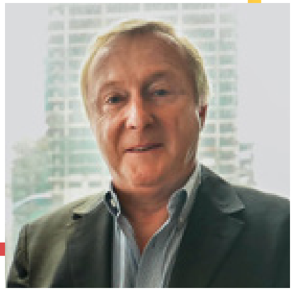
The EU economy grew at its fastest rate in 10 years in 2017 at 2.4%. For the first time since 2007, all EU member states saw their economies expand. Robust growth is facilitating further reduction in government deficit now at less than 1% of GDP as well as debt levels and an improvement in labour market conditions with unemployment rate of 7.6% falling to almost the pre-crisis level. More important to our trading partners is the fact that our trade continues to grow strongly resulting to an 8% growth in EU imports and exports of goods to the world.

This shows that the EU economy is competitive, yet open and it will remain so and continue to benefit Philippines' development agenda. Philippines total trade with the EU increased by 16% in 2017 due to the remarkable 32% growth of PH exports to the EU market partly thanks to the increasing utilisation of the GSP+ preferences. Strong growth is particularly seen in sectors benefiting from GSP+ trade preferences, such as agri-food products. On top of this, sizable portion of all newly reported approved investments in the Philippines were sourced from the EU – contributing to the creation of more quality jobs.

The economic expansion in Europe is set to continue at a solid pace in 2018 and next, supporting further job creation. However, the EU also recognizes risks on the horizon. That is why the EU is working hard to make its economy even more resilient through many useful and necessary reforms – necessary to further improve productivity and investment as well as a ensure a more inclusive growth model.

I look forward continuing to work together to the benefit of effective value chains and supply chains so that the Philippines can take advantage of its position in the region and of its competitive skills and people. I warmly welcome this advocacy book as a good basis of our continued collaboration in our pursuit of enhancing and strengthening EU-Philippine trade and commercial relations.

MESSAGE FROM THE STEERING COMMITTEE CHAIRMAN



Mr. Guenter Taus
EPBN Steering Committee Chairman

The EU-Philippines Business Network (EPBN) is pleased to present to you the 4th edition of its Advocacy papers with the theme, "EU and the Philippines: Jointly Pursuing Competitiveness." Pursuing competitiveness and sustainable growth has been at the front and center of our agenda.

The European business community has always looked towards close cooperation with the Philippine Government to achieve mutually beneficial goals, which strengthen the country's investment and trade environment in support of increased competitiveness and long term, sustainable and inclusive growth.

Several positive reforms in 2018 were the Ease of Doing Business Act, the Build Build Build Program, the implementation of Universal Healthcare and the issuance of Memorandum Order No. 16, which eases restrictions on certain investment areas.

Despite these improvements, there are still several key barriers stifling EU-Philippine trade and investment. In particular, we look forward to passage of the Amendments to the Public Services Act of 1936 into law. These Amendments result in an open market coupled with stronger regulations which in turn will increase the quality of public services while lowering costs.

Moreover, we advocate for the reassessment of the licensing requirements from the Philippine Contractors Accreditation Board. A level playing field in infrastructure paves the path for the realization of the "Golden Age of Infrastructure" envisioned by President Duterte.

Finally, we strongly urge the government to consider the massive economic growth and job creation that fiscal incentives under the Philippine Export Zone Authority have brought about. An ambitious corporate income tax reduction in addition to other incentives will aid the Philippine in competing with other countries in the region.

These amendments would be a game-changer for the Philippines and they assist in EU investments contributing to Philippine development. It is in this context that the EPBN presents its recommendations towards a competitive, fair and more inclusive economic environment for the benefit of the Philippines and the EU.

MALACAÑAN PALACE
MANILA

MESSAGE

My warmest greetings to the **EU-Philippines Business Network (EPBN)** as it publishes the newest edition of its **Advocacy Papers**.

The Philippine government welcomes this publication which contains the EPBN's wishlist of reforms in the areas of economic liberalization, global competitiveness and other topics. Rest assured that this administration and its team of economic managers will look closely into the suggestions of the network, especially if it will help us in shaping a much stronger and more resilient Philippine economy.

We also appreciate the European business community's recognition of this administration's strong resolve in ensuring ease of doing business, sustaining infrastructure development and uplifting Filipino lives. It is our hope that the network will remain our steadfast partner in achieving mutually beneficial goals, especially in strengthening the country's competitiveness, investment and trade environment, and long term, sustainable and inclusive growth.

