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## **JFCCT Consultative Meeting with Board of Investment of Thailand Mon 17 February 2020, 1300 - 1600 hrs**

### **Background Note for JFCCT members**

Relevant Background Topics appear in the order in which they appear in the 17 February Agenda. The Agenda is done by BOI which includes some proposed topics (with Background points – “Thumbnails”) provided by JFCCT, after JFCCT considered the current status of the 2019 BOI Consultative Meeting’s out-takes.

### **2019 BOI Consultative session tracking (7 Feb 2019)**

Out-takes and follow up from the 2019 BOI Consultative session topics has been tracked through to 15 January 2020. See table below. (A separate document has details tracking the issues). The ‘2020’ Agenda column indicates the limited number (four to five) proposed by JFCCT to be in the 17 February Agenda.

<b>Topic from 2019</b>	<b>Status – most still relevant, not necessarily all on BOI agenda</b>	<b>2020 Agenda</b>
<b>Smart visa</b>	Revisions done; now Digital Freelancers under review;	
<b>FBA – List 3 - services</b>	Little movement, now 4 <sup>th</sup> change to List 3, additional change mooted	2020
<b>Work Permit &amp; Visa TM.30 etc Guillotine</b>	List of WP&V issues TM.30/90 day reporting/TM.6 Guillotine mentioned, needs up-focus	2020 2020
<b>Human Capital Dev – 39 professions</b>	Include with FBA	
<b>SME Support and Promo</b>	SME taken up with OSMEP; held funding seminar	
<b>Thailand in ASEAN</b>	Clarified, general on-going point – context as TH as ASEAN chair	
<b>Renewable energy</b>	PDP released May 2019; translation being worked on ; met with MNRE; meeting with Energy planned	
<b>Agriculture &amp; Agritech</b>	Little movement,	2020
<b>IBC</b>	95% resolved via TRD	
<b>Digital Government</b>	Meeting with DGA Jan 2020 -	
<b>ADD FOR 2020</b>	Competition policy	2020

The 2019 materials (Background Note, Presentation Pack, BOI Presentation) are here: [www.jfcct.org/boi-foreign-chambers-commerce-consultative-meeting-7th-february-2019/](http://www.jfcct.org/boi-foreign-chambers-commerce-consultative-meeting-7th-february-2019/) .

The JFCCT Policy theme for 2020 is:

**The Challenge Ahead: Stability, Reform, Competitiveness**



**AGENDA for 17 Feb 2020 – Discussion Points**

I. Government Policies Update – presented by BOI

- a) BOI Investment Policies
- b) Thailand Plus Policy
- c) New EEC Incentive Package
- d) Smart Visa

II. Human Capital Development (topic from BOI)

III. Suggested Items from JFCCT

- a) Fast pace Regulatory Reform – the Guillotine
- b) Productivity Growth and Investments – Services Liberalization
- c) Visa and Work Permit
- d) Agriculture – Structural and Regulatory Reform

IV. Contribution to Thai Economy by Foreign Chambers of Commerce

Additionally from III: (e)Trade Competition Policy. BOI has more recently requested that this not be covered on 17 February, JFCCT proposes that it be covered at a later time.

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To save space and avoid repetition, JFCCT submissions and supplementary materials are linked via URL and/or QR codes.

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**AGENDA for 17 Feb 2020 – Background Note on Discussion Points as relevant**

Items are shown in the order in which they appear in the Agenda.

**I. Government Policies Update – presented by BOI**

**(c) New EEC Incentive Package**

EEC Office held a comprehensive information session on the morning of 4 December 2019.

Target industries – 12, the 10 ‘S’ curve + 2 (somehow with Defence and Education/HRD also shown as ‘S’ curve):

## 12 Targeted Industries

Promoting Advanced Technology and Innovation

First S-Curve



Next-generation  
Automotive



Intelligent  
Electronics



Advanced Agriculture  
and Biotechnology



Food for  
the Future



High-value and  
Medical Tourism

New S-Curve



Automation and  
Robotics



Aviation  
and Logistics



Medical and  
Comprehensive  
Healthcare



Biofuel  
and Biochemical



Digital



Defense  
Industry



Education and Human  
Resource Development



But some sub divisions of EEC aim to target other sectors.

One aspect here will be about special zones, in particular EEC, and how they are achieving objectives. What more needs to be done?

On EEC development JFCCT recommends more regard for supply chains and relevant ecosystems, which often include SMEs. In order to realize the production output from those 12 targeted industries requires support industries along the supply chain which are mostly SMEs. **JFCCT recommends** if the measures and benefits allow SMEs including foreign majority owned SMEs, EEC activities would be better enhanced and both Thai and foreign SMEs participation in the EEC area would be beneficial. SMEs will in many cases have trouble relocating, thus some means by which SMEs and others can participate in EEC benefits without all being physically located in the EEC zones.

