



THAI-HUNGARIAN BUSINESS FORUM 2021

(BUSINESS PRACTICE SESSION)

“PURSING A BUSINESS PARTNERSHIP IN THAILAND”

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Circulation version

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- 1. Thailand market environment**
- 2. Foreign Engagement; How to Participate**
- 3. Some laws and regulations**
- 4. Opportunities**

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Coup May 2014

Cabinet make up 2014 - technocrats + military-related career politicians.

2014 to July 2019: Some very positive developments and reforms. Since mid 2019 more nationalist/domestic; similarly 2020, 2021

Election 2019 – bicameral legislature

- PM continues

- Senate - appointed

- Government – coalition

- Cabinet – from July 2019, reshuffled July 2020; 2021 – 7 ministers lost office, Reshuffled.

- Thailand – was ASEAN chair 2019 (Vietnam 2020; Brunei 2021)

Civil Society in Thailand can be quite engaged and effective

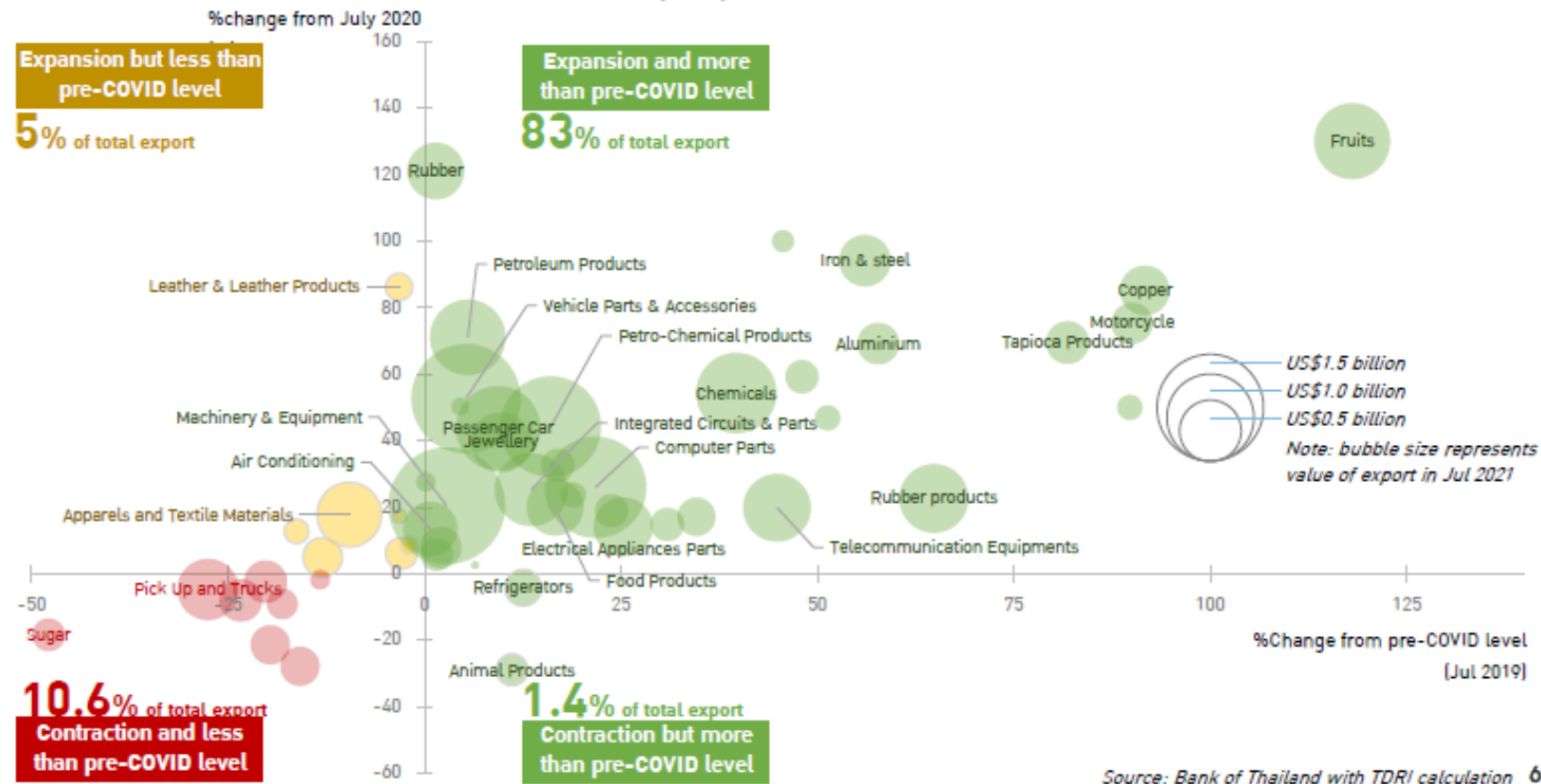
Some key metrics

Population	69.8 M
GDP nom. per cap	\$7,379 (2020)
GDP PPP per cap	\$18,275 (2020)
GDP Δ 2020	-6.1.0% / 2.4% (2019)
GDP Δ 2021 (est)	-.5% to 2.2% (using four sources)
Wealth inequality	4th in ASEAN (2018)
Mobile Pen	129.7% (2021)
Internet Users	48.6 million users, 69.5% (2021)

EXPORTS OF MOST PRODUCTS HAVE SURPASSED THEIR PRE-COVID LEVELS

- In July 2021, 88% of export products have values higher than those in July 2020, while 80% of exports were higher than their pre-COVID levels (in Jul 2019).
- Key exports that expanded well in Jul 2021 include automotive and parts, fruits, rubber and rubber products.

Growth of export products in July 2021 (YoY)



