

FINAL LIST OF KEY MARKET ACCESS BARRIERS IN THE PHILIPPINES UNDER THE MARKET ACCESS STRATEGY

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Barrier	Description	Priority actions (indicative, no exhaustive list)
<p>Investment restrictions: Foreign Ownership Caps (MADB no. 11122)</p>	<p>Foreign firms are generally limited to 40% foreign equity, and specific foreign equity limits apply in certain sectors (telecommunications, electricity, water, logistic services, media, agriculture, etc.). Some investment restrictions are inscribed in the Constitution, and therefore difficult to change, but some could be lifted through amendment of legislation. Debate in Congress to amend the Public Services Act is on-going for many years now. Meanwhile, despite some occasional debate, there has been no substantial progress in the easing of economic restriction in the 1987 Constitution.</p> <p>EU DEL continues to advocate within the government, in particular with the Department for Trade and Industry (DTI) and the National Economic Development Authority (NEDA), to continue support for the amendments needed to ease the foreign investment restrictions.</p> <p>In February 2020, the Lower House passed in second reading a bill to amend the Public Services Act, to insert the definition of public utilities which in effect may lead to opening up sectors like transport and telecommunications.</p> <p>Impact: While EU holds – according to the Philippines data – the largest share of foreign FDI in the country, it only represents 4% of EU FDI stocks in ASEAN. Urgent reform is needed as over the last 2 years the Philippines have seen a rather sharp reduction in overall FDI flows.</p>	<p>On-going bilateral contacts, including Congress</p> <p>Joint advocacy with European Chambers of commerce</p> <p>Public events</p>

<p>Government procurement (MADB no. 11140)</p>	<p>Government procurement laws and regulations favour Philippine-controlled companies and domestically-produced materials and supplies. A 40% limit on foreign ownership exists for bidders in procurement of consulting services; and / or foreign participants are discriminated with a price differential.</p> <p>Some of the implementing modalities for procurement regulations are currently being amended. The Philippine government shifted to more Public-Private Partnership agreements after previously deciding to use other methods of procurement (ODA) for its ambitious “Build.Build.Build” infrastructure program.</p> <p>A recent positive development was the Philippines accession to the WTO GPA as an observer in 2019.</p> <p>Impact: government spending on infrastructures is reaching an all-time high (towards 7% of GDP or €16 billion/year).</p>	<p>On-going bilateral contacts, including Congress</p> <p>Joint advocacy with European Chambers of commerce</p> <p>Public events</p>
<p>Restrictions on retail service (MADB no. 11142)</p>	<p>On retail trade, restrictive conditions apply on foreign ownership: paid-up capital of at least US\$2.5 mn; each store at least US\$0.83 mn for high end or luxury products; each store at least US\$0.25 mn with some domestic content requirement.</p> <p>Debate in Congress to amend the Retail Trade Liberalization Act is on-going for many years now. For the 18th Congress, the bill to amend the minimum paid-in capital for foreign retail businesses is approved at the House Ways and Means Committee (House Bill 1222) and is subject to plenary interpellation.</p> <p>EU DEL contributed in the position paper submitted by the European Chamber during the public hears conducted by the legislative branch. EU DEL continues to advocate in DTI to continue support for the amendment of the law.</p> <p>Impact: PH growing middle class (8 million households earning an estimated €10,000/year), but so far only one EU retail company established under full ownership (H&M), while another (Ikea) in process. Others are franchised.</p>	<p>On-going bilateral contacts, including Congress</p> <p>Joint advocacy with European Chambers of commerce</p> <p>Public events</p>

