

# **Fast Track Regulatory Reform - Essential for Economic Recovery**

**Bob Fox**

**Chair, Digital Economy/ICT**

**JFCCT and EABC**

**“Regulatory Guillotine: Economic stimulus by regulatory reform”**

**Seminar organised by TDRI**

**14 October 2020**

Circulation version v 2..5

Mid January 2020 – pre pandemic

World Bank launch of TEM (Thailand Economic Monitor)

GDP 2019 2.4%.

Forecast for 2020 2.7%, too low to meet expectations about being a high income economy in the desired time frame, so:

- Productivity enhancements
- FDI – service sector liberalization and other measures.

Strategic plans crowded out by the immediacy of pandemic response. But we need these strategic moves more than ever.

Our economy: --10% in 2020. What will happen next if we don't address regulatory reform which is the key to unlocking so much?

Two unrelated organisations with a common interest in advancing fast track regulatory reform



Joint Foreign Chambers of Commerce in Thailand (JFCCT), 44 years of service to the business community and the Thailand economy; most foreign chambers (34) with some 9,000 end member companies. [www.jfcct.org](http://www.jfcct.org)



European Association for Business & Commerce (EABC), acts as a 'Eurocham Thailand' – European-Thailand trade and investment. [www.eabc-thailand.org](http://www.eabc-thailand.org)

Each has been a supporter since 2016 and engaged in the purpose.

Special recognition of TDRI and JSCCIB for their commitments to the important endeavour of fast track regulatory reform

## AGENDA:

- 1) What is Fast Track Regulatory Reform?
- 2) Lessons from Dr Gil - Korea
- 3) Success stories
- 4) What has worked; what might not have worked
- 5) Rule of Law
- 6) 'Doing Business' and other rankings
- 7) Topics – examples
- 8) An essential for economic recovery; What is needed

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Traditional - reform by dialogue with responsible agencies. Most agencies do not shun such dialogues, but their governing laws usually do not help with advancement.

POLICY FOCUS

**Bangkok Post** The world's window on Thailand

**Thailand's excess laws and red tape**

Published: [13/01/2016](#)

Dr Duenden Nikomborirak

2015 – Royal Decree of Review of Law; Licensing Facilitation Act – good intentions, but....

*“leaving the implementation in the hands of line ministries that are the keepers of the laws and regulations is unlikely to yield desired results.”*

*“Large-scale reform of our laws should be driven by a non-interested third party with the necessary expertise in this particular field.”*

Needed: Regulatory Impact Assessment for new laws; a means of retiring / revising old laws.

Thailand – over 8,000 instruments of various kinds.

# Fast Track Regulatory Reform



## The right reforms

- Remove useless, cumbersome laws / regulations
- make **public policy more efficient** -effective policy designs that respect market principles;
- **lower policy costs, speeds the uptake of new technologies** and other innovations, and frees resources for other uses;
- **reduce policy risks for market actors** by increasing transparency; thus improving investment attractiveness
- **increase social benefits of economic activity** by safeguarding public interests; and
- **improve business security and market neutrality**

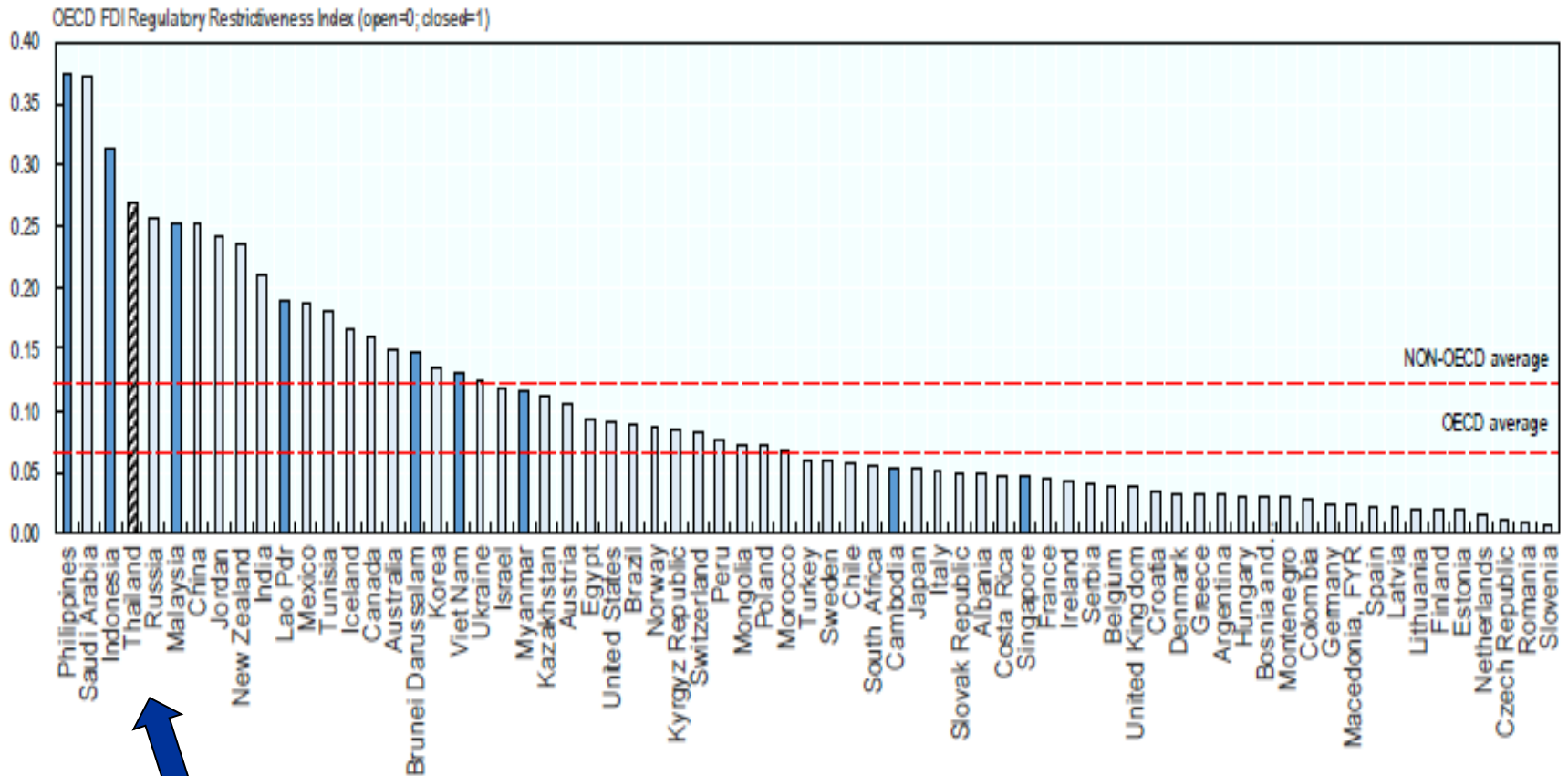
**Laws are reviewed:** remove, change (combine or modify), or keep