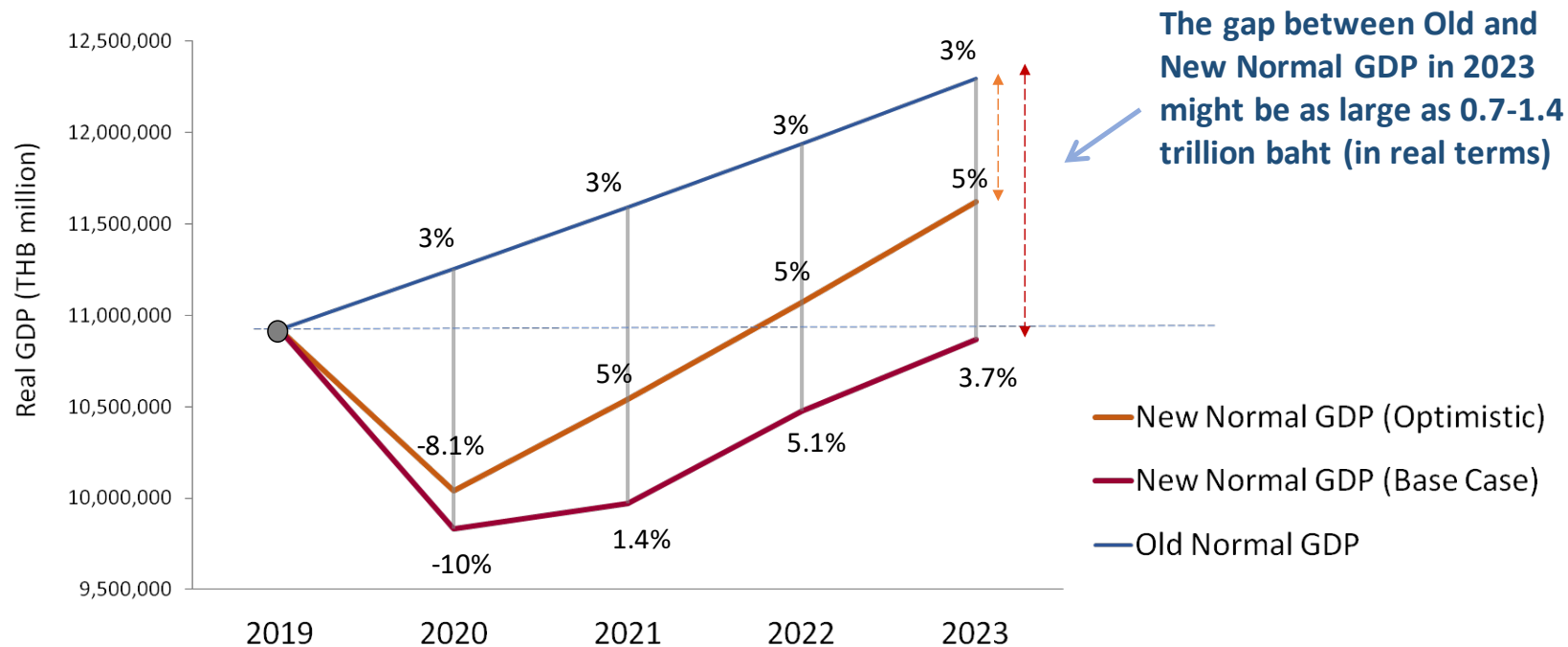
Some rankings

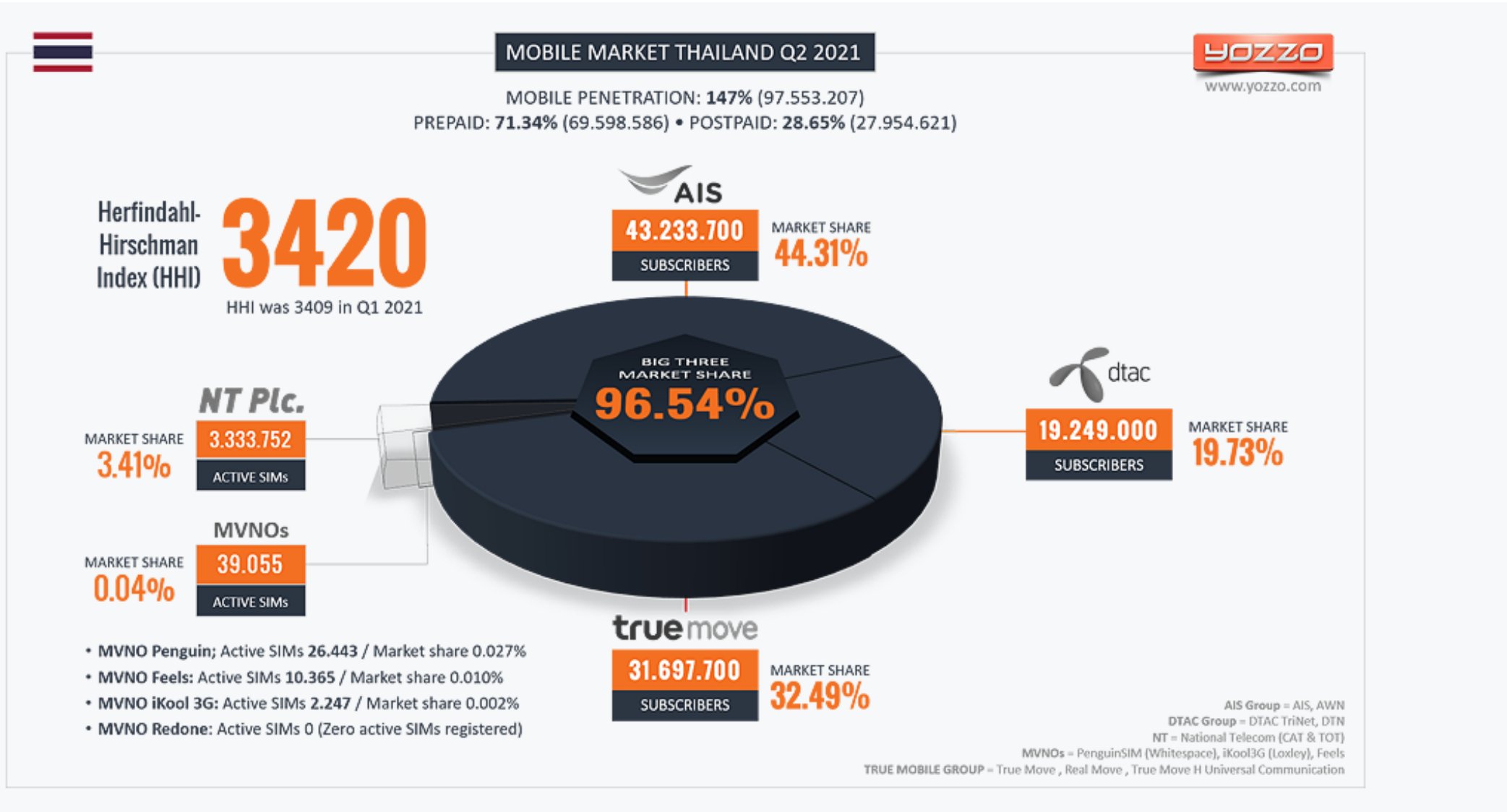
World Bank ‘Doing Business’ (10 criteria – does not include contracting with government or hiring foreigners – ie not work permit/visa)	2015, 2017:46; 2018:26; 2019:27; 2020:21 Ranking has been paused since August 2020 due to ‘irregularities’.
IMD World Competitiveness Ranking (WCR)/63	2018:30; 2019:25; 2020:29; 2021:28
IMD Digital Competitiveness/63	2017:41; 2018:39; 2019:40; 2020:39
WEF GCI 4.0 (ICT Adoption)/140	2018:38; 2019:40
Networked Readiness Index (NRI) by Portulans Institute/134	2019:56; 2020:51
World Bank Human Capital Index 2018/157	2018:65
Transparency International’s Corruption Perception Index/180	2018:99; 2019:101; 2020:104
Nikkei COVID-19 Recovery Index/120	2021:119 Source: various

