

CUSTOMS ADVOCACY PAPER 2018



EU - PHILIPPINES
BUSINESS NETWORK



ABOUT EPBN



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.



CUSTOMS 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 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 to 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.

A handwritten signature in black ink, appearing to read "Rodrigo Duterte".

RODRIGO ROA DUTERTE

MANILA
August 2018

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.

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INTRODUCTION

Tasked to execute control and ensure order across borders, customs have long played an important role in trade facilitation. Although there are several exemptions, customs administrations are most commonly tasked to foster security at border ports, fight illicit trade, and collect government revenues from import and export taxes. Customs administrations are therefore dubbed as the “gatekeepers” of the states as they are the agency tasked to implement and observe laws pertaining to border control.

Data from the Philippine Statistics Authority (PSA) shows that year-on-year growth of the country's total exports dropped by 3.8% from USD5.99 billion in May 2017 to USD5.76 in May 2018, while imports increased by 11.4% from USD8.49 billion to USD11.4% billion in the same period.¹ In terms of trade facilitation, the Philippines ranked number 82 out of 136 economies in the Global Enabling Trade Report released in 2016. According to the report, three main obstacles for importation in the country are: burdensome procedures, expensive and inefficient domestic transportation, and a lack of transparency at customs.²

In spite of burdensome and somewhat stringent Philippines customs procedures, addressing the issue of illicit trade continues to be a challenge. Findings from a University of Asia and the Pacific (UA&P) study released in 2017 reveal that at least PhP900 billion, or USD17.86 billion³, worth of goods were smuggled into the country from 2011-2015. Out of the eight industries examined in the study, the petroleum industry had the highest value of smuggled goods at PhP680 billion, followed by steel industry with PhP106.1 billion and by resin at PhP42.9 billion⁴.

Smuggling of agricultural goods also continues to persist in the country. The largest smuggling activity in Davao occurred in November 2017, when PhP4.6 million worth of illegally imported rice was discovered⁵. This is, however, by no means an isolated incident. In 26 July 2018, the BOC seized 200 container vans of smuggled Thailand rice at the Manila International Container Port (MICP)⁶ and another batch of containers, in August 2018, containing 50,000 sacks of rice were confiscated in Manila.⁷

1 PSA. (2018). Highlights of the Philippine Export and Import Statistics: May 2018. Retrieved 25 July 2018 from <https://psa.gov.ph/content/highlights-philippine-export-and-import-statistics-may-2018>

2 World Economic Forum. (2016). The Global Enabling Trade Report 2016. Retrieved 25 July 2018 from http://reports.weforum.org/pdf/eti-2016/WEF_ETI_2016_Profile_PHL.pdf

3 Converted using 2017 Peso to USD exchange rate of PhP50.3947 to USD1 (BSP Data)

4 Crismundo, K. (2017). P905-B Worth of Goods Smuggled into PH in 5 Years – Study. Retrieved 26 July 2018 from <http://www.pna.gov.ph/articles/1006726>

5 BOC. (2017). Port Sentinel. Retrieved 30 August 2018 from http://customs.gov.ph/wp-content/uploads/2018/03/Port_Sentinel_Nov2017.pdf

6 Caliwan, C. (2018). Customs Vows to Evaluate Rice Smuggling Cases. Retrieved 31 August 2018 from <http://www.pna.gov.ph/articles/1043023>

7 Patinio, F. (2018). Fate of 50K Sacks of Smuggled Rice up to DOF, NFA; Customs. Retrieved 31 August 2018 from <http://www.pna.gov.ph/articles/1046082>

RECENT REFORMS AND INDUSTRY DEVELOPMENTS

The following reforms affecting customs procedures and processes were recently adopted:

- On 30 May 2016, Republic Act No. 10863 or the Customs Modernization and Tariff Act (CMTA) was enacted. The law aims to streamline and modernize customs rules and procedures to ensure simpler and faster facilitation of trade as well as foster transparency and upgrade the quality of customs services in the country.⁸ According to the Department of Finance (DOF), the IRR will be composed of 42 Customs Administrative Orders (CAOs) which shall be completed in 2018.⁹ As of July 2018, however, only 8 CAOs have been issued by the BOC and approved by the DOF.
- The government formed the National Single Window (NSW) Steering Committee which is tasked to deliberate on establishing a comprehensive government online platform that would connect 76 regulatory offices and enhance the country's competitiveness by reducing processing time and transportation costs as well as promoting transparency in terms of trade facilitation. In 2017, the government launched TradeNet, an online platform established as the operating system for all issuances of trade permits and other required documents related to trade facilitation. TradeNet also functions as the country's NSW.¹⁰ According to the DOF, 65 out of the needed 75 regulatory offices have been engaged by the Department. As of writing, only 16 agencies were reported to be connected to the online platform.¹¹
- On 23 July 2016, President Duterte signed Executive Order (EO) No.2 which implemented Freedom of Information (FOI) covering all officials and agencies in the executive branch. Under the EO, all government agencies under the executive branch must answer public inquiries, provided that these inquiries do not fall under the set of exceptions provided by the Office of the Solicitor General (OSG) and the Department of Justice (DOJ).¹²

8 DOF. (n.d.). Customs Modernization and Tariff Act. Retrieved 19 July 2018 from https://www.dof.gov.ph/index.php/issuances/cmta_irr/

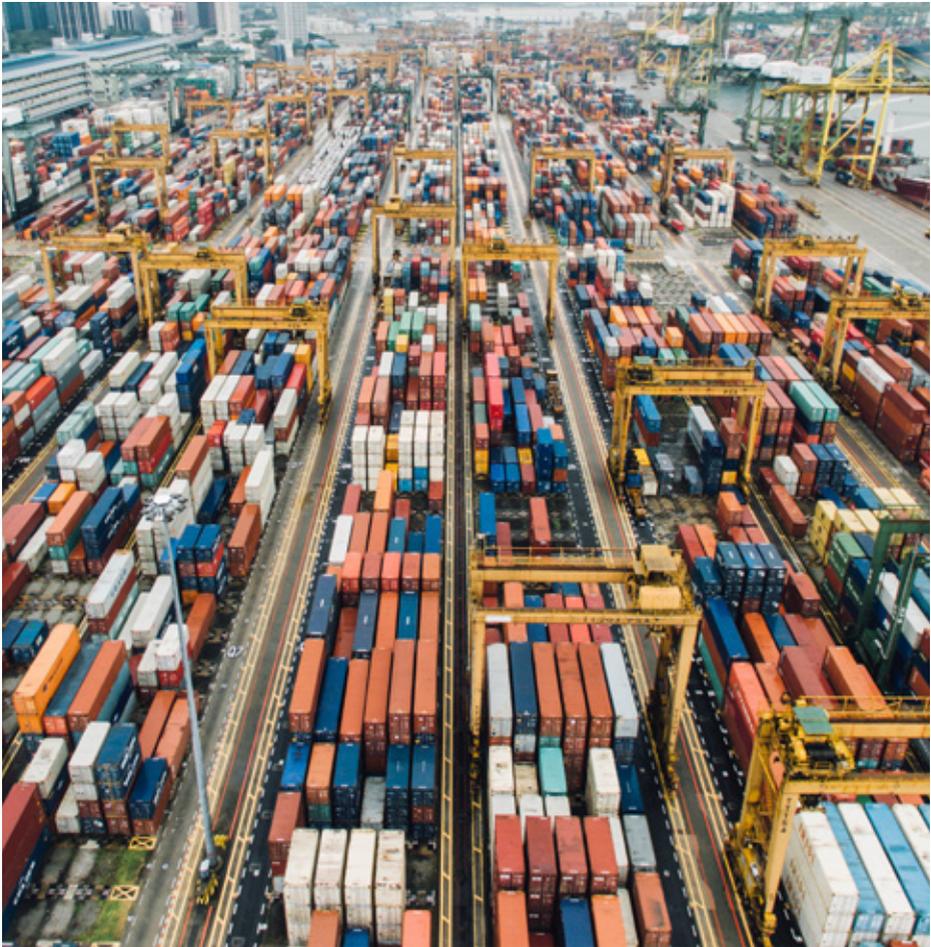
9 DOF. (2017). IRR of Customs Modernization Law Fleshed Out in about 42 BOC Orders. Retrieved 30 August 2018 from <https://www.dof.gov.ph/index.php/irr-of-customs-modernization-law-fleshed-out-in-about-42-boc-orders/>