**Political will** – strong decisions, not sidetracked by vested or silo'd interests

# OECD Regulatory Restrictiveness Index, part of OECD IPR work



Figure 5.3. OECD FDI Regulatory Restrictiveness Index, 2018

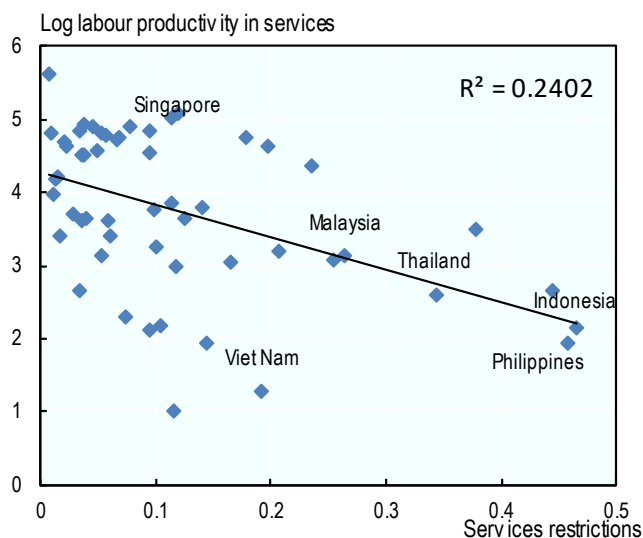


Source: OECD, Investment Policy Review materials

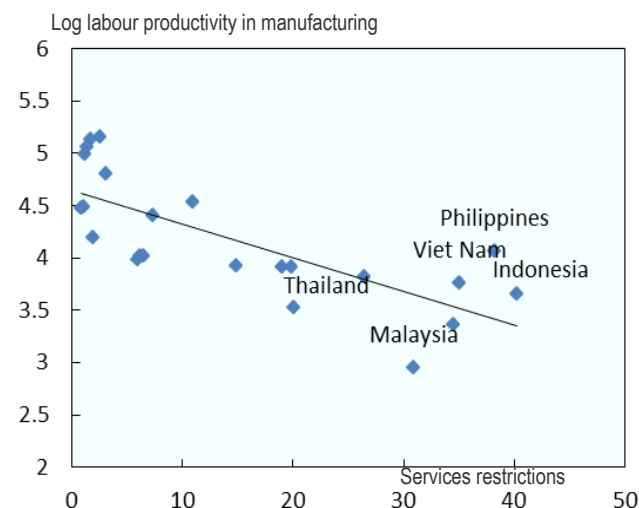


## Restrictions to FDI in services sector may be taking a toll on Thailand's economy

**Barriers to FDI depress labour productivity in services sectors...**



**... and discourage productivity growth in manufacturing sectors too**



➤ Restrictions in upstream services have a relatively stronger negative effect on SME manufacturers