COVID 19 illustrating recovery curve

Borders partly open. “Zero” or elimination mindset. PM June 2021 statement moves away from this – country to open by Oct / Nov.

Mandatory 14 day quarantine at own cost or ‘Sandbox’ for fully vaccinated.





Treaties - indicative

Thailand is party to many – most Asian focused eg AANZ, TAFTA

EU – TH – Scoping document by end of 2021; may take two years to conclude

EFTA – TH – lead by Norway, Switzerland

EAEU – TH

RCEP – TH party; framework in many ways – subject to specific commitments, RCEP will be in force soon based on number of ratifications

CP TPP accession still being debated; China has applied to accede.

It's not the EU ! (eg no supranational legislature)

Many ASEAN instruments

Some positive forces for integration, but often a slow pace

ASEAN eCommerce Agreement

ASEAN Payments Connectivity MoU

ASEAN –Digital Integration Framework Action Plan (DIFAP)

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A. Commercial Presence (mode 3)

1. Thai partner (eg 51% local shareholder in company)
2. BOI promotion – many areas under promotion. Allows up to 100% foreign equity, easier hiring of foreigners, tax holidays

Permission for greater than 49% foreign equity under FBA: FBL (Licence) or if BOI – FBC (Certificate). Permission is not available for some activities.

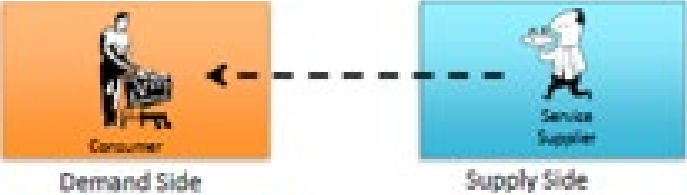
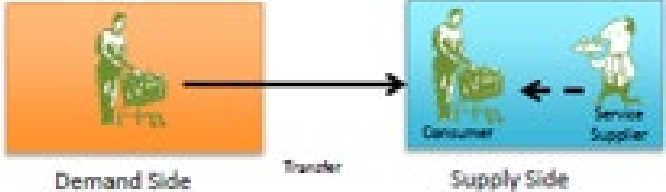
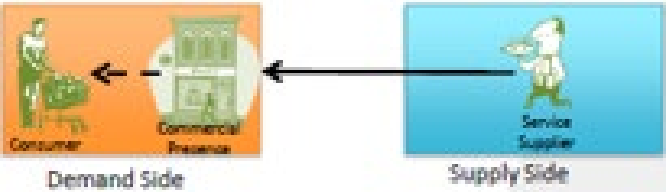
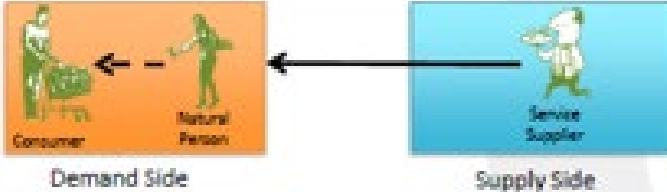
3. Under a Treaty

B. Supply via distributor (could involve mode 4)

C. Direct on-line supply (mode 1)

Regardless of mode, local partners can make the difference.