10 DTI. (2018). TradeNet in Prep Stage for Launch by Midyear 2018. Retrieved 19 July 2018 from <https://www.dti.gov.ph/media/latest-news/27-main-content/emb-news/11564-tradenet-in-prep-stage-for-launch-by-midyear-2018>

11 DOF. (2018). DOF Taps 65 of 75 Regulatory Agencies for Online Trading Platform. Retrieved 19 July 2018 from <https://www.dof.gov.ph/index.php/dof-taps-65-of-76-regulatory-agencies-for-online-trading-platform/>

12 Executive Order No. 02 s. 2016

- The BOC issued Customs Memorandum Order (CMO) No.06-2018 on 7 May 2018 which required all air and sea freights to submit their shipping manifest and other required documents in advance through the Advanced Manifest System (AMS).¹³ This issuance was prompted by the smuggling of 604 kg or PhP6.5 billion worth of “shabu” in 2017 and was viewed as another layer of red tape in customs procedure. The CMO, however, was suspended by the BOC through the issuance of another memorandum on 30 May 2018 to further test its readiness.¹⁴



13 Customs Memorandum Order No. 06-2018

14 BOC Memorandum Dated 29 May 2018 on the Suspension of CMO No. 06-2018

EPBN ADVOCACY

To improve customs procedures and processes towards a more competitive business environment, EPBN has set forth the following recommendations:

PROMOTION OF TRANSPARENCY AND INTEGRITY

- **FULLY IMPLEMENT THE CUSTOMS MODERNIZATION AND TARIFF ACT (CMTA) IN PURSUANCE OF THE WCO REVISED KYOTO CONVENTION**

The EPBN applauds the government's initiative to modernize and simplify the customs rules, laws and procedures in the country. Further, we recognize the great work done in crafting and passing the CMTA in 2016 which is expected to foster transparency and boost the country's participation in international trade.

Through the implementation of the CMTA, the Philippines will be able to address the issue of corruption within the BOC that has long been identified as one of the biggest hindrances by the business sector. It will also create a more competitive trade environment in the country as it would align domestic customs procedures with international standards and best practices, thereby putting the Philippines on equal footing with other countries.

With this in mind and in support of the administration's move towards a more competitive business climate, we support and urge the full implementation of the CMTA through the completion of the IRRs.

- **OPERATIONALIZE THE NATIONAL SINGLE WINDOW (NSW) IN ALL GOVERNMENT AGENCIES AND INTEGRATE IT WITH THE ASEAN SINGLE WINDOW (ASW)**

Inefficiency, red tape, and corruption are trade and investment barriers which discourage the doing of business in and with the Philippines. Taking these into consideration, the EPBN highly welcomes the government's initiative to establish a NSW which aims to streamline trade procedures in the country and promote a more competitive business environment in the Philippines. The operationalization of the NSW will address the lack of communication between government agencies, combat smuggling and corruption, and facilitate smoother flow of domestic and international trade in the country.

