

Rödl & Partner

MARKTENTWICKLUNG, RAHMENBEDINGUNGEN UND GESCHÄFTSCHANCEN FÜR DEUTSCHE UNTERNEHMEN ZU VERPACKUNGS- UND LEBENSMITTELMASCHINEN IN DEN PHILIPPINEN



Rechtliche und politische Rahmenbedingungen in Bezug auf
die Verpackungs- und Lebensmittelmaschinen-Branche

Dr. Marian Norbert Majer
Executive Director
Roedl Philippines, Inc.

EIN UNTERNEHMEN

48 Länder

106 Niederlassungen

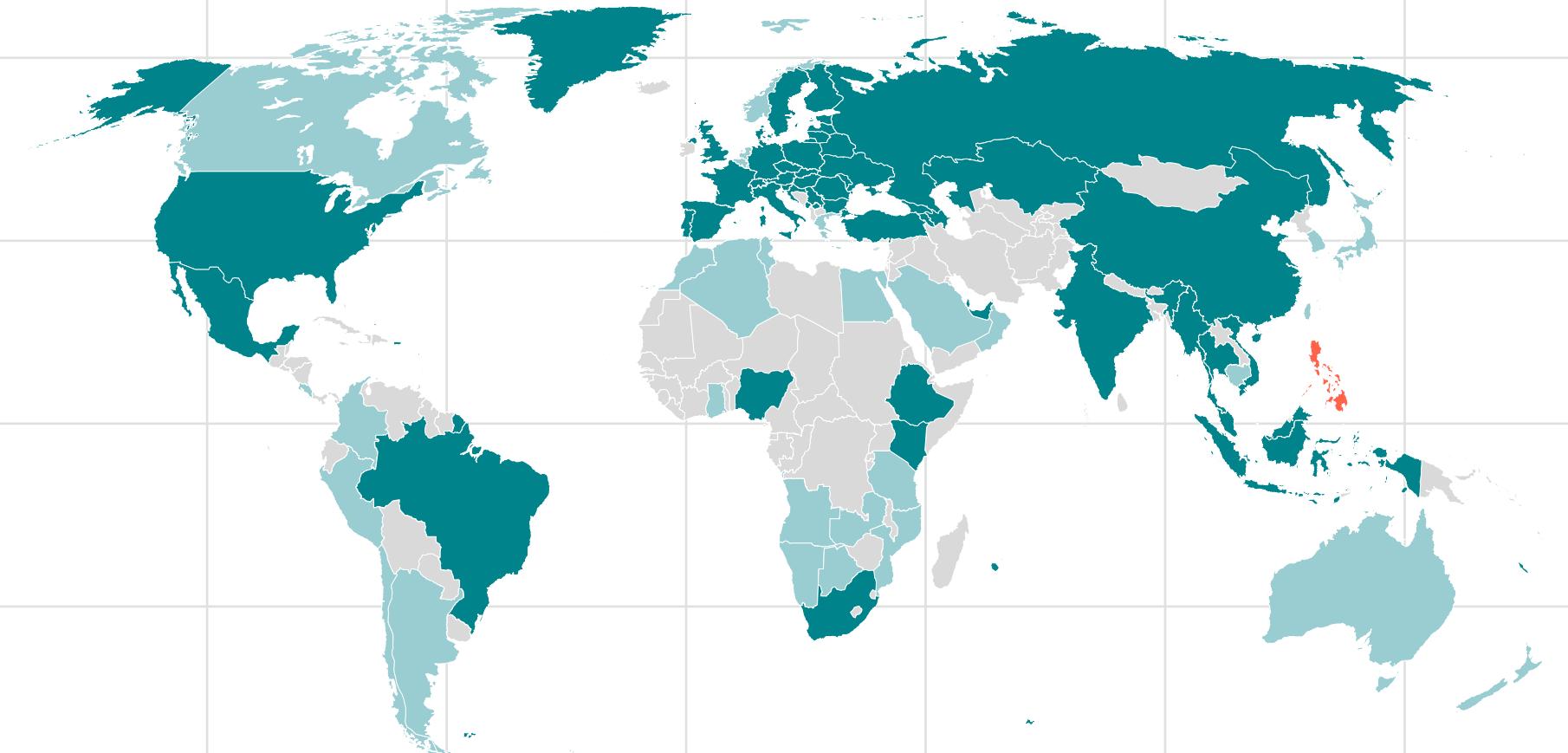
5130 Kollegen

In nahezu allen für unsere Mandanten relevanten Ländern in denen diese geschäftstätig sind oder werden unterstützt werden wir mit unseren eigenen Niederlassungen.