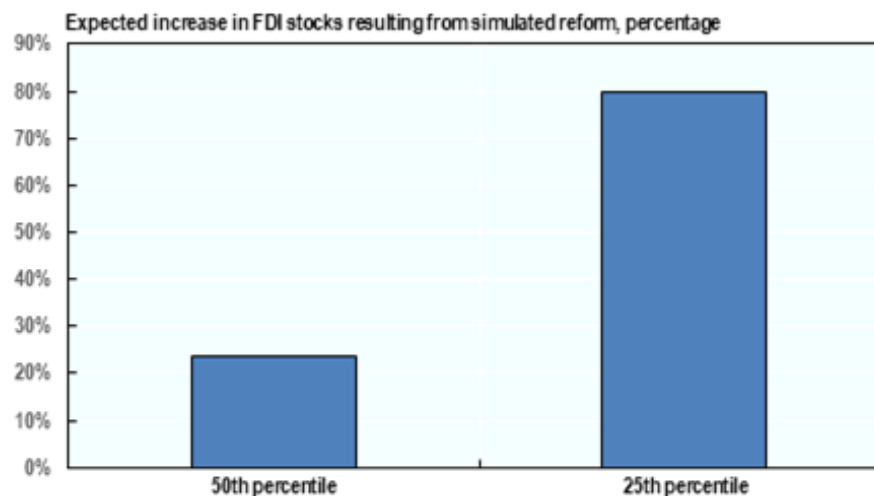
Source: OECD (2018), OECD Investment Policy Reviews: Southeast Asia 2018

## A more open regime in Thailand could yield significantly more inward FDI

### Do Statutory FDI Restrictions Matter?

- **A 10% liberalisation** as measured by the *Index* could **increase bilateral stocks by 2.1% on average**
- **Foreign equity caps and screening**, excluding NS-based ones, are found to **most significantly deter FDI**
- **Effect is larger in the services sector**, reflecting restrictions' greater incidence in services sectors
- **But FDI into manufacturing sectors is also negatively affected** by economies' overall restrictiveness

**Effects of FDI Liberalisation: reducing Thailand's restrictions to the 50<sup>th</sup> and 25<sup>th</sup> percentile levels of OECD FDI Index<sup>1</sup>**



<sup>1</sup>Evidence based on an augmented gravity model with country and year fixed effects (60 countries; 1997–2012); <sup>(2)</sup> assuming the estimated average elasticity effect applies.

Source: based on Mistura, F. and C. Roulet (2019), "The determinants of Foreign Direct Investment: Do statutory restrictions matter?", OECD Working Papers on International Investment, No. 2019/01, OECD Publishing, Paris

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Dr Gil Hong-Keun; Prime Minister's office, Korea – visit to Bangkok  
December 2016

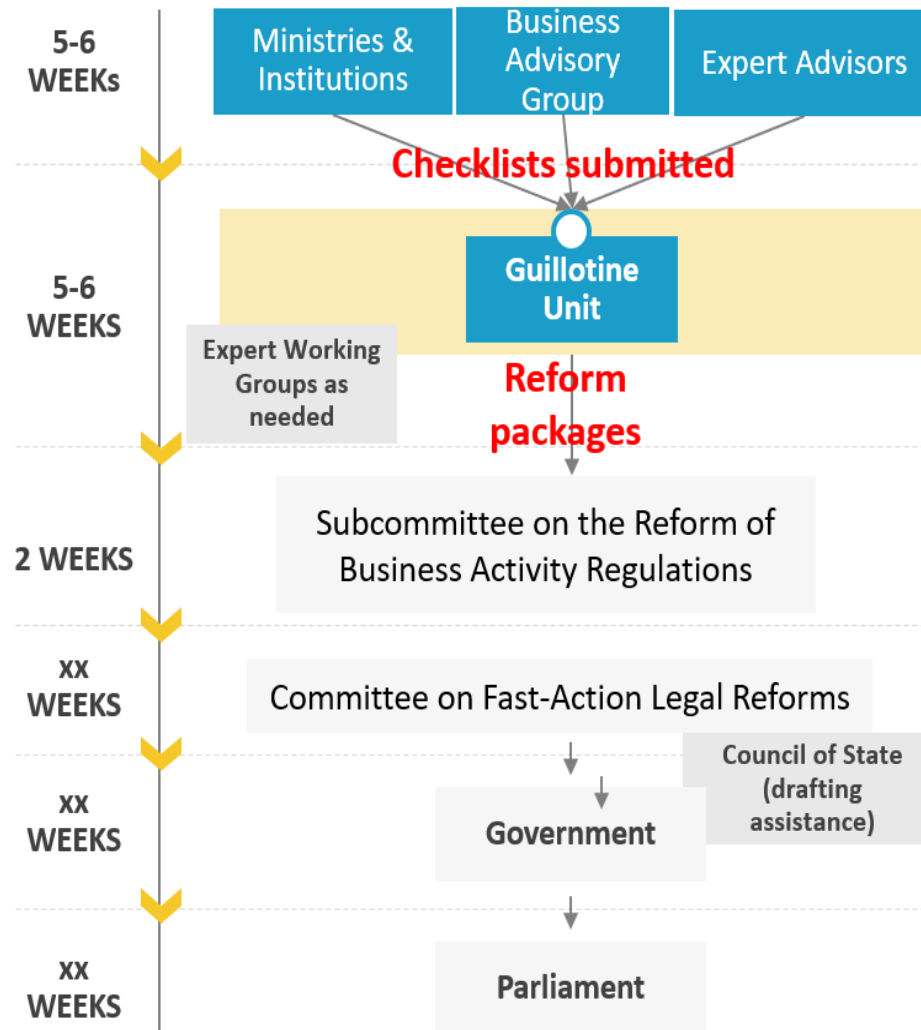
Political will

Central or co-ordinated authority supporting change, with the right skills and tools

Database of laws and regulations

Permanent Law Reform Commission with on-going, continual function for reviewing / refreshing laws and regulations

# A structure with central competence to support reforms



GU works with Ministries & Agencies to validate inventory and gather recommendations using checklists (burden of proof is on the Ministries and Agencies). Business Advisory Group submits priority lists for review and recommendations for change.