How to participate

<p>Mode 1: Cross-border A user in country A receives services from abroad through on line. EG: consultancy / market research reports, tele-medical advice, distance training, architectural drawings.</p>	
<p>Mode 2: Consumption abroad Nationals of A have moved abroad as tourists, students, or patients to consume the respective services.</p>	
<p>Mode 3: Commercial presence Service is provided within A by a locally-established affiliate, subsidiary, or representative office of a foreign-owned and — controlled company (bank, hotel group, construction company, etc.).</p>	
<p>Mode 4: Movement of natural persons A foreign national provides a service within A as an independent supplier (e.g., consultant, health worker) or employee of a service supplier (e.g. consultancy firm, hospital, construction company).</p>	

Source: Enterprise Singapore, explaining the EU-Singapore FTA

intrinsically digital – streaming video, eBooks, computing services, Software-as-a-Service, social media,-games, various intelligent uses of Data to create value,

substitutes for established equipment and services – virtual private communications networks, security services, virtualised PBXs, Platform-as-a-Service and services delivered on-line (e.g. accounting / other business processes, graphic design, software development, data analytics, banking and financial services, on-line payments, telemedicine; industry and home automation),

marketing, sale, logistics, etc. of physical goods – (e.g. Amazon, eBay, Alibaba, Tarad.com, Lazada, Shopee),

marketing and sale of services which are not delivered on line (eg air services, taxi services, hotel bookings).

BOI – starting point; BOI has a strong reputation for helping with many things.

Which industries? – for many things, look at the ten + ‘S’ curve

First ‘S’ curve (5) and New ‘S’ curve (5) industries – base 10. New 5: robotics, aviation and logistics, biofuels and biochemicals, digital industry, medical hub + defence + 1.

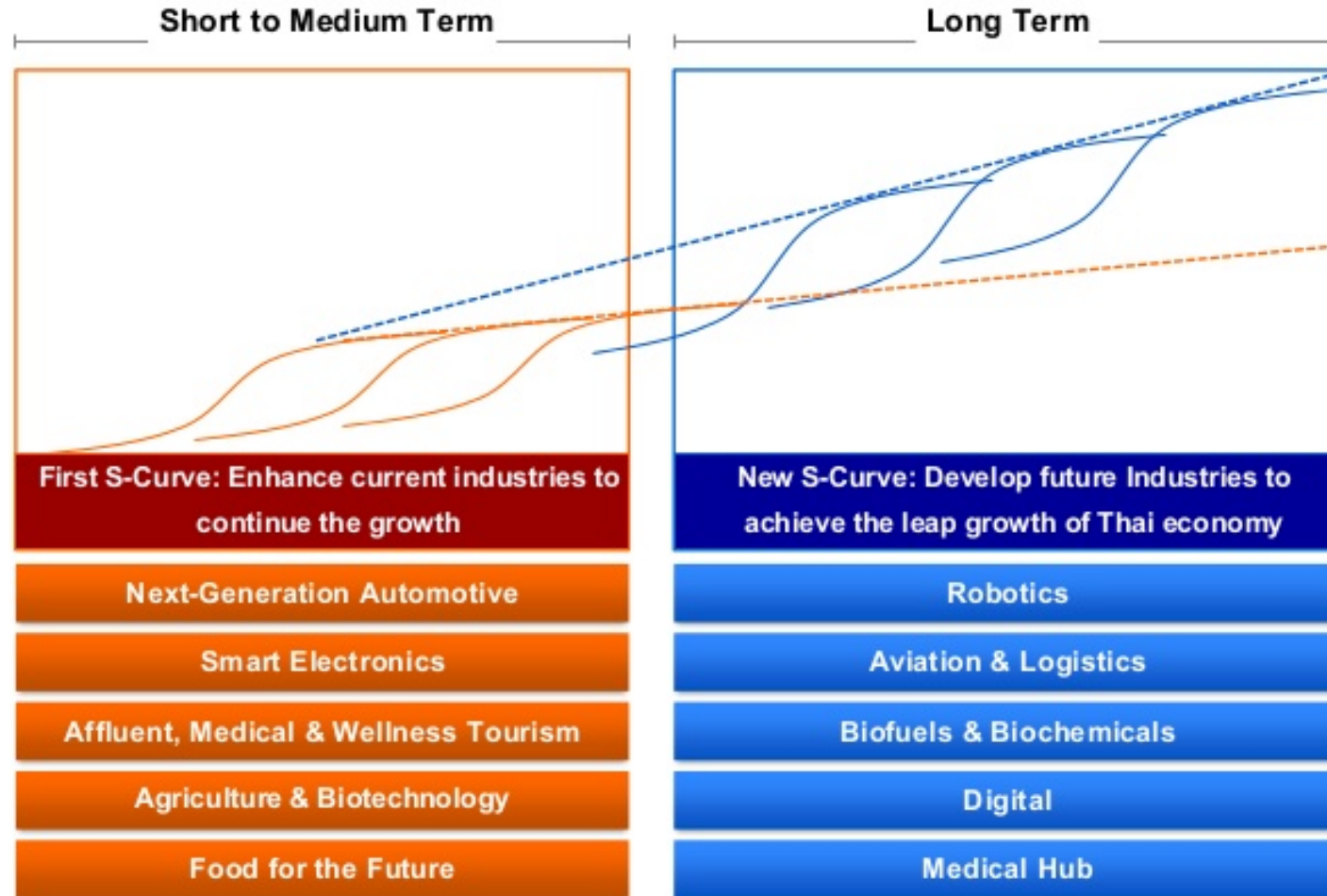
EEC – Eastern Economic Corridor (was Eastern Seaboard)