Rödl & Partner international

- Eigene Niederlassung
- Kooperationspartner

Der agile Kümmerer für mittelständisch geprägte Weltmarktführer



AGENDA

1 REGULATORISCHE RAHMENBEDINGUNGEN

- ÜBERBLICK POLITISCHES & RECHTLICHES SYSTEM
- REGULATORISCHE MARKTRISIKEN
- RISIKOMINIMIERUNG

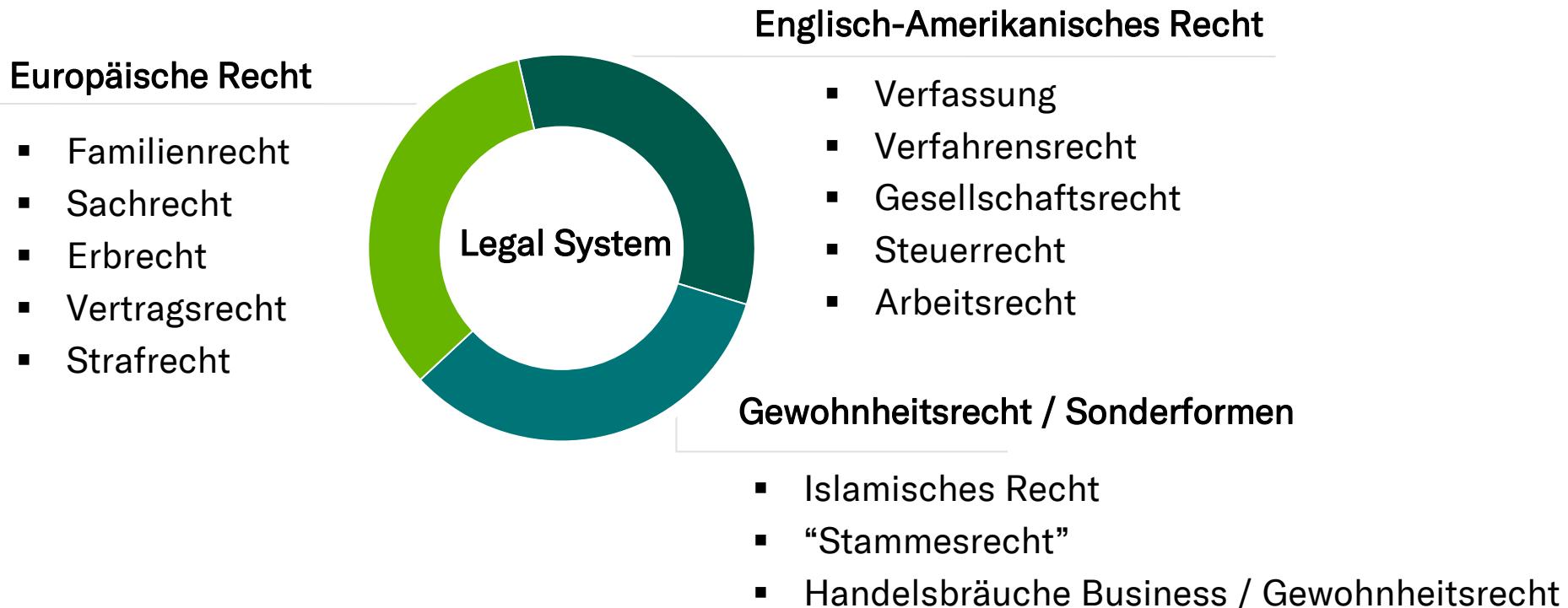
2 AUSLANDSINVESTITIONEN

- “DOING BUSINESS” FOREIGN INVESTMENT ACT
- MARKTEINTRITTSSTRATEGIEN
- INVESTITIONSBECHRÄNKUNGEN
- REGISTRIERUNGSVERFAHREN