(1) GU is comprised of around 56 people; (2) Based on input from Ministries, Civil Society, and experts, they develop recommendations and Legal Drafts to implement them, with cost reduction estimates

Review of recommendations, appeals from Ministers before package goes to full Committee

Clears package for transmission to Government

Approves package as a whole. Recommendations sent to ministries or Parliament for action.

Prior agreements with key stakeholders (Speaker, Key Committees, key Deputies, etc) for Fast Track Approach

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# Successes



	Target of Reform	Number of Regulations reviewed	% of regulations eliminated	% of regulations simplified
<b>Korea</b> (11 months)	Regulations	11,125	<b>-48.8%</b>	<b>21.7%</b>
<b>Mexico</b> (9 months)	Formalities	2,038	<b>-54%</b>	<b>27%</b>
<b>Kenya</b> (14 months)	Business Licenses	1,325	<b>-23.8%</b>	<b>28.6%</b>
<b>Moldova</b> (6 months)	Regulations	1,130	<b>-44.5%</b>	<b>12.5%</b>
	Fee-based Permits	400	<b>-68%</b>	<b>20.3%</b>
<b>Vietnam</b> (2 years)	Admin procedures	5,500	<b>-8.8%</b>	<b>77%</b>
<b>Croatia</b> (12 months)	Business Regulations	1,451	<b>-15%</b>	<b>10%</b>

**Bank of Thailand (BoT)** 400 recommended changes to laws, and implemented several recommendations about FX, Saved THB 1.1 bn in annualized costs going forward (see next slide). *October 2017.*

**Securities and Exchange Commission (SEC)** - training using the “Regulatory Guillotine” concepts and methodology as well as the processes for reviewing existing regulations. Outcome strengthened regulation-making. *December 2017.*

**EoDB (Ease of Doing Business)** 10 criteria in the World Bank “DB”  
Over five years due to remeasurement & improvements, Thailand moved from 20s to 40s . 21<sup>st</sup> out of 190 countries for 2020 ranking by improving on some key activity. Work Permit/Visa and gov’t contracts not included in the 10. *2019*

## Simple & Smart License Project



1,085 licenses analysed and full recommendations made (revise/remove/de-duplicate). Estimated saving to business THB 64bn if all implemented. See two slides later. *2018 - 2019*



# Bank of Thailand



Reform action adopted by Bank of Thailand		Expected Annual cost savings (Baht/year) to financial institutions/consumers *
1	Eliminate documents for FX Hedging	THB 116,718,562
2	Elimination of 3 out of 7 supporting documents for lending abroad	THB 1,711,400
3	Eliminate FX Form	THB 593,600,000
4	Allow FX hedging for subsidiaries without BOT's prior approvals	THB 86,478
5	Allow Multilateral Netting without <u>BoT</u> Approval	THB 471,700
6	Approvals duration expanded from 1 year to 5 years for FX-linked (for certain industry); Commodity hedging (except gold); FCD	THB 917,194
7	Reduce one out of 3 supporting documents e.g. purchase of FX, hedging	THB 1,873,575
8	Repeal stamps on documents for verification	THB 9,271,440
9	Allow retail investors having specified amount of assets to directly invest in securities abroad without the need to go through local intermediaries.	THB 415,800,000
<b>Total Cost Savings per year</b>		<b>THB 1,140,450,350</b>

## Preliminary Estimation of Reform Benefits (not for quotation)



No. of procedures reviewed	Baseline cost (mil baht)	Estimated standard cost savings (mil baht)	Percentage of cost saving
1,085	98,254	64,293	65.5

Each of the 1,085 is assessed, has a recommendation (eg cut/change etc), and can be implemented.

If all were implemented according to recommendations, THB 64 bn (annualized) would be saved to the business community, ie 65% of the current cost, not including government savings.

*Source:* Dr Deunden, Mr Kittti (FTI), July 2019

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# What has worked; what has not - illustrative



## ***Worked***

FX process Bank of Thailand

Electronic meetings Decree

On line IPR protection changes  
in CCA

PDPA – so far

Post IHQ/ITC changes

## ***Not so well***

eCommerce Tax – quick 2020 public hearing no change to 2018; many aspects unresolved.

Updated meeting ‘security’ measures about electronic meetings.

Original CCA – over-reach, vague

Cybersecurity – private CII; governance

NBTC hearing on MVNOs – useful inputs and hearing, but not taken into licences

FBA List 3 changes.

End of visa extension period, anything.

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Not well enough respected in foreign and local business communities (perhaps not even understood well by some)

Law is the creature of a process, a law needs to be fit for purpose; Neither extreme works (a slave to it just because it is a law; or something to be avoided if you can).

Strengthen respect:

- Inclusiveness in law making;
- Good quality laws (make sense, have a purpose, are effective)
- A permanent LRC with continual review mandate
- A good Guillotine / Reform process

APEC GRP (Good Regulatory Practices) – a standard – effective public hearing; a rushed hearing misses the vital industry education aspect.

s. 77 Constitution – an enabler

Regulatory Impact Assessment Act – in force Nov 2019.

