



## JOINT STATEMENT ON THE PROPOSED AMENDMENTS TO THE PHILIPPINE CONSTITUTION

The Makati Business Club, Management Association of the Philippines, and the Financial Executives Institute of the Philippines recognize the need to amend certain provisions of the 1987 Constitution of the Republic of the Philippines to make it more adaptable and responsive to current social and economic realities. We believe this is a necessary action in helping us realize the aspiration of a more inclusive and sustainable growth.

We wish to present the following recommendations related to the ongoing discussion on the issue of Constitutional Amendments, as follows:

### **1. The amendments should be focused only on certain economic provisions.**

We wish to state our strong support for Resolution of Both Houses 2 (RBH2) Proposing Amendments to certain Economic Provisions of the 1987 Constitution particularly to Articles XII, XIV and XVI, principally authored by House of Representative Speaker Feliciano Belmonte, Jr. The resolution seeks to **include the phrase “unless otherwise provided by law”** in some sections of Articles XII (national economy and patrimony), XIV (education, science and technology, arts, culture and sports), and XVI (general provisions).

The proposal is aligned with the Duterte Administration’s push to lift the economic restrictions in the Constitution, in order to open more business areas to foreign investors.

We wish to emphasize several points in support of this proposal:

- Since 2000, Philippine business leaders and economists have recommended replacing the constitutional restrictions on foreign equity with specific laws. RBH2 is a serious effort to undertake this often-recommended reform.
- In almost all countries in the world, the economic restrictions on foreign investment are not contained in their Constitutions. Imposing restrictions on foreign trade and investments are done through legislation or administrative orders that can be changed to suit shifting national priorities.
- If approved by Congress and subsequently in a plebiscite, the amendments would allow Congress to pass future laws to change the current constitutional restrictions. The usual legislative procedures would be followed, with hearings and full consideration in both the House and the Senate and possible presidential vetoes. In the meantime, each restriction will remain in place.
- Much has changed in Asia and the world since the restrictions were placed in the 1987 Constitution. The Philippines has joined the World Trade Organization, agreed to open trade and investment within ASEAN and with ASEAN Plus partners, Australia, India, Japan, Korea, and the People’s Republic of China.

- The Philippines' population has more than doubled since 1987. Government should maximize the amount of foreign investment generated as a means to drive down unemployment and underemployment levels. While there has been a very significant increase in FDI since 2010, amounting to over \$8 billion in 2016 and the same level forecasted in 2017, this represents only 8% of total FDI in ASEAN, which is small, considering that the Philippines accounts for 16% of the population of ASEAN.
- Constitutional restrictions on foreign ownership on certain industries will remain until Congress and the President enact specific laws to remove or amend them.

Increasing the participation of foreigners in our economy would be a welcome development as it would mean a fresh infusion of financial resources for our undercapitalized sectors, the introduction of new technologies to spur greater innovation and efficiency in our industries, and the promotion of healthy competition that will drive businesses to operate more efficiently, leading to better-quality and more competitively priced products and services for the people.

Easing our foreign investment restrictions may also be critical in light of our commitments to the ASEAN Economic Community, and our intent to form closer trade relationships with other economies.

Considering the above points, it is our strong position that there is no better time than now to begin the process of updating the outdated economic restrictions in our Constitution. The Philippines has enjoyed enhanced growth prospects and is on the radar screen of the international investment community—and these will be further improved by higher foreign investments coupled with improved environment in doing business in the country. It will be unfortunate if the Philippines fails to take advantage of this golden opportunity and realize the potentials that a liberalized trade and investment regime will bring.

**2. We deem it to be more democratic for the two Houses to vote separately so as to recognize the autonomy of the Senate body and to avoid diluting the voice of our Senators in this critical process.**

We understand this to be the intention of the framers of the 1987 Constitution and this is also consistent with the legislative process. The proposed amendments shall then be presented and discussed with the public before seeking approval via nationwide plebiscite.

**3. In connection with the possibility of shifting to another form of government, we believe a duly-elected constitutional convention (Con-con) is the appropriate body to amend the Constitution.**

While there are other modes that are also legally prescribed paths to revision, we feel that a Con-con will offer a more diverse, independent and prospective approach. Our current elected officials were placed into position by their constituents to tackle numerous priority legislative reforms and has more than enough on their hands. A Con-con body, on the other hand, will be purposely elected for the specific task of revising the Constitution and, therefore, individuals who wish to be elected for this role can properly present themselves and their views during the campaign period. While such mode would entail greater costs to implement and probably more time, it should be seen as a justifiable investment that will result to significant social returns in the long run.

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