RECHTSYSTEM

- **Politisches System:** Demokratische Republik mit präsidialer Regierungsform (Art. II Sec. 1 Verfassung)
- **National Language:** Filipino (Art. XIV Sec. 6)
- **Working Language:** Filipino & English (Art. XIV Sec. 6)

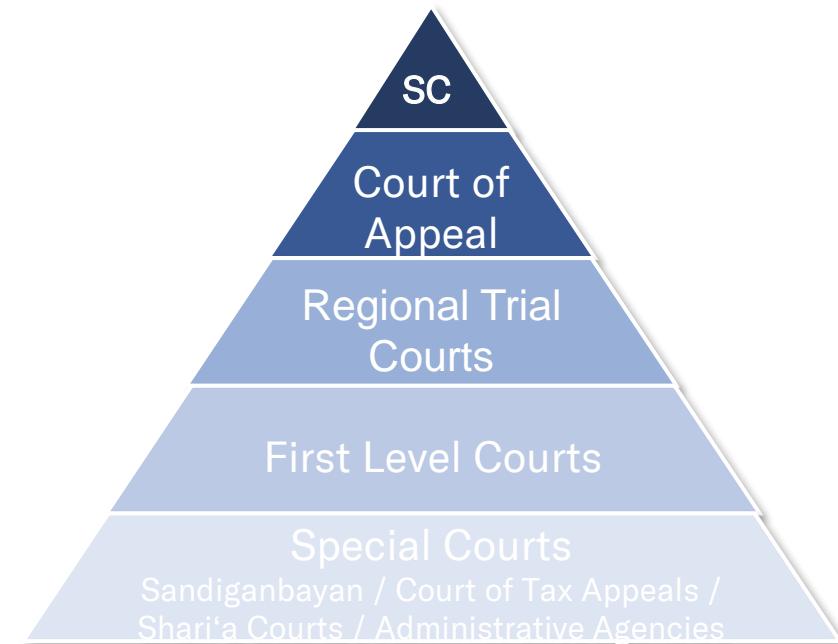


RECHTSYSTEM

Rechtsgrundlagen



Gerichtssystem



REGULATORISCHE MARKTRISIKEN

- Bürokratie / Red-Tape
- Implementierung von Regularien
- Konsistenz
- Transparenz
- Gesetz vs. Gewohnheitsrecht
- Multi-Agency Involvement
- Ausbildung / Training
- Rechtliche Durchsetzung von Ansprüchen
- Fragmentierung = Domestic Policy & Dynasties
- Korruption

Vergleich / Rankings



Ease of Doing Business 95/190
Enforcing Contracts 152/190²⁰²¹



Global Competitiveness Report
64/141²⁰¹⁹



Rule of Law Index 2020
91 /128



Corruption Perception Index 2019
113/171

RISIKOMINIMIERUNG



Do your homework

Führzeitige & Langfristige
Professionelle Planung

Know your business environment / regulator /
government agency / partners

“No shortcuts”

Professionelle Dokumentation / Vertragswerk

In-house training / Compliance Safeguards

Offshore Risk / Diversifizierung

FOREIGN INVESTMENT ACT

Policy

Policy

Policy

Sec 2: “It is policy of the State to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations, and governments, ..., in activities which significantly contribute to national industrialization and socioeconomic development to the extent that foreign investment is allowed in such activity by the Constitution and relevant laws. “

Foreign investment shall be encouraged for enterprises that: (a) significantly expand livelihood and employment opportunities for Filipinos; (b) enhance economic value of products; (c) promote the welfare of Filipino consumers; (d) expand the scope, quality and volume of exports and their access to foreign markets; and/or (e) transfer relevant technologies in agriculture, industry and support services.

“As a general rule, there are no restrictions on extent of foreign ownership of export enterprises. In domestic market enterprises, foreigners can invest as much as one hundred percent (100%) equity except in areas included in the negative list. Foreign owned firms catering mainly to the domestic market shall be encouraged to undertake measures that will gradually increase Filipino participation in their businesses by taking in Filipino partners, electing Filipinos to the board of directors, implementing transfer of technology to Filipinos, generating more employment for the economy and enhancing skills of Filipino workers.”