I wish you success in your endeavors.

RODRIGO ROA DUTERTE

MANILA
August 2018

THE PRESIDENT OF THE PHILIPPINES

WHERE ARE WE NOW?

THE PHILIPPINES: A MACROECONOMIC OVERVIEW

The Philippines has been recently dubbed as one of the fastest growing economies in Southeast Asia. With a 6.7% GDP growth in 2017, it is among the highest in the region next to China (6.9%) and Vietnam (6.8%).[1] ADB, IMF and the World Bank maintain their bullish forecast on the Philippine economy for 2018 and 2019,[2,3,4] which is largely attributed to its strong economic performance in 2017 and its growth prospects. The current administration's commitment to increase public infrastructure spending as well as rising domestic demand, remittances, and employment are also expected to heavily fuel the economy.

On the local scene, Services remain to cover most of the GDP with 57.46%, followed by Industry at 34.01%, and Agriculture at 8.53%.[5] From a dip in last year's agriculture sector, 2017 has posted a 3.9% growth. Overseas Filipino Workers (OFW) remittances, household consumption, exports of goods and services, and manufacturing posted growth,[6] while unemployment rate increased to 5.7%.[7]

As for investments, the Bangko Sentral ng Pilipinas reports that foreign direct investment net inflows reached USD 10 billion in 2017, showing a 21.4% increase from the previous year.[8] On the other hand, 2017 posted a negative trade balance amounting to USD 27, 380 million.[9]

While global competitiveness, as evaluated by the World Economic Forum, improved by a notch in ranking,[10] it is imperative that the Philippines continuously builds on its current successes for competitiveness and inclusive growth.

Indeed, the Philippines has made great strides in various aspects; however, a lot of work still needs to be done. A number of important measures, including **amendments to the Public Services Act, Retail Trade Liberalization Act, and amendments to restrictive economic provisions of the Constitution**, have yet to materialize. Furthermore, boosting the Philippine manufacturing sector, deepening the ASEAN integration, and enhancing customs facilitation are all crucial for the Philippine economy to step up in the global arena.

1 WorldBank. (2018) *Philippines Economic Update: Investing In The Future April 2018*. Retrieved 5 September 2018 from http://pubdocs.worldbank.org/en/280741523838376587/Philippines-Economic-Update-April-15-2018-final.pdf.

2 ADB. (2018). *Philippine GDP expected to grow by 6.8% in 2018 and by 6.9% in 2019. ADB Report*. Retrieved 5 September 2018 from http://www.adb.org/countries/philippines/economy.

3 WorldBank. (2018). *Philippines Growth to Remain Strong Despite Global Uncertainties*. Retrieved 5 September 2018 from https://www.worldbank.org/en/news/press-release/2018/07/13/philippines-growth-to-remain-strong-despite-global-uncertainty.

4 Reuters. (2018). *IMF sees the Philippines' GDP growth at 6.7% percent in 2018 and 2019*. Retrieved 5 September 2018 from https://www.reuters.com/article/us-philippines-economy-imf/imf-sees-philippines-gdp-growth-at-67-percent-in-2018-2019-idUSKBN1KF0A2.

5 Philippine Statistical Authority. (2018). Retrieved from 3 September 2018 http://psa.gov.ph/regional-accounts/grdp/highlights.

6 Ibid.

7 Philippine Statistics Authority. (2017). *2017 Annual Labor and Employment Status*. Retrieved 3 September 2018 from http://psa.gov.ph/content/2017-annual-labor-and-employment-status

8 BSP. (2018). *Full-Year 2017 FDI Hit All-Time High of US$10 Billion*. Bangko Sentral ng Pilipinas. Retrieved 4 September 2018 from http://www.bsp.gov.ph/publications/media.asp?id=4630.

9 BSP. (2018). *Selected Economic Indicators*. Retrieved 4 September 2018 from http://www.bsp.gov.ph/statistics/spei_new/tab48_sas.htm.

10 National Competitiveness Council. June 2018. *Global Competitiveness Report Card*. Retrieved 20 June 2018.

CONSUMER GOODS AND RETAIL TRADE

INTRODUCTION

The Philippines has a thriving retail sector with a total income of PHP 3.8 trillion[1] and more than 7% average growth in 2000-2011 compared to the GDP average increase of 5%[2]. Despite this, there are only 22 approved foreign retailers in the country, of which 7 are European, namely: Adidas, Decathlon, Estee Lauder, H&M, Louis Vuitton, L'oreal, and Marionnaud[3].