Turnaround time for processing of applications has also been raised.

### I. Government Policies Update – presented by BOI

#### (d) Smart Visa

JFCCT is grateful to BOI for inclusion in consultation on smart visa changes.

Feb 2018 – Smart visa launched – four categories:



Based on original 10 'S'curve industries.

2019 – following consultation – revisions made to salary floors, industries expanded and other process improvements, and three industries added (Environmental Management, ADR (Arbitration) and HRD in Science and Technology, now 13.



*Advantages include:* 90 reporting changed to annual; no separate work permit; up to four years; exempt from 4:1 employment ratio.

Take up is still low. JFCCT has recommended expanding the Smart Visa concept to make it the basis for all skilled labour.

For the period 1 Feb 2018 to 31 Jan 2020:

Applications: 274 (including 'O')

Approved: 146 (+ 63 'O'). Approximate percentages shown:

S Start Up	78	53%
I Investor	4	3%
E Snr Executive	22	15%
T Talent	42	29%

Breakdown by Industry (leaving 'O' aside)



Digital	74	51%
Automation and Robotics	18	12%
Others	54	37%

BOI was also assessing the possibility of a Digital Nomad (“Digital Freelancer”) category and invited views from JFCCT. The objective would be to bring into the economy skilled people often working in software development and related areas, who may be on tourist visas, may be paid offshore.

JFCCT has noted that to achieve these objectives, it is useful to consider target groups and the options those groups have. The visa has to appeal to these groups. Thus for example, using a points system and taking a risk that not all would ultimately work out, issuing an initial visa for say six months with minimal initial assessment, and then reassessing might be a valid approach.

This is still in development.

Overall for all categories, JFCCT has recommended making the scrutiny and checking process lighter, and promoting the visa as the preferred basis for skilled labour.

## **II. Human Capital Development (topic from BOI)**

We see a variety of measures being needed, particularly considering the need to meet a Thailand 4.0 economy and society. Broadly these include educational reforms, collaborations amongst leading academic institutions, industry-academic collaboration, better infusion of foreign skills (and thus Work Permit & Visa reform) and local training and skills transfer. JFCCT has published details of such recommendations elsewhere.

Recognising for example the Digital Economy as an area of focus, there is a policy aim for 500,000 IT jobs in Thailand within five years or so, in addition to up-skilling the economy, on which JFCCT has recommended as follows:

- 1) Revised IT education with emphasis of soft skills such as problem solving and project management, critical thinking skills; changes from early primary (to develop enquiring minds); learning English; Digital Literacy (broadly defined) education and training is essential not just for this target group, but for all.
- 2) IT Competency Framework and a holistic and strategic approach to skill gaps; identification of which specialist areas might be areas of special comparative advantage and excellence; Revise STC process to include a competency framework



- 3) Avoiding Thai-specific certifications (unless it is about something which is uniquely Thai) but better adoption and recognition of global standards
- 4) Major revisions to work permit and visa regulation; Smart Visa a start
- 5) Personal tax incentives.
- 6) Quality twinning and dual degree arrangements with foreign leading institutions. CMKL University, a joint institute established by Pittsburgh's Carnegie Mellon University (CMU) in the US and King Mongkut's Institute of Technology University Ladkrabang (KMITL) started in 2018 <https://www.cmkl.ac.th/about-us>. (see more below).
- 7) R&D expenditure more effective. MHESRI plans (at Aug 2019) plan for an increase to 1.5% of GDP from current 1.1% in next five years. Government spending to be 25% of total.
- 8) Massive training and re-skilling to support digitization of SMEs, recognizing that most small SMEs don't have the bandwidth to take time off for courses. This is like a re-education of the economy.
- 9) Specialist academic–industry collaboration (there are several good examples)
- 10) Support for private-sector in-house training but with a development path

Foreign universities are subject to restrictions. In September 2017 the then Minister of Education (Minister Teerakiat Jareonsettasin) noted:

“At the moment the law does not allow for this and makes it very tough [for foreign universities] so for my policy I am using the military’s power under Article 44 of the constitution for the prime minister to allow foreign universities to be set up with exemptions from the rules and normal regulations...”

Two institutions were approved, with restrictions on business operation and teaching scope. The status of policy on foreign universities is worth exploring further. Incentives for campuses established within the EEC, included exemptions from income tax, foreign land ownership, and ease of issuing visas to foreign staff.