Moreover, the establishment of the NSW will also allow the country to maximize the benefits of being a member of the Association of Southeast Asian Nation (ASEAN) by utilizing the ASW. Given all these benefits, the EPBN urgently calls for the integration with the ASW, and the full and expedited operationalization of the NSW in all government agencies.

• **LEGISLATE A FREEDOM OF INFORMATION LAW**

Corruption has always been one of the main concerns of business owners when conducting operations in the Philippines. It hinders both parties by crippling profitability and socioeconomic growth. Implementing measures like the FOI law would promote integrity and ensure accountability, thereby establishing trust in the government from consumers and business owners alike.

The issuance of the EO on the Freedom of Information by President Duterte is a cornerstone in the Philippines' long-awaited attainment of FOI. The EPBN, however, still recognizes the need to have the Congress enact an FOI Law which shall cover all the branches of the government since the current EO only covers officials and agencies under the executive branch. Under such circumstances and in recognition of the government's commitment to end corruption, the EPBN recommends the legislation of a Freedom of Information Law.



EPBN INTERVENTIONS

With increased global integration, having a trade-friendly economy and a competitive business environment will work to the advantage of the Philippines. Not only would these attract more foreign businesses and investors into the country, they would also help foster trade and boost economic growth.

The EPBN continues to engage and cooperate with the BOC and other concerned government agencies to look into possible areas of cooperation and reforms to attain the aforementioned goal. On 3 May 2017, EPBN and its Food and Beverage Committee members met with then-BOC Project Manager for CMTA IRR, Atty. Althea Acas to discuss developments on the implementation of the CMTA law. Additionally, the EPBN Food and Beverage Committee members were also able to meet with BOC Director Antonio Pascual on 26 September 2017 to discuss BOC reforms.

On 29 June 2017, the EPBN, in partnership with the European Chamber of Commerce of the Philippines (ECCP), held the Euro-PH Advocacy Forum and also circulated its Customs Advocacy Brief to the speakers and attendees of the event. Notable resource persons in the forum were representatives from the DOF, BOC, PhilExport, and Cong. Ruffy Biazon.

Further, last 25 September 2018, EPBN together with the ECCP held a luncheon meeting with BOC Commissioner Isidro Lapena. Among the highlights of the discussion in the forum were the commissioner's initiative to increase efficiency and transparency in the BOC under his Five-Point Priority Program, updates on the implementation of the CMTA law as well as the newly implemented Enhanced Goods Verification System also known as the 1-Assessment. The EPBN was also able to participate in the customs working group for private sector stakeholders last 21 March 2018.



ASSESSMENT OF RECOMMENDATIONS

| Advocacy | Recommendations | Completed | Substantial Progress |
|---|---|-----------|----------------------|
| Promotion of Transparency and Integrity | Implement CMTA, the WTO Trade Facilitation Agreement and the WCO Revised Kyoto Protocol. | | |
| | Operationalize a National Single Window that allows full alignment between the Bureau of Customs (BOC) and key government agencies. | | |
| | Enact a Freedom of Information Act. | | |
| | Create an effective enforcement mechanism for the Anti-Graft and Corrupt Practices Act | | |

| Some Progress | No Progress | Retgression |
|---|-------------|-------------|
| <p>While the CMTA was enacted on 30 May 2016, the government has yet to release the complete set of IRRs, delaying the full implementation of the CMTA.</p> | | |
| <p>65 regulatory offices have been tapped by the DOF. 16 of which are now connected to the TradeNet platform. Further, the government has successfully conducted interconnection tests with Indonesia as part of the ASEAN Single Window (ASW).</p> | | |
| <p>A substitute bill consolidating 33 bills on FOI passed the House at the committee level on 15 February 2017.</p> | | |
| <p>The enactment of CMTA in 2016, the creation and launch of the TradeNet in 2017, and the signing of EO No. 2 on 23 July 2016 are positive developments towards implementing anti-graft and corrupt practices in Customs.</p> | | |



EU-PHILIPPINES BUSINESS NETWORK



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