The **EU has the largest share in approved FDI in retail trade with more than PHP 500 million pesos**[4]. However the combined total of the largest foreign investments in retail trade (PHP 620 million) remains small when compared to the total income generated by the retail and wholesale sector as a whole (PHP 3.8 trillion).

Foreign ownership restrictions, minimum capital requirements along with other discriminatory practices are a substantial barrer for foreign investors in the in the Philippines. Due to these restrictions, the Philippines attracts only 0.54% of all foreign direct investments in retail trade for ASEAN. Given this premise, the EU-Philippines Business Network strongly encourages the Philippine government to amend the Retail Trade Liberalization Act to facilitate market access for foreign retail companies and improve competition.

The Retail Trade Liberalization Act (R.A. 8762) was passed in 2000 with the purpose of encouraging a competitive retail trade sector. Ironically, it also limits foreign ownership in retail trade by instituting a capital requirement of 2.5 Million USD, which is one of the highest capital requirements in ASEAN. Apart from this, other discriminatory restrictions are a **public offering requirement**[5] and **supply requirements**[6]. Moreover, foreigners are also barred from engaging in **retail activities outside their accredited stores**[7] and **barred from owning land**[8]. Liberalization in RA 8762 is conditional, with foreign-owned enterprises subject to conditions under four categories:

1 Ibid

2 The total income generated by the sector amounted to PHP3.8 trillion and the total expense incurred was valued at PHP3.6 trillion in 2015. Retrieved from: https://psa.gov.ph/nap-press-release

3 Bureau of Investments. (2016). *List of Foreign Retailers Pre-Qualified by the DTI-BOI under the Retail Trade LIberalization Act of 2000.*

4 Philippine Statistics Authority. (2017). *Approved Foreign Investment for Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles Industry by Country.*

5 Public offering requirement of at least 30% of equity for Category B enterprises with more than 80% foreign ownership. This must be accomplished within 8 years from start of business.

6 Foreign companies were required to source at least 30% of their inventory, by value, in the Philippines for 10 years. This requirement was 10% for retailers specializing in luxury goods.

7 Ibid

8 Although a lease for a maximum of 75 years is allowed, the real estate business is tightly controlled by six to seven families, making it difficult for foreign firms to acquire land in strategic locations. (Romo, Digal, and Reardon 2009).

Classification	Capital Requirements	Description
Category A	Less than USD 2,500,000.00	Exclusively for Domestic Entities
Category B and C	USD 2,500,000 and above	May be 100% foreign-owned. Foreign investment per store in Categories B and C shall not be less than USD 830,000.00
Category D	USD 250,000 per store for Foreign Entities specializing luxury products	May be 100% foreign-owned.

Source: R.A. 8762

With these restrictions, the intended effect of attracting investors and making the retail sector competitive did not materialize. The growth in the sector continues to be driven by big domestic retailers. **The largest 3 retailers** had approximately **89% market share for** in 2017[9]. Despite a brief respite in the first 5 years after RA 8762 came into effect[10], participation of foreign retailers and domestic SMEs remains low. The retail trade sector's share in foreign direct investment (FDI) is little more than 2.5% of total FDI according to BSP.

The debate on Retail Trade Liberalization remains fierce however hard data indicates that **foreign retailers are not likely to compete with sari-sari stores.**[11] The main competitors of both foreigners and sari-sari stores are the top five domestic retailers which are slowly increasing fast-moving consumer goods market penetration from 63.3% in 2015 to 67.8% in 2017. The Fast-Moving Consumer Goods Market is the market segment where sari-sari stores lead[12].

9 SM Supermarkets (Supervalue, Sanford and Super Shopping) posted a combined gross revenue of PHP124.2 Billion in 2017; Robinsons Supermarkets recorded gross revenue of PHP 48.6 Billion in 2017; Puregold Inc., recorded gross revenue of PHP 87.2 Billion in 2017. The top three retailers have a combined revenue of PHP 260 Billion. This is compared with the total revenue of retail trade in supermarkets from the Philippine Statistics Authority which totalled to PHP 291.4 Billion.