“Big universities should set up branches in the EEC and work with private companies to develop more degree programmes and short-term training courses that can produce a workforce with skills and potential, as desired by the industrial sector,” Mr Somkid said on Monday during a meeting with



higher-education representatives at the Ministry of Higher Education, Science, Research and Innovation.”<sup>1</sup>

“Many foreign investors have shown interest in investing in the EEC, but the shortage of skilled labour is still their main concern. Therefore, this is a time to work together — not compete against each other — to boost their confidence,” he said.

According to a recent EEC Office survey, demand for workers in the 10 targeted "S-Curve" industries in the EEC will reach 475,000 in the next five years (2019-23). Currently, vocational colleges and universities in the eastern region can only produce 30% of EEC demand for skilled workers.

CMKL (referred to above) offers dual degrees (from CMU, US and KMITL) each taught by the relevant institution.

### **III. Suggested Items from JFCCT**

#### **(a) Fast pace Regulatory Reform – the Guillotine**

“It seems odd that we should put so much effort into inviting foreign investors into our home with various tax incentives and yet, once they come in, we bombard them with all sorts of administrative burdens.”

In these words of the late and much respected Dr Deunden Nikomborirak (Bangkok Post, 13 Jan 2016), which were published at the front end of the start of the Guillotine project, it is vital to use a fast track means of clearing out unwanted and unnecessary regulation:

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

The Guillotine concept is fast paced regulatory reform. Structures for the ‘Simple & Smart License’ project were set up to support a fast-track method; vs the usual method of lengthy interaction with line ministries only. In many cases where, rather than using a ‘guillotine’ type approach, line ministries or agencies continue to be the decision-makers, no progress is made.

#### *Success stories:*

- Bank of Thailand – significant savings, efficiency gains,
- SEC - training
- Guillotine phase 1 (Ease of Doing Business) – contributed partly to World Bank EoDB ranking of 21<sup>st</sup> for 2020. (Although the EoDB changes are welcome and were material to Thailand’s ranking for 2020 of 21<sup>st</sup> in the WB ‘db’ rankings, those rankings use

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<sup>1</sup> Dr Somkid, reported in Bangkok Post 11 August 2019



narrow criteria of some 10 indicators; thus most relevant immigration issues are out of scope for example).

Guillotine phase 2 – Simple and Smart license – this is partly (at least) stalled.



Status: Some 1,000 licences assessed processed and ready for next stage of implementation. Of these, some 100 were sourced from the foreign business community.

The Project is on the JFCCT website<sup>2</sup>



In July 2019 the next phase was to implement five per month, being those with the greatest impact.

JFCCT offers gratitude for any improvement in this area but wants to understand how the project can be better supported.

Of ten licence areas shown at the FCCT lunch event on 16 January 2020, the first four were about immigration; some are not likely from Guillotine and some are just workarounds rather than actual reform changes:

- 1) Mobile Application (MY ID) – possibly Digital ID by DGA (this may be the Digital ID program)
- 2) Mobile app for 90 day reporting
- 3) TM.6 form – replace by an app
- 4) Revision of application process for Non Immigrant B visas; and work permits – details not known

Some are removal of licences (all positive but they don't need to be those with greatest impact); and one is a new licence (#10):

- 5) Teachers licences for private school executives
- 6) Min area requirement for private university campuses
- 7) 3D printing machine import licence

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<sup>2</sup> [www.jfcct.org/major-business-issues/guillotine-project/](http://www.jfcct.org/major-business-issues/guillotine-project/)





- 8) Second hand dealer licence
- 9) Change to list of dangerous undertakings under public health act
- 10) Telemedicine licence introduced

JFCCT is grateful to see any positive change, but would like to understand how the project can get back on track.

If we are to have any chance of realising Thailand 4.0 in our lifetimes, the pace of regulatory reform needs to be much faster. If we are to achieve high income status in anything like the expected timeframe (2037), productivity growth needs enhancing as does FDI and investment attractiveness.

JFCCT is keen to work on a prioritized agenda for actual reform along Guillotine lines. What needs to be done?

### **III. Suggested Items from JFCCT**

#### **(b) Productivity Growth and Investments – Services Liberalization**

World Bank's Thailand Economic Monitor (TEM) launch 17 January 2020, found that competition and market churning were weak in domestically oriented industries, those more integrated with the global economy are more productive. Recommendations (i) use the Trade Competition Act more, especially about SOEs, price control and cartel behaviour (ii) promote openness by relaxing FDI limits and relax services restrictions (iii) Skills and innovation.

WB noted that in order for Thailand to reach High Income status in the expected time frame, economic growth needed to be enhanced greatly. The recommendations above from WB support this.

A long-standing issue is services liberalization. The Foreign Business Act List 3 has been adjusted four times since 1999. A fifth (based on a September 2019 meeting) is mooted. There is little net liberalisation (as in most cases sector specific regulation covers the point; or the subject is intra-group). The 2019 changes were: loans to affiliates and subsidiary companies; lease of office space to affiliates and subsidiary companies and consultation services to affiliates and subsidiary companies with a new definition of affiliates and subsidiaries.