<p>Market access for animal products as well as for fruits and vegetables (MADB no. 12822)</p>	<p>The experience of MS indicates that the process to obtain market access for animal products as well as for fruits and vegetables is very cumbersome, with inconsistent requirements and procedures.</p> <p>Following intense EU advocacy, 14 MS (including recently added SE and DE) are now accredited for meat exports by the Department of Agriculture (DA). Inspections are foreseen this year for revalidation of NL and AT; and as a new application pork and beef for PL. Sweden recently obtained market access for pork meat. For fruits and vegetables, four MS had submitted the required pest risk analysis (PRA) for products such as apples, pears and potatoes. France got market access for exports of apples. .</p> <p>Impact: EU agri-food exports to the Philippines were approximately €1.50 billion in 2019, with still strong growth (potential) for meat, fruits, wines and spirits; and dairy.</p>	<p>On-going bilateral contacts and close coordination with EU MS.</p> <p>Joint advocacy with European Chambers of commerce</p> <p>Joint action with other missions (US, CA, AU, NZ)</p> <p>Cooperation on SPS (TA and training missions)</p> <p>3 bilateral meetings with PH in Geneva on the margin of the WTO SPS Committee in 2019</p> <p>This item was also discussed within the 1st Joint Committee under the EU/PH PCA</p>
<p>No application of regionalisation: ban on imports of pigs and pork products from 8 EU MS due to ASF; ban on imports of poultry products from 6 EU MS due to AI (MADB no. 14402)</p>	<p>The Government imposed since 2018 country-wide bans on several EU MS due to outbreaks of African Swine Fever (ASF). Despite a letter from Commissioners Malmström, Andriukaitis and Hogan in February 2019 and a specific trade concern against the Philippines on their import restrictions raised by the EU at the WTO SPS Committee in Geneva on 8 November 2019, the Department of Agriculture (DA) refuses to implement regionalisation and to lift the corresponding import bans even though its own zoning plan recognises free or clear zones to allow transport/trading within the country.</p> <p>DA has lifted the ban on Czech Republic in Memorandum Order dated 28 January 2020 and resumed meat imports from Germany after its system accreditation to export beef and poultry meat in a Department Order dated 15 January 2020. However, the suspension of pork remains in effect pending another inspection mission to Germany to verify corrective measures by the concerned establishment and veterinary services.</p> <p>The Department of Agriculture issued temporary bans in 2020 also on the imports of domestic and wild birds and their products including poultry meat, day old chicks, eggs and semen from 6 EU Member States: Romania,</p>	<p>The subject was discussed during 3 bilateral meetings with PH in Geneva on the margin of the WTO SPS Committee in 2019.</p> <p>EUD, in close coordination with affected EU MS, continues to follow this up with DA and DTI; in January 2020 the topic was discussed directly with DA Secretary Dar and was object of discussion within the 1st Joint Committee under the EU/PH PCA</p> <p>Proposed EU Technical Assistance on ASF under discussion</p>

	<p>Germany, Czech Republic, Hungary, Slovakia and Poland due to outbreaks of H5N8 Highly Pathogenic Avian Influenza (HPAI). The Commission submitted comments in writing last 27 February and 2 March 2020 to PH notifications, urging the Department of Agriculture to recognise the zoning measures put in place by affected Member States and to lift the country-wide bans.</p>	
<p>Customs (MADB no 11141)</p>	<p>Based on MS experience, customs procedures remain burdensome amid reforms to standardize processes being taken by the Bureau of Customs (BOC) following the enactment of the Customs Modernisation Act in 2016 and the accession of the Philippines to the WTO Trade Facilitation Agreement. The BOC is seen as a highly politicised agency. It undergoes change in leadership almost every year making it more challenging to implement medium to long term reforms. There are challenges with regard to import declarations, valuation of merchandise, reference pricing, etc.</p> <p>The government pledges to address corruption in the BOC and have started adopting international best practices in terms of trade facilitation measures. However, operators are still waiting for these improvements to be fully implemented.</p>	<p>On-going bilateral contacts with the BOC. In 2019, the EU provided training of customs officials in Manila for the full implementation of the EU REX system for self-certification. Recently, EUD also engaged with BOC to ensure that flexibilities are granted in fulfilling customs requirements during the COVID-19 crisis.</p> <p>Joint advocacy with European Chambers of commerce</p> <p>Public events</p>