10 The average growth rate of the top four food retailers was 20% from 2001-2005 which increased to 29% from 2006-2010 (Digal, 2015). With the introduction of foreign firms, the concentration ratios of the top four firms decreased to an average of 66% from 2000-2005 from 81% in 1999.

11 Given small profit margins in fast-moving consumer goods market

12 Kantar World Panel. (2017). *FMCG Monitor*.

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The following recently adopted or considered reforms are relevant to the retail industry:

- House Bill 4595[13] and Senate Bill No. 1639[14] seek to amend the Retail Trade Liberalization Act by removing discriminatory regulations. Amendments proposed by the bills include completely removing the minimum capital required for full foreign ownership. Other amendments are removing qualifications for foreign retailers, namely: net worth requirements (previously USD 200 thousand), operation size requirements (previously 5 retail branches in operation), and track record requirements. The Amendments to the Retail trade Act retain the reciprocity clause. As of writing, HB 4595 and SB 1639 are still pending in Committees. House Bill 4595 was filed before the House of Representatives on 05 December 2016. Senate Bill No. 1639 followed on 16 January 2018.
- On 21 November 2017, President Duterte issued Memorandum Order No. 16 directing the National Economic and Development Authority (NEDA) Board and its member agencies to exert utmost efforts to lift or ease restrictions on certain investment areas, including *Retail Trade Enterprises*. The policy behind the order is to "raise the Philippines' level of competitiveness, and to foster higher economic growth in the Association of Southeast Asian Nations (ASEAN) region and beyond through joint endeavors in the spirit of equality and partnership."[15]

9 ASEAN. (2012). AEC 2025 Trade Facilitation Strategic Action Plan. Retrieved 09/07/2018 form http://asean.org/storage/2012/05/AEC-2025-Trade-Facilitation-SAP-FINAL-rev.pdf

10 ASEAN. (n.d). ASEAN Work Programme on Electronic Commerce. Retrieved 09/07/18 from http://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/e-commerce/

11 DTI. (n.d.). Retrieved 09/07/18 from https://www.dti.gov.ph/inclusive-business/1057-main-content/inclusive-business/10444-boi-adb-launch-asean-inclusive-business-awards-2017

12 DOTR. (n.d.). Retrieved 07/09/2018 from https://dotr.gov.ph/10-press-releases/228-dotr-to-investors-businesses-maximize-opportunities-of-new-asean-roro-shipping-link.html

EPBN ADVOCACY

The EPBN eagerly awaits for the passage of HB No. 4595 and SB 1639 to fully liberalize the Retail Trade through the removal of the substantial capital requirement imposed on foreign retailers. The liberalization of the retail sector will encourage greater participation of domestic and foreign players which will translate to more foreign direct investments (FDIs), job opportunities, improved delivery of services, and wider range of quality goods for Filipino consumers. The overarching goal is to achieve economic development and inclusive growth.

EPBN INTERVENTIONS

Towards the realization of these advocacies, EPBN has exerted efforts through the following:

- EPBN submitted a Position Paper on HB No. 4595
- EPBN continues its advocacy efforts with the media
- EPBN had its Euro-PH Advocacy Forum on Retail Liberalization last 9 March 2018 with Sen. Gatchalian as keynote speaker. The aim of the forum is to create awareness on the need to remove foreign restrictions to make the retail sector more competitive. The forum also supports the efforts in amending the Retail Trade Liberalization Law.
- EPBN was represented in the meeting with the Sen. Zubiri, Senate Committee Chair on Trade, Commerce, and Entrepreneurship, last 16 August 2016.

EPBN joined ECCP's luncheon meeting with BOC Deputy Commissioner Dy Buco last 6 October. On the meeting's agenda were Customs Modernization and Tariff Act (CMTA), addressing smuggling and substandard goods; pre-shipment inspection; National Single Window; and super green lane and SGL+. The topics discussed lays the foundation for a thriving retail sector in country.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ASSESSMENT OF RECOMMENDATIONS

Advocacy	Recommendations	Completed	Substantial Progress
Retail trade liberalization	Amend the Retail Trade Liberalization Act to facilitate market access for foreign retail companies and improve competition.		

Some Progress	No Progress	Retrogression
HB No. 4595 and SB No. 1639 was filed during the 17th Congress with the aim to remove the capital requirement imposed on foreign retailers under the Retail Trade Liberalization Act. As of yet, both bills are still pending at the committee-level.		

EU-PHILIPPINES BUSINESS NETWORK

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