JFCCT has made a detailed analysis of the Lists and submitted a proposal<sup>3</sup> about the FBA dated 20 June 2018 to His Excellency the Minister of Commerce (at a time when there had been three changes to List 3)



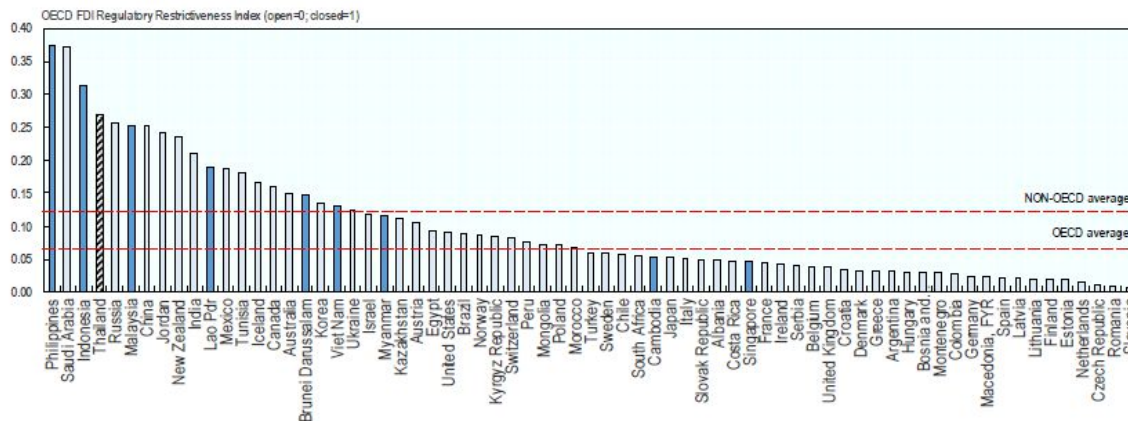
<sup>3</sup> [www.jfcct.org/major-business-issues/foreign-business-act/](http://www.jfcct.org/major-business-issues/foreign-business-act/)

**JFCCT Recommends in relation to List 3 of the FBA (20 June 2018 submission has more details):**

- (i) Removal of many activities which are strategic (for example logistics) which would contribute to Thailand’s success as a geographical centre;
- (ii) Removal of other specific areas including Accounting Service Business, Architecture Service Business, Engineering Service Business, Advertising Business, Hotel Business;
- (iii) Removal of item 21 “Other categories of service business” ; if a limited number of service activities can be defended as needing to be retained, there should only be a short, negative list.

The OECD’s current (January 2020) IPR (Investment Policy Review) shows how Thailand is placed fourth from the left hand side for FDI Regulatory Restrictiveness;

**Figure 5.3. OECD FDI Regulatory Restrictiveness Index, 2018**



Related issues are restrictions on 39 professions, and profession-specific barriers. A three level table has been used to illustrate (see item under Work Permit and Visa below)

The releases are generally considered liberalisation-neutral as there is sector-specific legislation covering the same fields. The exceptions are arguably for Representative Offices and Regional Offices, which are considered real liberalisations.

An example of sector-specific regulation covering most removed business activities is the Financial Institutions Business Act (FIBA). Originally, FIBA required that Thai nationals hold not less than three-fourths of the total issued voting shares in a commercial bank and that at least three-fourths of the total number of directors be Thai nationals. These rules were relaxed some ten years ago Bank of Thailand was empowered on a case-by-case basis, on request, to permit non-Thai nationals to hold up to 49 percent of a company’s voting shares and to allow foreigners to comprise more than 25 percent, but less than 50 percent, of the directorship of a relevant company.



Thus it might be said that in its entire life since 1999, allowance for Representative Offices and Regional Offices, and some intra-group activity are the only net-liberalisation positive changes in the FBA.

This does not seem to be consistent with the purpose of the FBA List 3 mechanism. The underpinnings of the FBA date back to the early 1970s, almost two generations ago. Since then, significant educational and economic modernization has occurred and it would appear that Thai companies in many industries are competing well in both domestic and international markets, and are doing so utilizing world class technology and products. Yet they are still formally protected from competition on the basis that they are not ready to compete.

### **What is services liberalization?**

Services liberalisation is not just lifting foreign equity limits (FELs) but has a number of elements; all of which we recommend be pursued:

- Relaxation of FELs
- Facilitation of free movement by changes to Work Permit and Visa rules.
- Sector specific changes and mandates by way of relaxation of restrictions on permits, licences and other barriers to entry, and to mandate access to facilities – such as is done in GATS in relation to telecommunications, and in other FTAs with telecommunications chapters
- Other sector specific reforms or mandates (e.g. structural changes in a sector to make it competitive and innovative, such as recommended for the telecommunications sector).