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2009: 13<sup>th</sup> / 181

.....

2015: 26<sup>th</sup> (before remeasurement); then changed to 46<sup>th</sup>

2016: 49<sup>th</sup> (after a remeasurement)

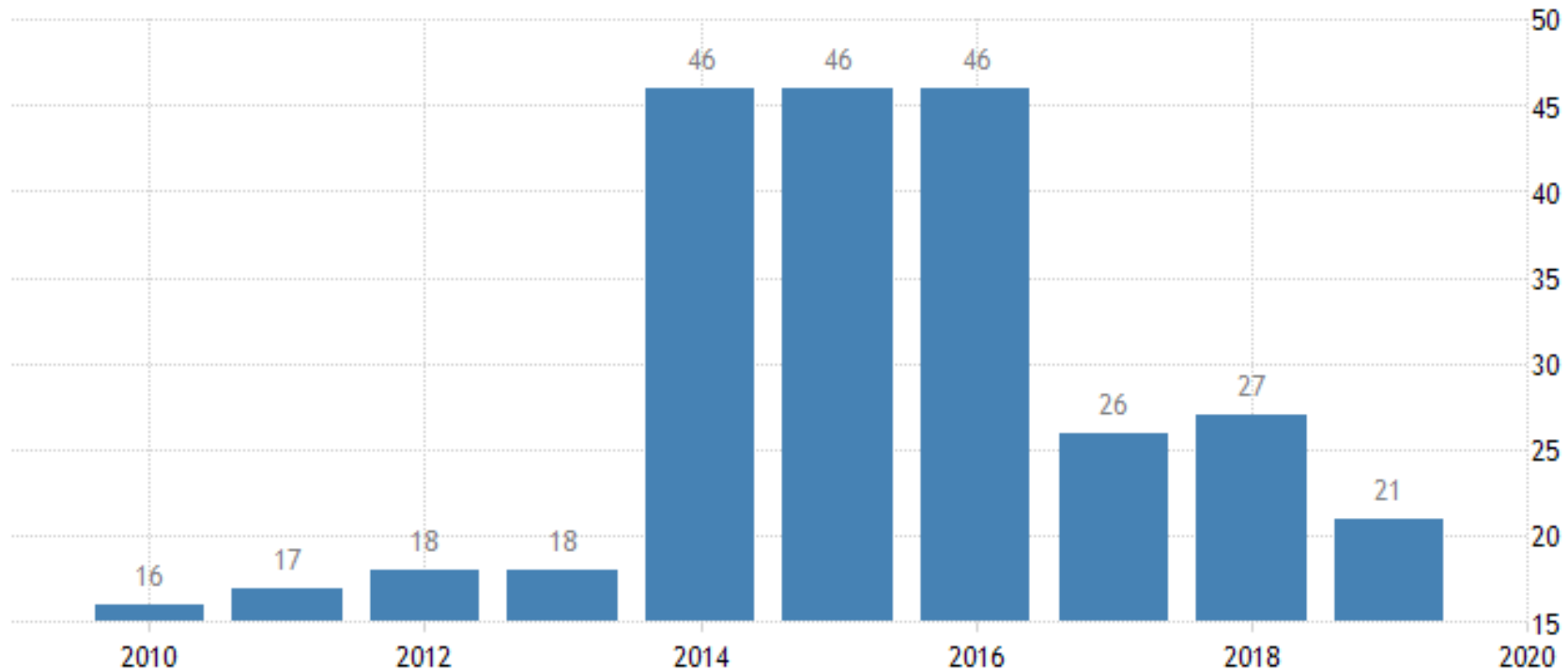
2017: 44<sup>th</sup> (after one remeasurement); also reported as 46<sup>th</sup>

2018: 26<sup>th</sup> /190 (after a remeasurement)

2019: 27<sup>th</sup>

2020: 21<sup>st</sup>

# WB EoDB rankings - indicative



SOURCE: TRADINGECONOMICS.COM | WORLD BANK

Indicative: some inconsistency with published year/applicable year.  
Example – 2020 ranking is 21<sup>st</sup>, published in 2019

Doing Business covers 12 areas of business regulation.

***Ten are in EoDB score and ranking:*** starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts, and resolving insolvency. — are included in the ease of doing business score and ease of doing business ranking.

***Two are not:*** hiring foreign workers; contracting with government.

But work permit/visa issues (which impact local and foreign companies) and contracting with government are not included.

So, is WB 'DB' really the most cogent benchmark or target?

## IMD World Competitiveness Ranking

2019: 25<sup>th</sup> /63 . 2020: 29<sup>th</sup>/63

## IMD Digital Competitiveness Ranking

2019: 40<sup>th</sup> / 63. 2020: 39<sup>th</sup> / 63

WEF Global Competitiveness Index: 2018: 38<sup>th</sup> /141. 2019: 40<sup>th</sup> / 141.

World Bank Human Capital Index 2018: 65<sup>th</sup> / 157. Measures productivity of next generation workers relative to benchmark of education and full health

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# 1. Work Permit/Visa



The most commonly referred-to impediment to ease of doing business are work permit and visa issues. The following pages are analyses showing how these areas can be:

- de-duplicated
- cut
- combined or
- easily put on line, ahead of full process re-engineering to digitize.