Smart Visa covers 13

Other promotions

S curve

5 + 5 TARGETED INDUSTRIES



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Foreign Business Act – key concept about first layer of shareholding

(‘FBA standard’) – there are incursions

‘Frequency Act’ / ‘NBTC Act’

Telecoms Business Act and Notifications eg Foreign Dominance

Notification

Cybersecurity Act

Personal Data Protection Act (similar to GDPR)

Computer Crimes Act and Notifications

Copyright Act

Investment Promotion Act (for BOI)

eCommerce changes to Revenue Code

Electronic Transactions Act

Electronic Signatures Guideline



Current restrictions in Thailand – three layers

Subject	Effect	Regulatory source
<i>Business activities of entities</i> (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)
<i>Professions</i> 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
<i>Professional</i> 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.

RCEP should make some inroads at least at first two levels

Fast Track Regulatory Reform

Thailand aims to emulate stories in Korea, Vietnam, Croatia

Since 2016 – foreign business community engaged

Success with Bank of Thailand; SEC,

Slower on licence reform.

Old style – vague, far-reaching law

APEC GRP and consultation – varies – often skipped



Single most referred to administrative overhead of concern; reforms essential.

Two separate agencies – Immigration Bureau; Dept of Employment (Ministry of Labour)

Smart Visa – good instrument with one instrument (no separate work permit). BOI administers

New plan for Long Term Residents (four categories – for wealthy people) – sound nice but unlikely to hit the mark for digital freelancers

Source: part of JFCCT/EABC submission to MDES

Digitalisation status- Thailand

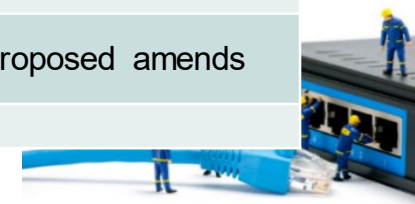
Mixed status of development (still some silos)

DGA – long term plan for ‘Guillotine’ review, process re-engineering, digitalization (interoperability, SSO)