Data flows/data trade are part of services.

### **III. Suggested Items from JFCCT**

#### **(c) Visa and Work Permit – section 1 – Immigration App**

JFCCT made detailed and summary submission on TM.30, TM.6 and 90 day reporting here in August 2019<sup>4</sup>. Following is the one first page short summary of the detailed submission done 11 February 2020 ***Recommendations about interim app-based workaround solution for Immigration recording: 90 day, TM.6, TM.30***

***Base Recommendations are still valid:*** The agreed, preferred means of resolving issues tabled about TM.30 and 90 day reporting is change to the law, either through the legislature or by administrative action, so that:

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<sup>4</sup> <http://www.jfct.org/major-business-issues/work-permit-visa/> - see the first five files



- (i) In the case of TM.30, reporting requirements about foreigners are removed for most categories, and ultimately the regulation is removed completely, and
- (ii) In the case of 90 day reporting, require reporting only of changes to place of residence.

***Recommendations about an interim, app-based workaround.*** JFCCT appreciates the opportunity to provide these recommendations about the app-based interim workaround.

**General:**

1. JFCCT considers it useful to group users:
  - (i) Tourists, who need quick processing with minimal recording and may only make one visit (there are exceptional periods where public health mandates additional screening). An app is a burdensome set up.
  - (ii) Those who live and work in Thailand
  - (iii) Retirees, who are similar to group (ii).
2. JFCCT is concerned that the App proposal is too complicated, has too many dependencies and unnecessary requirements with too much reliance on base levels of proof. For simple reporting (eg 90 day), a functioning on-line (web based) tool is more appropriate. That should be the starting point. The App idea is not well supported.

***Specific by recording type:***

- a) For TM.30 – foreigners are impacted as landlords need to report about them. No beta review has been offered yet. JFCCT proposes a re-think to eliminate all non-essential reporting cases first, an on-line tool is a better basis, with App optional, work permit/visa card (in development) should be workable for those holders. Problems are interactions between landlord and foreigner in private dwelling situations.
- b) For TM.6 – in time a readable work permit/visa card may carry relevant information, which could be used. The focus should be on no paper or paper equivalent. If Address is the only issue, why create an App just for the address?
- c) For 90 day reporting (the only one so far with a technical review), a web-based tool would be more appropriate. Keep it simple. The geo location, inability to use an agent or staff member and taking a selfie are all problematic.

We also ask about the status of TM.28 – have the remaining categories of foreigner been removed from its scope?

**III. Suggested Items from JFCCT**

**(a) Visa and Work Permit – section 2 – All other Work Permit and Visa issues**



Work Permit and Visa issues continue to be the single most talked about administrative impediment to doing business. The Smart Visa is a very good concept but it is limited in appeal.

JFCCT has engaged on this area for a long time and has published comprehensive analysis and recommendations. JFCCT has also worked with the Guillotine Unit on these topics, particularly in September 2018.

Work Permit and Visa issues – Doing Business enhancement v 7.1 – June 2018<sup>5</sup>



Work Permit and Visa Recommendations Summary based on v 7.1 – June 2018<sup>6</sup>



There is no material movement on these issues.

In summary, JFCCTs high level recommendations are for two groups:

1. **For business visitors**, who come to Thailand to explore, give talks, hold conferences, hold meetings (including regular meetings), exhibit at trade fairs and discussions but who do not intend to live in Thailand or use Thailand as the base of employment:

**JFCCT Recommends** changing the definition of ‘work’ to remove unnecessary and unhelpful encumbrances and bring it into line with APEC Business Mobility principles where ‘work’ is only for locally-engaged and paid activity and not genuine volunteer activity or short visits. Although efforts were made with a March 2018 Decree, with interpretations since, there is still a lack of clarity and too much restriction. JFCCT has proposed actual wording, with English and Thai text.

2. **For those living and working in Thailand:**

**JFCCT Recommends** splitting the administration to two broad groups: skilled and unskilled. There are some 20 individual changes, some of which should be achievable almost immediately, and some needing revisions. The changes include these:

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<sup>5</sup> <https://d2oc0ihd6a5bt.cloudfront.net/wp-content/uploads/sites/1871/2018/07/WORK-PERMIT-VISA-updated-June-2018-v-7.1.pdf>

<sup>6</sup> <https://d2oc0ihd6a5bt.cloudfront.net/wp-content/uploads/sites/1871/2018/07/WORK-PERMIT-VISA-RECOMMENDATION-SUMMARY-USING-v-7.1.pdf>