More information:

<http://www.jfcct.org/major-business-issues/work-permit-visa/>

<http://www.jfcct.org/boi-foreign-chambers-of-commerce-consultative-meeting-17th-february-2020/>

# Work Permit and Visa Filing Requirements



Visa & Work Permit											control v 3.5a (24 September submission with minor adjustments Feb 2019 - Add Easy On Line, CUT for both Ref 29, Ref 30)										
Ref	List of documents or other items	Work Permit (WP) Requirements	Visa (V) Requirements	Easy On-line	Cut	Combine	Cert	Presently Submit Annually / for each renewal	Change to submit one time only	NOTES											
4	Application form WP.1-New application, WP 5 for renewal	x		x																	
5	Application form TM.7, new application & renewal		x	x		X		x	x as combined form												
6	Application form TM.8 (re- entry form single & multiple)		x	x		x		x													
7	Three (3) photographs, size 3x4 cm of applicant	x				X			X	Electronic version - JPEG or other											
8	Three (3) photographs, size 4x6 cm of applicant		x	x				X ( Visa only)	X												
9	Copy of Passport data page + TM6	x	x	x		X		X	Use first submission unless new PP												
10	Copy of Work Permit		x	x				X (Visa only)	X	Note: currently must have WP to get a Visa											
11	List of all other foreigners in the company with work permits	x	x		X			X (Visa only)		DoE would have this information; justification for requiring it not clear											
12	Organization chart	x	x		X			X (Visa only)													
13	A letter explaining the reason for hiring foreign employees		x		X			X ( Visa only)		Include as part of application form. If reason for letter is to demonstrate why a foreigner is required for the job, i.e. skill or other relevant criteria for the job not available in Thailand, this should be required first time only. <b>Is this so?</b>											
14	Certificate of employment prepared in accordance with the form prescribed by the Immigration Bureau (Sor.Tor.Mor.1)		x	x				x	X												
15	Confirmation number of foreign employees form		x	x				X		Include as part of application form											
16	Form of the employment certification	x			X			x (work permit only)	X												
17	Company registration (not more than 6months old)	x	x	x		X	*	X		Is there an on-line look up means (DBD MOC) which confirms incorporation status? Purpose? - to show whether more than 49% foreign owned?; replace with a company or applicant statement with check box options for Thailand-incorporated entity: eg (i) 49% or less foreign owned; (ii) more than 49% foreign owned; (iii) BOI promoted with FBC under FBA; (iv) holds FBL under FBA or other relevant licence, <b>19, 20 for tax purposes now?</b>											
18	List of Shareholders ( not more than 6 months old)	x	x		X		*	X		It is enough to show that the company exists; paid up capital should be removed as a criterion											
19	Finacial Statement Submission (Sor Bor Chor 3)				X		*	X ( visa only)													
20	Copy of financial statements of the Company (the Company's balance sheet)	x	x		X		*	x latest version													
21	Corporate income tax returns (Form Phor. Ngor. Dor. 50)	x	x		X		*	X (visa only)													
22	Copies of 3 most recent Monthly withholding tax returns (Form Phor. Ngor. Dor. 1) + receipt of certification		x		X		*	X (visa only)													
23	Copies of the applicant's annual income tax return (Form Phor. Ngor. Dor. 91/90)	x	x		X		*	X													
24	Copies of 3 most recent monthly social security contributions return filed with the Social Security Office (Form Sor.Por.Sor. 1-10) & present original		x		X		*	X ( visa only)													
25	Copies of 3 Most Recent Monthly VAT returns (Form Phor. Por. 30)		x		X		*	X (visa only)													
26	Special Business Tax submission (PhorThor 40), if any.		x		X		*														
27	Copy of VAT Registration (Phor.Por.01) and Tax Refactor Registration Added (Por Por 09)	x			X					Not relevant if not obliged to register for VAT											
28	Copy of factory licens and/or license the business (if any)	x			X			X													
29	Copy of identity cards of the authorized signatory of the employer.	x	x		X			X		Recommend 'cut' as this kind of proof should not be necessary. If confirmation required in specific cases, details of authorized corporate signatory already available via DBD.											
30	Copy of identity cards of the authorized signatory of the foreign employees	x			X			X ( WP only)													
31	A local medical certificate or the applicant	x		x				X ( WP)	X	Submit only first time?											
32	Map showing the location of the Company		x		x			x ( visa only)													
33	Photographs of the exterior of the business premises showing : office building, office desk, Thai staff .		x			X		x ( visa only)													
34	Other supporting documents required by the competent authority (Sor.Tor.Mor.2)		x	X				x ( visa only)		File on line by scanning?											
35	Acknowledgment of Penalties for a Visa overstay.		x	x				x (visa only)		Should be part of standard terms; not a separate form											
36	Copy of Educational certificate must be translated into English or Thai	x		x					X	Should only be required one time if no change											
NOTES																					
Rows 9,11,12,17,18, 20, 21,23,29 apply to both WP & V. Recommend 'combine' or 'cut' each - see notes.																					
* Visa Requirements: Document no. 17, 18, 20, 21,22, 23, 25 must be certified true copy by authorized official of government unit concerned. See "Cert" column *, but most are recommended to be Cut																					
Where an item is currently required annually (column L) but is recommended to be 'cut' (column F) ; the recommendation does not also propose that that document be done one time (column N)																					
All documents are required to be stamped with Company stamp and signed by Managing Director (wet signature)																					
Change to rely on PDF format; many documents should be on government records																					
Age of documents: practice varies: OSOS seems to accept up to 6 months old - see rows 17 & 18, at Immigration, DoE 3 usually 3 months.																					
Easy on line candidate means that at the very least a system of filing an editable PDF, photos etc could be done in the short term. Filing on line by completing on line fields may take some process re-engineering																					

