

THE CORPORATE
IMMIGRATION
REVIEW

NINTH EDITION

Editor
Chris Magrath

THE LAWREVIEWS

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PREFACE

As immigration lawyers based in the United Kingdom, it is easy to believe that the world outside our shores no longer exists. Over the past year, the country has become so consumed by the constitutional, political and procedural dramas of the Brexit process that it is difficult to focus on the larger picture of change and development in global mobility or even identify the emergence of a clear long-term strategy for immigration and border control. The Brexit timetable has shifted from 29 March to 12 April to 30 June and finally to 31 October 2019. Who knows what the timetable will look like by the time this ninth edition of *The Corporate Immigration Review* is published.

The points-based system, which is the central framework of UK immigration control for investors, workers and students, remains in place. The only significant change so far in 2019 has been the introduction of new routes for innovators and start-up entrepreneurs, which, at the time of writing, have gained little traction and generated plenty of confusion. Focus and resources at the Home Office have shifted to ensuring the protection of EU citizens' rights under the EU settlement scheme, deal or no-deal – a major task given that there are approximately 3.2 million EU nationals residing in the United Kingdom in exercise of their treaty rights. The protection of citizens' rights is one of the central aims of the Withdrawal Agreement that has been negotiated between the United Kingdom and the European Union and is, at the time of writing, before parliament in Westminster as a 'meaningful vote' pursuant to the European Union (Withdrawal) Act 2018. Despite three such votes there is little indication so far that the legislature will ratify the Withdrawal Agreement.

The EU Settlement Scheme has had a generally successful launch. In excess of 90 per cent of applications have been approved without hitch. So far, it has met its aim of being transparent, easy to navigate, digital and quick to respond. Only 10 per cent of qualifying residents have so far applied, so there is a long way to go. No amount of technology, however, can dispel the disdain that many resident EU citizens have for a process that they do not believe they should have had to engage with. For many, the emotional impact of Brexit has been more significant than the legal consequences, most of which have yet to take effect.

Regardless of whether we enter a transitional phase following ratification of the Withdrawal Agreement in both the British and EU parliaments, or a no-deal 'cliff-edge' Brexit is the outcome, the British government is committed to an orderly transition to a new set of immigration arrangements, likely to be launched in January 2021. Central to these new arrangements will be measures to 'take back control' of the border as the United Kingdom leaves the single market.

With this in mind, in December 2018, following an extensive piece of research by the Migration Advisory Committee (MAC), the government published a White Paper on 'The UK's future skills-based immigration system'. Anticipating the country's departure from the

freedom of movement pillar of the single market, the new post-Brexit policy approach will be based on a 'one world' system with no preferential access for EU citizens. An autonomous immigration policy will also give government the control mechanisms necessary to enable net migration to be reduced to 'sustainable levels' (for many years defined as below 100,000 per annum). This was, after all, one of the central arguments of the leave campaign as well as being a core policy of the incumbent Prime Minister since she entered government as Home Secretary in 2010.

The government proposes to engage with stakeholders over the course of the next 12 months before refining its proposals into a new set of immigration rules. In tandem, the government is working on a simplification project that aims to change the current set of labyrinthine rules into a new user-friendly, transparent scheme.

Although the current intention is to adopt a 'one-world' approach, this position may change as the negotiations on the future relationship get under way. Much will depend on the character of the United Kingdom's future political leadership. Some form of EU preferential scheme may be the price of a close trading relationship.

It will certainly be necessary to expand the ambit of the United Kingdom's youth mobility and temporary worker schemes to maintain a flow of labour into the United Kingdom to take the 'lower skilled' jobs that will not meet the proposed £30,000 salary threshold under the formal sponsorship scheme. Employers in healthcare, hospitality and construction are particularly concerned about the impact the United Kingdom's withdrawal from the single market will have on their ability to recruit key workers.

At the time of writing, it is uncertain whether the United Kingdom will leave the European Union with or without a deal in place, or indeed whether the United Kingdom will leave at all. It is unclear whether the current political leadership has sufficient authority to remain in place for much longer. In this context, individual Member States across EU27 are making their own domestic arrangements for the regularisation of resident British citizens in their countries in the event of a no-deal 'hard' Brexit. This is because, in the absence of a Withdrawal Agreement containing pan-European provisions on citizens' rights, it falls to individual Member States to implement domestic immigration laws for third-country nationals. Fortunately, most Member States appear to be developing a soft approach to protect the British citizens that have chosen to make their homes across the European Union.

In the United States, immigration policy continues to be a lightning rod for the Trump administration and, with the 2020 election in sight, is anticipated to be a primary strand of the president's attempt to reignite the support of his base. The shift in approach to immigration issues that resulted from the new US political settlement and its focus on protectionist policies has impacted the broad sweep of business and investment routes of entry to the United States, and is not limited to illegal or irregular migration trends.

Key to this is the Buy American Hire American (BAHA) Executive Order, which came into force in 2017 and seeks to protect US economic interests and provide greater employment prospects for US workers.