- (i) In an ever-increasing way, using the SMART VISA as the platform for all skilled work by expanding scope (see more on SMART VISA below), and otherwise to have one instrument – a ‘work visa’. For SMART VISA, also removing unnecessary steps and streamline inter-agency referrals.
- (ii) removing the TM.30 process (more – see below)
- (iii) 90 day reporting should only be for change of address and should be fully on-line (more – see below)
- (iv) harmonizing requirements, processes and procedures as between Work Permit and Visas and making the ‘One Stop’ experience a true, single visit, harmonized experience. (see separate chart)
- (v) Expanding the use of one-stop facilities for use by all groups, not just BOI promoted companies and higher revenue companies
- (vi) Cease using capital invested and staff ratios as bases for hiring foreigners.
- (vii) Devising a new simple business visa available on line or VOA, simply by stating purpose of entry (or allowing visa-free entry from many countries).
- (viii) Eliminate the need for an ‘urgent and necessary’ category and thus the use of WP.10.
- (ix) Eliminate TM.6 (more see below)
- (x) Permanent Residents should not need a Work Permit
- (xi) Two year work permits for chamber staff (and then as part of one ‘workvisa’ instrument)
- (xii) Geographical restrictions on work permits should be removed

3. Specifically for ***Unskilled workers, JFCCT Recommends:***

- (i) Expanding use of the “pink card” to facilitate employers’ ability to increase workforce for short-term periods without entering quota or agency systems.
- (ii) Reducing the visa fee, re-entry permit fee, and pink card issuing fee.
- (iii) Reviewing restrictions on the number of unskilled workers using a quota system.
- (iv) Apply all relevant aspects from paragraph 2 (those living and working in Thailand).

4. ***For all, JFCCT Recommends:***

- i) Cut out unnecessary procedures, paperwork and licences then develop an on-line (digital) system for all processes, applications, permits, licences on line for use by citizens, business, investors, trading partners;. Even before a full on-line system is available, harmonization and de-duplications can be done. JFCCT has proposed this in detail to the Guillotine Unit and at the Consultative session on 27 September 2018 attended by His Excellency Dr Kobask Pootrakool and senior BOI officers, and at the BOI Consultative session 7 Feb 2019. Eliminating unnecessary paperwork includes



removing re-submission requirements where there is no change. See separate handout for this

- ii) Use of the eGate for all possible groups where information is held on line; not just citizens and permanent residents, but also existing permit holders, business visitors, frequent tourists and others. This is about efficiency, reducing queues and reducing cost.
- iii) For Tourists, on line and VOA should be available at low or no cost for almost all countries.

For present purposes we focus on some specific items about harmonization and removing duplication – see below under CERTAIN SPECIFIC ISSUES.

5. Specifically, for **skilled workers** – the **39 professions** not open to foreigners under a 1979 Decree have been reviewed. JFCCT has identified some eight professions of interest:

- Agriculture
- Brokerage
- Auction
- Accounting, Auditing
- Architectural services.
- Civil Engineering
- Tour Guide (clear agreement that 'Tour Leader' is acceptable)
- Legal services (only for Arbitration)

The situation is complex as each profession has its own regime and issues, and sector-specific legislation apart from the 1979 Decree. JFCCT has identified some eight professions to open and in mid 2018 has made an analysis and recommendations about removing restrictions.<sup>7</sup>



How these professions can be opened needs more focused analysis. There will also be some resistance from local professions, anywhere in the world. One challenge is to help meet the Thailand 4.0 vision which gives this a special importance.

**JFCCT Recommends** removing restrictions on foreigners engaging in these professions.

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<sup>7</sup> <https://d2oc0ihd6a5bt.cloudfront.net/wp-content/uploads/sites/1871/2018/08/Occupations-and-Professions-Prohibited-for-Foreign-Workers-v-1.7A.pdf>



The table below is a navigation tool for legislation of what is allowed in terms of business activities of entities, professions not closed to foreigners and then specific profession-level regulation. Engineering for example appears at all three levels.

Layers of regulation (relevant to the context of reviewing the FBA) – simplified

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.	Foreign Business Act AD 1999.  Foreign Business Licence (s.7)  Under IPA (the basis of BOI promotion), a slightly different process applies – a 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
<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.  See separate document analyzing each profession and listing relevant laws.	Various sector or profession-specific laws – eg Engineers Act, Accountants Act, Lawyers Act which typically set up a professional licensing authority. JFCCT has a list.

Foreign skills operating in Thailand can be restricted by a number of personal qualification issues, work permit and visa regulation etc. In the ASEAN context, some nine ASEAN Mutual Recognition Arrangements (MRAs) purport to allow 9 professions / endeavours to be recognised. But this is usually stymied by regulation relating to each profession. For example nurses must speak Thai and need to have a local test.