Source: submission 24 Sep 2018 to Guillotine Unit, and as used at 27 September Dialogue; 7 Feb 2019 BOI Consultation now with minor changes

# Work Permit and Visa Filing Requirements – ‘CUT’

Visa & Work Permit <small>control v 3.7b CUT</small>				
Ref	List of documents or other items	Work Permit (WP) Requirements	Visa (V) Requirements	Cut
11	List of all other foreigners in the company with work permits	x	x	X
12	Organization chart	x	x	X
13	A letter explaining the reason for hiring foreign employees		x	X
16	Form of the employment certification	x		X
18	List of Shareholders ( not more than 6 months old)	x	x	X
19	Fianacial Statement Submission (Sor Bor Chor 3)		x	X
20	Copy of financial statements of the Company (the Company's balance sheet)	x	x	X
21	Corporate income tax returns (Form Phor. Ngor. Dor. 50)	x	x	X
22	Copies of 3 most recent Monthly withholding tax returns (Form Phor. Ngor. Dor. 1) + receipt of certification		x	X
23	Copies of the applicant's annual income tax return (Form Phor. Ngor. Dor. 91/90)	x	x	X
24	Copies of 3 most recent monthly social security contributions return filed with the Social Security Office (Form Sor.Por.Sor. 1-10) & present original		x	X
25	Copies of 3 Most Recent Monthly VAT returns (Form Phor. Por. 30)		x	X
26	Special Business Tax submission (PhorThor 40), if any.		x	X
27	Copy of VAT Registration (Phor.Por.01) and Tax Refactor Registration Added (Por Por 09)	x		X
28	Copy of factory licens and/or license the business (if any)	x		X
29	Copy of identity cards of the authorized signatory of the employer.	x	x	X
30	Copy of identity cards of the [authorized signatory of the] foreign employees	x		X
32	Map showing the location of the Company		x	x
33	Photographs of the exterior of the business premises showing : office building, office desk, Thai staff .		x	X



# Work Permit and Visa Filing Requirements - COMBINE



Visa & Work Permit <small>control v 3.7C COMBINE</small>					
Ref	List of documents or other items	Work Permit (WP) Requirements	Visa (V) Requirements	Combine	
4	Application form WP.1 -New application, WP 5 for renewal	x		X	
5	Application form TM.7 , new application & renewal		x		
6	Application form TM.8 (re- entry form single & multiple)		x	x	
7	Three (3) photographs, size 3x4 cm of applicant	x		X	
8	Three (3) photographs, size 4x6 cm of applicant		x		
9	Copy of Passport data page + TM6	x	x	X	
17	Company registration (not more than 6months old)	x	x	X	

# Work Permit and Visa Filing Requirements – EASY ON LINE

<b>Visa &amp; Work Permit</b> <small>control v 3.7 D - EASY ON LINE means SEEMS EASY TO PUT ON LINE</small>				
<b>Ref</b>	<b><u>List of documents or other items</u></b>	<b>Work Permit (WP) Requirements</b>	<b>Visa (V) Requirements</b>	<b>EASY ON-LINE</b>
4	Application form WP.1 -New application, WP 5 for renewal	x		x
5	Application form TM.7 , new application & renewal		x	x
6	Application form TM.8 (re- entry form single & multiple)		x	x
7	Three (3) photographs, size 3x4 cm of applicant	x		x
8	Three (3) photographs, size 4x6 cm of applicant		x	x
9	Copy of Passport data page + TM6	x	x	x
10	Copy of Work Permit		x	x
14	Certificate of employment prepared in accordance with the form		x	x
15	Confirmation number of foreign employees form		x	x
17	Company registration (not more than 6months old)	x	x	x
31	A local medical certificate or the applicant	x		x
34	Other supporting documents required by the competent authority		x	x
35	Acknowledgment of Penalties for a Visa overstay.		x	x
36	Copy of Educational certificate must be translated into English or Thai	x		x

**EASY ON LINE** means before full process re-engineering, file by uploading files – editable PDF, photos etc.

## 2. A nation's health

National health suffers when regulatory processes are cumbersome. World Bank HCI for Thailand 2018 65/157

- Aging population means greater demands on healthcare
- A Healthy workforce is needed to drive the economy
- Access to innovative medicines to help reduce ill health and prolong life is essential to help drive the economy

### **Example: Cancer**

- No. 1 cause of Death, impacting economy by 0.4% GDP
- Only 87% of all medicines listed in WHO essential medicine list are in NLEM (National List of Essential Medicines)
- Only 19% of cancer medicines in the (International) National Clinical Cancer Network guidelines are available in NLEM

Recommendation: Enhance Processes of Medicine appraisal via HITAP (Health Intervention and Technology Assessment Program)