Agencies such as DEPA, ETDA support the move

Online governance varies in transparency – Thailand

Sample Topic	TH/Other Regulatory cover – indicative
Privacy	GDPR (where relevant) PDPA from 31 May 2021; Topic specific – eg Financial records, Medical records
General internet use	Computer Crimes Act, other;
Data	Computer Crimes Act, PDPA, ASEAN instruments, GATS
Cybersecurity	Cybersecurity Act
Banking & Financial Services	Payment Systems Act, myriad of regulations
Telecomms	Frequency Act (NBTC Act); GATS Telecoms Chapter; other
eCommerce	eCommerce Act, see also EU Directive, VCPs (MoUs); Cross border also addressed in FTAs. Digital Taxes – proposed e Commerce tax (OECD co-ordination desired)
The Truth	Fake News Centre** also relevant: Defamation law
Electronic Meetings	Elegant solution in 18 April 2020 Decree BUT for technical baggage both in new Decree and old 2014 regulation (which is to be updated)
Authorisations	Electronic Transactions Act
IPRs	Computer Crimes Act (2017 Amends); Copyright Act with proposed amends
Domain Names	ICANN and related



Trade in services – RCEP example

Not as effective as Goods for positive change

Services commitments built on weak original ASEAN+1 foundations

By default, are likely to be better in RCEP

Schedules of commitments

Half members used “positive” list scheduling and half used “negative” list reservations

Difficult to understand / implement

Commitment for all to become negative listing in time

Consistency, limited qualifications and licensing requirements, not trade restrictive

Prohibitions on “performance requirements” for services included.

Examples: number of branches, local staff, equity requirements

Specific Commitments – Thailand

Facilitates easy movement

Purposes:

(i) business visitors (BV) (like APEC concept) – 90 days max

- Goods seller/services provider
- Set up investment
- Negotiation / meetings

(ii) Intra-corporate transferees (ICT) – one year max.

Can still require immigration compliance; silent on need for WP. *Questions:*

(a) Is a Non B visa needed for BV? If so, need something easier than that.

(b) Is a WP needed for BV? – likely needs amendment to Labour Decree (2017 as amended 2018) to make it easier.

Many professions included but not civil engineers

Annex II – Specific Commitments – how it works

Modes of Supply: 1) Cross-border Supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons						
Sector or Subsector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	FL/MFN
II. SECTOR-SPECIFIC COMMITMENTS						
1. BUSINESS SERVICES						
A. Professional Services						
a) Legal services	(1)	Unbound	(1)	Unbound		
- CPC 88111 + 88119 + 88120 + 88130 + 88190)	(2)	None	(2)	None		
	(3)	As indicated in 3.1 of the horizontal section	(3)	None		
	(4)	Unbound	(4)	Unbound		

A complex matrix by activity (defined by a standard) and Mode for each RCEP Party

Foreign equity levels of 49%, 51% and 70% depend on the activity. For 51%, 70%, still need FBL under FBA; some complicated cases eg engineers

source WTO

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Opportunities – digital focus

Digital Government

eGov; eCommerce; network and operational security; mobile broadband apps, SME Accounting; FinTech, MedTech, AgriTech, EduTech, media services; content management

Other ‘S’curve industries

Payments, Fintech

BPO / ERP / ERM

Cybersecurity

Infrastructure management

Regulatory / competitive, services.

Internet governance services.

Cyber risk insurance

Training / digital literacy/ Education

Participate through EABC/ JFCCT.

The core of EABC is its Working Groups with an economy-wide focus. MNCs, SMEs and large local / regional companies are our members. SMEs are covered via vertical groups. Cross WG collaboration ('one EABC') for pan-economy engagement.

- Automotive
- Cross Sectoral Issues
- Digital Economy/ICT
- Energy
- Food & Beverages
- Health & Pharma
- Industry
- Insurance
- IPR
- Rail and Road Infrastructure
- Tourism
- Transport & Logistics



- For many years (2012, 2013, 2015, 2016, 2017, 2018, 2019-2020), EABC has published the European Business Position Paper.
- EABC Position Paper encompasses key recommendations of the twelve EABC Working Groups contribute to strengthening Thailand’s competitiveness and enhance its regulatory framework, highlight some game-changing topics.
- Theme: ***“Supporting Sustainable Economic Recovery and Competitiveness in Thailand”***
- Next Position Paper to be published and launched late 2021



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