### Harmonisation and De-duplication

A separate file is available to show the details.

## III. Suggested Items from JFCCT

### (b) Agriculture – Structural and Regulatory Reform

“40% of the workforce; 11% of GDP” is an oft-heard mantra. Agriculture is a new focus for JFCCT. There is BOI promotion for this sector including Smart Farming.

Based on internal review and consultation with BOI (including Amcham), issues include:

- Structural reform in production and distribution in the sector





- Agritech and upgrading agricultural practices; technology includes AI, IoT. Examples of how Agritech can be usefully deployed are in The Nation story <sup>8</sup> of October 2018.
- Deployment of skills, expertise
- Market access
- Productivity enhancement, value-added (for farming such as organics, chemical-free, and/or contamination-free products), value-added (for processing so that there will be premium products), export-import, etc.
- Incentives seem not to be attractive. There is an entire chapter in the BOI Guide, which includes smart farming promotion, but little or no take up. This needs review and re-alignment.

JFCCT is keen to explore further how the sector can be stimulated.

### **BOI Incentives**

BOI introduced in September 2017 a new privilege structure for companies dealing with Agritech, so called “Thai smart farming services”, in order to support a national plan to change the country’s traditional farming to smart farming, and to help Thai farmers to become entrepreneurs and e-agricultural service. The plan expects to achieve higher farm productivity, and eventually accelerate GDP growth.

But lack of upgraded capacities for farm production i.e. technology and innovation is a barrier. In addition, labour cost as well as the land prices in Thailand have been rising, which may affect regional competitiveness unless steps are taken. Some ASEAN member states, especially Vietnam, have started to do better in many products as they introduce market mechanism and export more to global markets. Thailand has an ageing population, farm sector included. Young farmers need engage.

According to TDRI research<sup>9</sup>, liberalising imports of animal maize which will support poultry industry and encourage farmers to shift to grow other crops. Farmers also should work closely with universities and other research facilities.

### **Food Industry**

BOI’s ‘Thailand Investment Review’ <sup>10</sup> cover story ‘Food for the Future’ described the status of to food industry, which is much more healthy than agriculture. The World Atlas 2017 ranked

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<sup>8</sup> <http://www.nationmultimedia.com/detail/Economy/30357013> “Agriculture in the age of digital technologies” 24 Oct 2018

<sup>9</sup> Thailand Development Research Institute. “Thai farming lags behind its Asean peers” TDRI, 26 Feb. 2018, <https://tdri.or.th/en/2018/01/thai-farming-lags-behind-asean-peers/>.

<sup>10</sup> TIR November 2018 cover story:  
[https://www.boi.go.th/upload/content/TIR\\_Newsletter\\_November\\_Final\\_5c18655a079e7.pdf](https://www.boi.go.th/upload/content/TIR_Newsletter_November_Final_5c18655a079e7.pdf)



Thailand the 16<sup>th</sup> largest food exporter in 2017 and the world's biggest exporter of a number of food products, canned, processed and fresh. Thailand's domestic food market is also strong.

Visit Limlurcha, president of the Thai Food Processors' Association, said the business sector wants to see the government's stimulus packages beef up the country's economy in the long run.

"Now, we see only short-term measures to solve problems on a case-by-case basis," he said. "We also agree with these measures, but they will not boost the country's economy to grow in the future."

For the agricultural sector, the government aims to upgrade traditional to modern farming in line with the smart farming concept.

"The government should have strategies to promote and help local farmers during the transition period, but it should change slowly because most local farmers are familiar with traditional methods with low accessibility for higher technology and know-how, including higher expenses for new machinery," Mr Visit said.<sup>11</sup>

#### ***OTHER INITIATIVES: BAAC – December 2019 information***

Deputy Prime Minister Somkid Jatusripitak has ordered the Bank for Agriculture and Agricultural Cooperatives (BAAC) to team up with the Industrial Promotion Department and the Tourism Authority of Thailand (TAT) to develop and upgrade smart farmers and community tourism, part of ongoing efforts to address poverty in the rural sector, covering as many as 30 million people.

The government is eager to create 100,000 smart farmers in 2020, and an additional 200,000 during 2021 and 2022.

