

Foreign Investments: The Elephant in the Room

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The 1987 Constitution provides for specific provisions that reflect nationalist and protectionist policies with regard to foreign ownership of businesses in certain industries. The aim of such provisions is to secure the preservation of the Philippines' natural resources. Despite this, Congress continues to pass statutes that provide for investment opportunities that favor foreign participation in the economy.

The Article explores the complications brought upon by the efforts to harmonize the constitutional policy on the restriction of ownership to Philippine nationals, on one hand, and legislation on foreign direct investments, such as the Omnibus Investments Code of 1987 or Foreign Investments Act of 1991, on the other hand. An extensive review of the interpretation of the law and the Constitution by the different branches of government, notably the Securities and Exchange Commission, shows the problem faced by corporations and legal practitioners in balancing state policy and possible ventures to boost the economy.

The Supreme Court has promulgated landmark decisions in recent years with the hope of setting well-defined guidelines on foreign participation. This situation, however, has brought the country into a rather unstable economic state.