# Regulatory ecosystem and access environment enabled to support innovation, investment and a healthy economy

Topic	Recommendation	Success indicators	Benefits
Patent Registration	Promoting innovation, IP as the asset and engine to drive country development and economy	Faster Patent approval; reduce backlog.	<i>Benefiting Investment and Thai researchers</i>
National medicine reimbursement (National Listing of Essential Medicine, NLEM,) procedure and evaluation criteria for innovative medicines	Improvement of patient access to medicines, healthy economy	Numbers of NLEM listing Improvement of CUE Threshold.	<i>Access by patients to essential medicines</i>
Drug supply in relation to telepharmacy, telemedicine service	Enabling new framework for access through telehealth; telepharmacy, telemedicine service	Telepharmacy legally endorsed for drug store to provide service (no. of certified drug stores).	<i>New framework readiness for patient access through telehealth services as a part of health system</i>
Simplify FDA registration procedure & requirements for OTC channel	Enabling access of self-care medicines for patients Thailand attractive position for OTC investment in ASEAN region	Reducing registration timeline min. 30%. Reduced unnecessary documents as risk based evaluation;	<i>Broaden self-care medicines for access similarly to international market</i>
Simplify FDA drug advertisement regulations	Promoting ease of doing business and enhance regulatory efficiency. Enhance information to healthcare professionals and improving health literacy of the population	Reduced unnecessary procedures/ requirements for advertisement evaluation and approval. Self-regulating for HCP advertisement & low risks	

### 3. FBA and FDI

List 3 reviews have not been effective for their stated purpose, but there is more complexity

Subject	Effect	Regulatory source
<b>Business activities of entities</b> (eg companies) with more than 49% foreign shareholding	Restricts the business activity of the company using three lists.  List 3 has unnecessary restrictions.	Foreign Business Act AD 1999.  Foreign Business Licence (s.7)  Under IPA (the basis of BOI promotion) Foreign Business Certificate (s. 12)
<b>Professions</b> which may not be undertaken by foreigners	Prohibits foreigners (individuals) from carrying out 39 professions. JFCCT has identified 8 of interest	AD 1979 Decree; April AD 2020 Notification groups these into 4 categories
<b>Professional</b> licensing or permits at sector or individual professional level.	An additional barrier which is often overlooked by regulatory moves to liberalise professions.	Various sector or profession-specific laws – eg Engineers Act, Accountants Act, Lawyers Act which typically set up a professional licensing authority.

See next three slides for complexities about engineering

8 of 39 Professions were identified from 1979 legislation as relevant to FDI or foreign engagement in some way

Agriculture

Brokerage

Auction

Accounting, Auditing

Architectural services.

Civil Engineering

Tour Guide

Legal services (only for Arbitration)

The April 2020 Notification places the 39 into four categories which may make them more amenable to unlocking where treaties for example allow..

# Engineering example part 1

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Engineering / Civil Engineering appears:

- (i) In Foreign Business Act List 3 – a business activity not open to companies with over 49% foreign ownership (item 9, List 3: all engineering)
- (ii) In the 1979 Decree of 39 Professions not open to foreigners (civil engineering)- & April 2020 Notification
- (iii) At profession level in profession-specific legislation (Engineers Act)

MoL reported (27 May & 22 June 2018 Bangkok Post)- to allow civil engineering but only as employees; Engineering professional group says only if there insufficient skills, and then must sit tests and get a licence.

FBA has a broader restriction.

## Engineering example part 2



BOI Guide Section 7, para 7.7 – TISO – intended to allow large investors to bring specialised service providers

Item 2.2 of Conditions: ‘Advisory services on business operations, except [excludes many in the 1979 Decree – professions not open to foreigners],... civil engineering’.

This is presumably about the business activity (ie maps to the FBA, not the 1979 Decree).

Civil Engineering usually about public works. Promoting engineering design / building structural design (often called Structural Design, Structural Engineering) is allowed in practice for private applications under other regulations but cannot be done by BOI promoted entity due TISO restrictions, even where the local licence exists. Thus BOI privileges are not enjoyed, but the activity can be done. This seems an anomaly.

*Without freer movement of engineers, the skills needed for Thailand 4.0 may not happen.*



- 1) What is Fast Track Regulatory Reform?
- 2) Lessons from Dr Gil - Korea
- 3) Success stories
- 4) What has worked; what might not have worked
- 5) Rule of Law
- 6) 'Doing Business' and other rankings
- 7) Topics – examples
- 8) An essential for economic recovery; What is needed

## *Four suggestions*

Thailand will compete with others in economic recovery – strengthening the economy, productivity enhancements, enhancing competitiveness; attracting FDI – all served by enhanced regulatory reputation and effectiveness.

Wide commitment from private and public sectors to the purpose

Political commitment

Central co-ordination support capability for effective change where needed; effective but simple structure; process/system should be strong to support effective outcomes

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# Thank you

[www.jfcct.org](http://www.jfcct.org)

[www.eabc-thailand.org](http://www.eabc-thailand.org)

17 Feb 2020 BOI / JFCCT event

<http://www.jfcct.org/boi-foreign-chambers-of-commerce-consultative-meeting-17th-february-2020/>

Essential reforms

<http://www.jfcct.org/major-business-issues/covid-19/>

Regulatory Impact Assessment Act

<http://www.jfcct.org/information-for-digital-economy-committee-members/> - PW hitech go to Regulatory Impact Assessment Act