RECHTLICHE RAHMENBEDINGUNGEN- PHILIPPINES

FOREIGN INVESTMENT ACT

Sec. 5 / 3 (d) Foreign Investment Act: “Doing Business” in the Philippines requires a business licence(s):

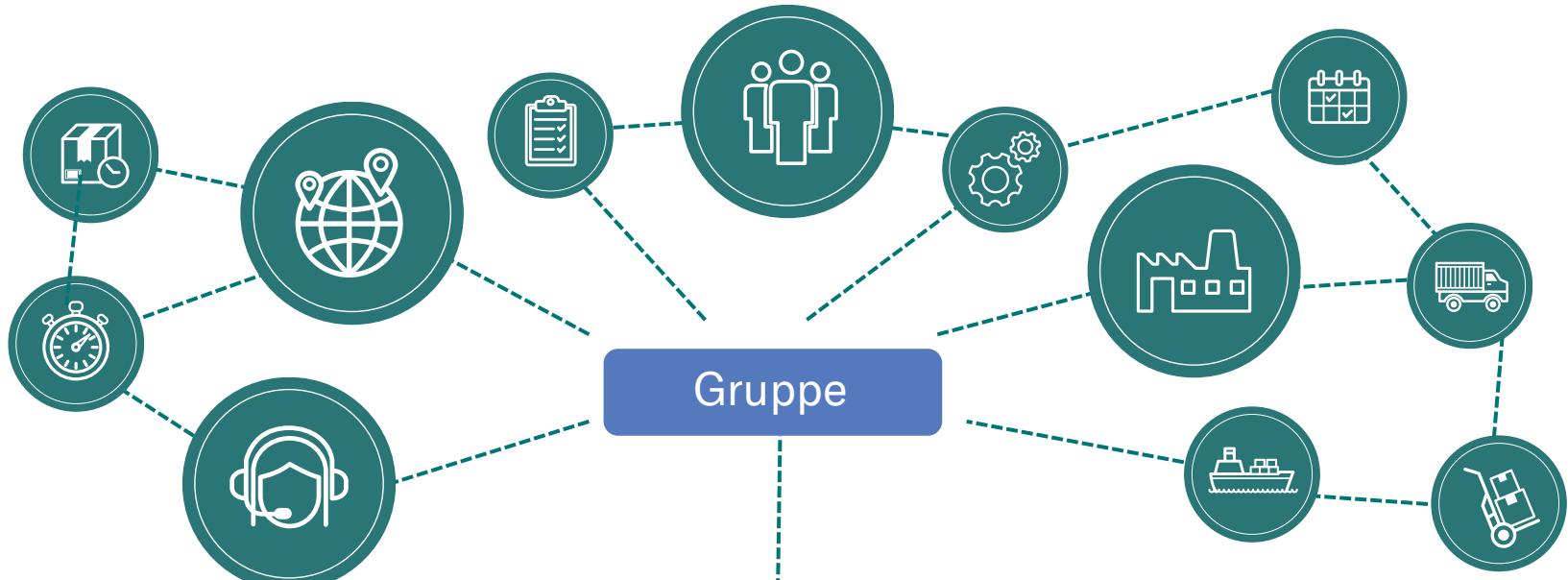
Beinhaltet:

- “Soliciting Orders”
- Dauerlieferungs- / Dienstleistungserträge
- Örtliche Präsenz (z.B. eigenes Büro “whether called “liaison” offices or branches”);
- “Appointing representatives or distributors domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totaling one hundred eighty (180) days or more”;
- “Participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines”; and
- “Any other act or acts that imply a **continuity** of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to, and in progressive prosecution of, commercial gain or of the purpose and object of the business organization”

Excludes:

- “Mere investment as a shareholder and/or the exercise of rights as such investor”;
- “Having a nominee director or officer to represent its interests in such corporation”;
- “Appointing a representative or distributor domiciled in the Philippines **which transacts business in its own name and for its own account.**”

