



# Foundation for Economic Freedom, Inc.

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## FOUNDATION FOR ECONOMIC FREEDOM EXPRESSES SUPPORT FOR AMENDING THE RESTRICTIVE ECONOMIC PROVISIONS OF THE 1987 CONSTITUTION

We, the Foundation for Economic Freedom, have always been at the forefront in calling for changes to the 1987 Constitution to remove the restrictive economic provisions that have, for decades, served as binding constraints to economic growth and development.

We believe that the removal of restrictive economic provisions sends a clear and compelling message to foreign investors, signaling a warm welcome to investment and business operations in the Philippines. While commendable liberalization laws have been enacted in the previous administration, such as the Amendments to the Public Service Act, the Foreign Investment Act, and the Retail Trade Liberalization Act, the Philippines still lags behind its ASEAN neighbors in foreign direct investment inflows. Data as of 2022 indicates that Indonesia, Vietnam, Malaysia, and Thailand have surpassed the Philippines in attracting foreign direct investment. It is crucial to emphasize that the Philippines is open to foreign investments, especially as one of the last countries where restrictions on foreign ownership are embedded in the Constitution.

The restrictions in the 1987 Constitution serve as constraints to developing areas of the economy where the Philippines has great promise such as mass media and renewable energy. The existing economic constitutional restrictions limit investments that we need to develop our creative industries. Likewise, while investments in solar and wind energy have been liberalized, there is still a lot of uncertainty for foreign investors because of the 60/40 rule in investments in natural resources and ownership of land. These are just some instances that make it difficult to make changes in policy, as economic conditions change, because of the restrictions embedded in the Constitution.



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We propose to fully liberalize and lift the following restrictions in the 1987 Constitution by allowing up to 100% foreign ownership for the following, unless otherwise provided by law:

- **Section 2, Article XII (National Patrimony and Economy)** which provides that the State may enter into co-production, joint venture or production sharing agreements for exploration, development, and utilization of natural resources;
- **Section 3, Article XII (National Economy and Patrimony)** which provides that private corporations or associations may not hold alienable lands of the public domain except for lease for not more than twenty-five years and not to exceed one thousand hectares in area;
- **Section 7, Article XII (National Patrimony and Economy)** which provides that no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands in the public domain;
- **Section 10, Article XII (National Patrimony and Economy)** which provides that certain areas of investments must be reserved for companies whose capital is owned by sixty percent of Filipino citizens;
- **Section 11, Article XII (National Patrimony and Economy)** which provides that operation and management of public utilities be reserved for corporations whose capital is owned by Filipino citizens;
- **Section 4, Article XIV (Education, Science and Technology, Arts, Culture, and Sports)** which provides that educational institutions shall be solely owned by citizens of the Philippines or corporations or associations whose capital is owned by at least sixty percent of citizens; and



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- **Section 11, Article XVI (General Provisions)** which provides that ownership of mass media be wholly owned by citizens or to corporations or associations wholly owned by citizens, and that only citizens or corporations or associations of which at least seventy per centum of the capital is owned by citizens can engage in the advertising industry. Participation of foreign investors in the governing body of entities in such industry shall be limited to their proportionate share in the capital and all the executive and managing officers of such entities must be citizens of the Philippines.

We also propose amendments to the Filipino First provisions in the Constitution, thus:

- **Section 19, Article II (Declaration of Principles and State Policies):** “The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos” to “The State shall develop a self-reliant and independent national economy for the benefit of all Filipinos.”
- **Section 10, Article XII (National Economy and Patrimony):** “...In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos...” to “...in the grants of rights privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified investors...”

If necessary, Congress can impose the appropriate restrictions, conditions for ownership, or safety nets based on the needs of the country to sustain economic and social development through legislation. The removal of economic restrictions from the Philippine Constitution will provide policymakers with greater flexibility to respond effectively to changing global and domestic economic conditions and the evolving needs of the economy.



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The closed, restrictive model has been with us since 1935 and accounts for the Philippines failing to progress like its Asian peers. It is time to change the business model under the Constitution. Removing the restrictive economic provisions would significantly improve the lives of Filipinos by attracting new foreign investments and fostering healthy competition. Increased foreign direct investments in currently restricted areas would generate higher-quality, higher-paying jobs, boost incomes, and expedite economic development. There is potential for substantial gain in liberalizing the Philippine economy. Any delay in amending these economic provisions would hinder the opportunity for more inclusive growth and development for our people and the country.

We understand that removing the foreign ownership restrictions in the Constitution is **necessary** but not **sufficient** to attract more foreign investors. Other conditions such as a rule of law, good infrastructure, and ease of doing business, among others, must be present to compete with other countries in attracting foreign investment. However, removing these restrictions is a necessary first step.

We strongly emphasize that constitutional amendments should be limited exclusively to economic provisions. This focused approach reduces the risk of political controversy and division, ensuring the swift passage of crucial amendments to the economic provisions of the Constitution. This move toward greater economic freedom will empower our people to independently navigate their paths forward, benefiting themselves, their families, their communities, and the nation as a whole.

Even as we support the call to amend the Constitution to entice foreign investments, we also urge Congress to remove the remaining restrictions in the legislation, such as the prohibition of foreign investment in the rice and corn sector embodied in Republic Act No. 3018 and Presidential Decree No. 194.

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