BAHA refers to the body of law and policy concerning how immigration, visa and guest worker programmes are operated to ensure proper protections for American workers. The executive branch is required to 'rigorously enforce and administer the laws governing entry into the United States of workers from abroad'. Specifically, BAHA demands that the Attorney General, the DOS, the US Department of Homeland Security and the Department of Labor 'as soon as practicable, and consistent with applicable law, propose new rules and issue new

guidance if appropriate, to protect the interests of United States workers in the administration of the immigration system, including through the prevention of fraud or abuse’.

As a result, lawyers in the United States have seen a significant shift in the administrative approach to immigration applications, even if the legislative framework itself has not changed substantially. This has distilled into a culture of refusal from the US authorities, notably at the consular level. Practitioners have witnessed an increase in denial rates coupled with ever-growing requests for further evidence, often for indefinable reasons. The application process has become more document- and detail-oriented with additional representations or evidence being the norm rather than the exception. The consequence is that each application now requires substantially more preparation and outcomes are difficult to predict given the lack of consistency in approach to decision-making. Client expectation management is crucial for US immigration practitioners in such an uncertain landscape.

Around the world, national security and border protection continue to be integral issues in the development of immigration policy. Joined-up government (easily sharing data and intelligence across government agencies and public bodies) is a cross-jurisdictional trend. For example, in Australia, a federation of independent security and law enforcement agencies, including the Australian Border Force has been brought together under the Home Affairs Portfolio and the Department of Home Affairs. This whole government approach to security has had an impact on all aspects of immigration with greater scrutiny and monitoring by Australian Border Force Officers. The restrictive reforms that we see in Australia, including an increased focus on the security of systems, use of metadata and a whole-of-government approach are trends that can be seen worldwide.

As ever, immigration practitioners around the world are at the centre of a complex web of political, legal, compliance and regulatory developments. The contributors to this text are leaders in the field.

We would like to thank all of the contributors to this latest edition of *The Corporate Immigration Law Review* for their sterling input.

Chris Magrath and Ben Sheldrick

Magrath Sheldrick LLP

London

May 2019

THAILAND

*Jean-François Harvey and Bastien Trelcat*¹

I INTRODUCTION TO THE IMMIGRATION FRAMEWORK

Thailand is a country of 67 million inhabitants located at the heart of South East Asia. Thailand holds a unique location in the centre of the region and is neighboured by four other countries (Cambodia, Laos, Malaysia and Myanmar), as well as being very close to Vietnam. However, Thailand has never been under the control of any foreign power, even though it is located between countries that were colonised by British and French empires for decades.

Surprisingly, Thailand had no legislation or regulations restricting the movement of immigrants entering and leaving Thailand prior to 1927. However, during the seventh reign of the Bangkok dynasty, under King Rama VII, there were numerous immigrants, consisting of Chinese traders and labourers who entered Thailand during the 18th and 19th centuries.

Accordingly, Thailand implemented its first piece of immigration legislation, the Royal Immigration Act, in 1927 to mitigate the effects of migration into the country.

Since then, Thailand has been a regional hub for investment into neighbouring countries, which were not as open to foreigners as they are now. As such, Thailand has enjoyed a dominant position in attracting foreign staff to be deployed in this region.

Thailand is one of the most attractive economies in South East Asia. The country has actively participated in increased international exchanges of technology, investment, trade and tourism, with a sustained and strong domestic growth and free-market economy.

Nowadays, the migration policies of Thailand aim to attract low-skilled migrants from neighbouring countries to sustain its growing economy, mostly in the agricultural and construction industries, and highly skilled workers in high-value-added technologies.

i Legislation and policy

The Immigration Act BE 2522 (1979) is the main piece of legislation governing the immigration of foreign workers and investors wishing to enter Thailand. Under the Immigration Act BE 2522 (1979), any foreign worker wishing to enter Thailand, whether on a short or long-term basis, must obtain a visa prior to arrival.

In addition, Thailand further enacted the Foreign Business Act BE 2542 (1999) to control the business operations of foreigners in Thailand. Under this Act, some activities are prohibited to foreigners unless a foreign business licence (FBL) is obtained prior to engaging in those restricted businesses. Obtaining the FBL can turn out to be a time-consuming process, although it provides more flexibility and incentives when it comes to hiring a foreign labour force.

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The Alien Working Act, BE 2551 (2008) was also enacted to set out the rights and limitations for companies willing to hire foreign staff. The Regulation of Criteria of Work Permit Issuance of Alien Workers BE 2552 (2009) was implemented under the Alien Working Act BE 2551 (2008), outlining the ratio of foreign workers and the capital of the company that wishes to employ foreign workers.

A further option for foreigners who wish to work in Thailand is to utilise the ASEAN Economic Community framework (AEC). The AEC facilitates the movement of professional workers of nationals of ASEAN countries for specified occupations.

ii The immigration authorities

Immigration in Thailand is under the authority of the Ministry of Foreign Affairs and of local consulates overseas. Foreign nationals wishing to enter Thailand for employment purposes must first obtain a non-immigrant Category B visa (the B visa) at a local consulate overseas or they may obtain such a visa in Thailand.