The smart farmer initiative aims to maximise farmer capability by adopting technology to improve production capacity, management and marketing, upgrading them to become leaders in their hometowns.<sup>12</sup>

#### ***OTHER INITIATIVES: MHESRI – January 2020 information<sup>13</sup>***

MHESRI has a plan for apply BCG<sup>14</sup> economy principles

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<sup>11</sup> Bangkok Post, 10 February 2020

<sup>12</sup> Bangkok Post 9 Dec 2019

<sup>13</sup> Information session MHESRI and EUD 31 January 2020

<sup>14</sup> Bio economy, Circular economy, Green economy

**Food and Agriculture**

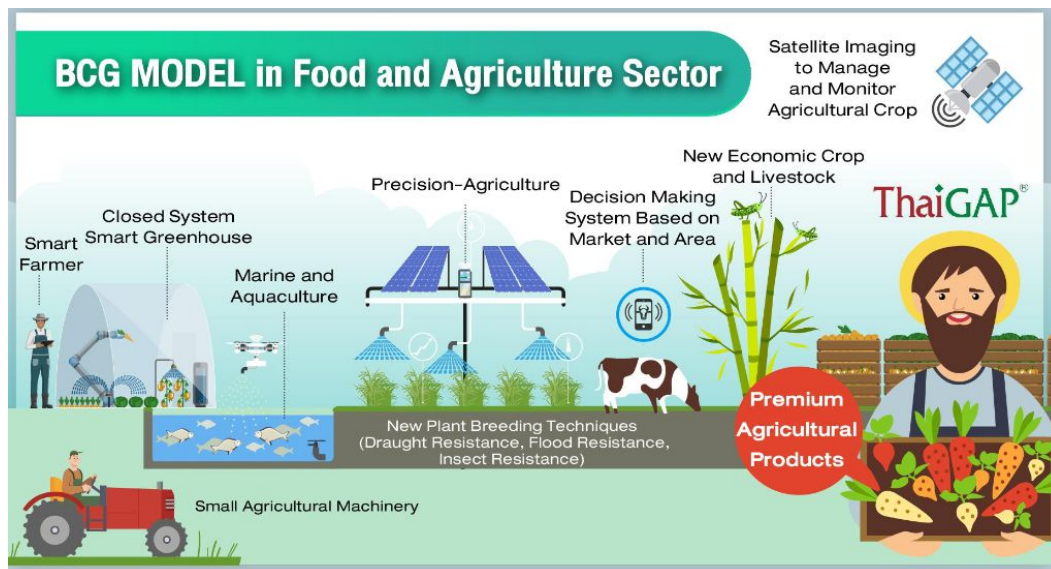
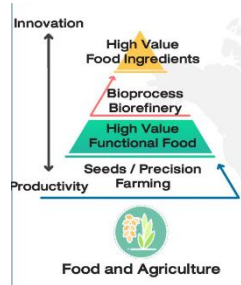


**12 Million People**  
Working in  
Agricultural Sector

**90% of Agricultural**  
Land Usage  
Limited to only 6 Majors Crops:  
Rice, Sugarcane, Cassava,  
Rubber, Oil Palm and Corn

**Challenges**

- Volatile crop price and low income farmer
- Deteriorating natural resources
- Aged agro-workforce



**JFCCTs Recommendations about Agriculture**

1. Structural and process reform in production and distribution to lower cost, and enhance productivity. Crop focus/value chain: approaches taken by the government on rubber for instance to find new local markets/applications is commendable. A similar approach could be evaluated for Palm Oil for instance.
2. Skills enhancement and farming practices
3. Regulatory: improving input registration processes, and most importantly local laboratory capacity (today local accredited labs are a major constraints to import new technologies).
4. Digital farming / smart farming and other Agritech applications by R&D and direct application.
5. Incentives: review BOI incentives in light of refreshed objectives of incentives.



6. *To explore:* some neighbouring countries have embraced a value chain approach sponsored by the WEF (GrowAsia : <https://www.growasia.org/>) to support bringing together different stakeholders of the same value chain to work towards farmer productivity and sustainability (eg input companies, public extension department, local collectors/traders, food or industrial companies, NGOs).
7. The MHESRI approach involves some complexities with BCG principles when there are already Circular economy principles for example. Engagement sought.

### **III. Suggested Items from JFCCT (BOI requests covering this at a later time rather than on 17 February).**

#### **(c) Trade Competition Policy**

This issue was on the agenda for the FCCT lunch briefing on 16 January 2020.

Some sectors of the economy (eg beverages, telecoms, various professional services or skills) still suffer from dominance or market behaviour which relies on special privileges, which may be informal or may be based on legislation, or on barriers to activity. Tourism is another area where inefficient barriers also appear.

Being a large operator does not necessarily mean that the actor is engaging in anti-competitive conduct, but it does if there is such conduct and laws are protectionist.

Any sector exhibiting these traits can be identified and an action plan determined.

Further information on these topics will be available ahead of discussion.

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#### **Annex - References:**

For a glossary of terms, acronyms, concepts, see JFCCT website<sup>15</sup>:



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<sup>15</sup> [www.jfcct.org/major-business-issues/glossary/](http://www.jfcct.org/major-business-issues/glossary/)