MARKTEINTRITTSSTRATEGIEN



Gruppe

Import & Export | Distribution | Production

Direct Sales
(Commission Agency /
Distribution Partner)*1

Rep. Office

Branch Office /
PE

Subsidiary
Corporation

JV

M & A

RECHTLICHE RAHMENBEDINGUNGEN- PHILIPPINES

INVESTITIONSBESCHRÄNKUNGEN

Foreign Ownership / 11th Regular Foreign Investment Negative List 2018

0 %	<ul style="list-style-type: none"> ▪ Mass Media ▪ Practice of professions ▪ Retail ▪ Private security agencies ▪ Small scale mining / utilization of marine resources ▪ Manufacturing / distribution of certain weapons & explosives
25 %	<ul style="list-style-type: none"> ▪ Private Recruitment ▪ Contracts for the construction of defense -related structures
30 %	<ul style="list-style-type: none"> ▪ Advertising
40 %	<ul style="list-style-type: none"> ▪ Contracts for construction and repair (of locally-funded public works)(exemptions apply) ▪ Exploration, development and utilization of natural resources ▪ Ownership of private land ▪ Operation and management of public utilities ▪ Educational institutions ▪ Culture, milling, processing, trading etc. of rice & corn products ▪ Contracts for the supply of materials, goods and commodities government agencies ▪ Operation of deep sea commercial fishing vessel ▪ Ownership of condominium units ▪ Private radio communication network ▪ ...
49 %	<ul style="list-style-type: none"> ▪ Lending companies
60 %	<ul style="list-style-type: none"> ▪ Foreign financing companies and investment houses

RECHTLICHE RAHMENBEDINGUNGEN- PHILIPPINES

INVESTITIONSBESCHRÄNKUNGEN

Anderweitige Investitionsbedingungen

Mindestkapitalisierung (Allgemein)	<ul style="list-style-type: none"> ▪ 200.000 USD (“Domestic Enterprise”) <ul style="list-style-type: none"> - wenn Foreign Ownership > 40 % - geringer, wenn: (a) mehr als 50 Arbeitsplätze geschaffen werden; or Technologietransfer “advanced technologies”. • “Angemessen” (“Export Market Enterprise”)
Mindestkapitalisierung (Geschäftsfeld)	<ul style="list-style-type: none"> ▪ Financing 5 – 10 Mio. PHP ▪ Health Maintenance Organization 10 Mio. PHP ▪ Investment House 300 Mio. PHP ▪ Mining 100 Mio. PHP ▪ Real Estate Investment Trust 300 Mio. PHP ▪ Retail Trade (with foreign ownership) 2,5 Mio PHP ▪
Grundstückseigentum	<ul style="list-style-type: none"> ▪ Kein ausländisches Grundeigentum (60/40 Regel) ▪ Langzeitmietverträge (e.g. 25+25 oder 50+25) ▪ Condominium: <ul style="list-style-type: none"> a) Firma oder Miteigentümergemeinschaft (allgemeine Regelungen); b) “Developer” (60/40 in Management Corporation).
Arbeitsrecht	<ul style="list-style-type: none"> ▪ Minimum Wage (NCR = 537 PHP/day) ▪ Arbeitnehmerfreundliches Arbeitsrecht
Repatriierung von Gewinnen	<ul style="list-style-type: none"> ▪ Keine besonderen Beschränkungen (allerdings BSP und steuerliche Dokumentationspflichten) ▪ Dividenden / Branch Profit Remittance 25 - 5 %: (DBA-Deutschland Eigentum 15 % 10 % at 25 % Direkteigentum 5 % at 70 % Direkteigentum)

REGISTRIERUNGSVERFAHREN

SEC

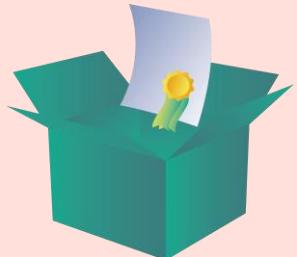
Representative Office

Branch Office

Corporation

Verfahrensdauer:

- Vorbereitung ca. 2-4 Wochen
- Verfahren 1-4 Monate



POST-REGISTRATION

- Barangay Clearance
- Mayor's Permit
- BIR Certificate of Registration

Verfahrensdauer:

- Verfahren 2-6 Wochen



SPEZIAL LIZENZEN

- Sozialversicherungsträger (SSS, PhilHealth, PagIBIG)
- PEZA
- DOLE
- BSP
- FDA, POEA....
- Bureau of Immigration

Verfahrensdauer:

- Einzelfallabhängig



„RENEWALS“

- In der Regel jährliche Erneuerung der standard Geschäftslizenzen



Rödl & Partner

THANK YOU!
FOR YOUR ATTENTION



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