Applications for any extension of stay in Thailand must be made to the Immigration Bureau and applicants must report in (either personally or online) every 90 days and also inform the authorities of their current address in Thailand, unless they exit the country.

They must then obtain a work permit prior to starting employment. Work permits in Thailand are provided by the Ministry of Labour.

The Thailand Board of Investment (BOI) is a governmental agency whose mission is to promote foreign investment in Thailand by providing information, services and incentives to foreign investors. The BOI operates 14 offices in major world cities, as well as regional offices throughout Thailand, and is authorised to approve certain types of investment and grant more favourable conditions or treatment regarding the employment of foreigners with respect to BOI-eligible investments. Therefore, upon BOI approval, the foreign applicant may apply for a B visa directly with the Immigration Bureau within the BOI One Stop Service Centre.

iii Exemptions and favoured industries

The Immigration Act BE 2522 (1957) fixes a quota of foreign workers at a ratio of four Thai employees per one foreigner, with a maximum of 10 foreigners under certain circumstances.

In spite of the fixed quota under the Immigration Act BE 2522 (1957), this ratio is not applicable for:

- a* a company granted BOI status;
- b* representative offices;
- c* regional offices;
- d* branch offices; and
- e* legal entities under the allowed business scope of the Foreign Business Act BE 2542 (1999) (i.e., the representative office, regional office and branch office), in which case the ratio may be relaxed depending on the type of business conducted in Thailand.

Furthermore, under Immigration Police Order No. 777/2551 dated 25 November BE 2551 (2008), there is no quota requirement or restriction on foreign workers and volunteers working for non-governmental organisations (NGOs) in Thailand. Hence, an NGO is entitled to employ foreign workers and volunteers without employing a corresponding ratio of Thai employees.

II INTERNATIONAL TREATY OBLIGATIONS

Thailand is a founding member of the Association of South East Asian Nations (ASEAN), which started on 8 August 1967 with five countries: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Subsequently Brunei, Laos, Cambodia and Vietnam joined ASEAN, and Myanmar became a member on 23 July 1997.

Under the regulations of ASEAN, the ASEAN Economic Community (AEC) was established on 31 December 2015, to provide an architecture for integration and economic development.

As the seventh-largest economy in the world, the AEC market now constitutes an essential vehicle for the growth of its developing countries. The Community is based on the elimination and reduction of tariff barriers, as well as the implementation of a free trade zone in which products and services can circulate, facilitating the movement of skilled workers through specific recognition of qualifications.

As a consequence, companies incorporated within ASEAN are able to reduce their costs and increase their competitiveness by importing or exporting goods from and among the ASEAN states.

Freedom of movement for AEC workers under the AEC framework is assisted by mutual recognition agreements (MRAs). The MRAs aim to facilitate the movement of professionals by ensuring that their qualifications are acknowledged and recognised by other AEC country members. Skilled workers within the following occupations are able to work in other ASEAN countries:

- a* engineers;
- b* nurses;
- c* architects;
- d* surveyors;
- e* accountants;
- f* dental practitioners;
- g* medical practitioners; and
- h* tourism professionals.

Although freedom of movement for these professions has theoretically been in force for AEC members since 2016, migration and employment of such skilled professionals in Thailand are still subject to working-visa and work-permit regulations imposed by, as yet unchanged, domestic regulations. However, the government of Thailand is actively working towards making free movement of skilled workers easier.

Notably, in terms of mobility, AEC nationals are now able to travel visa-free for short periods (only a few exceptions still apply) to all AEC member countries to facilitate business meetings and tourism.

III THE YEAR IN REVIEW

The past year saw the implementation of Thailand 4.0, a 20-year strategy that focuses on the development of Thailand's economy and social structure, emphasising 'stability, prosperity and sustainability' and supporting innovation and creativity with regard to the technology sector. Moreover, the 'SMART Thailand' programme, a tenet of Thailand 4.0, envisions

greater information connectivity between sectors by allowing businesses to visit the One Stop Service Centre for the exchange of information. Consequently, the government will coordinate with the BOI and the Immigration Bureau to issue SMART visas.

As Thailand moves towards a 'digital economy', there will be a greater focus on IT and communication to develop production, business, trade, education, public health, government administration and the overall quality of life for the population.

Further, according to the Immigration Act BE 2522 (1957), unskilled foreign nationals are prohibited from entering Thailand. As a result, Thailand has faced a lack of unskilled labourers, who have become increasingly vital over the years for the development of national infrastructure. Consequently, Royal Decree amending the Immigration Act BE 2561 (2018) was enacted to relax the restrictions on unskilled labourers coming to work in the country. This will result in a significant change in the labour market going forward.

IV EMPLOYER SPONSORSHIP

i Work permits

To secure a work permit in Thailand, a foreign national needs an initial B visa that must be obtained before entering Thailand, at the local Thai consulate where the applicant usually resides. The B visa is usually valid for 90 days. Once the foreigner has a B visa, he or she is entitled to travel to Thailand and apply for a work permit at the Ministry of Labour. The processing time for a work permit is seven business days.

The employer can also apply for the work permit on the behalf of his employee, prior to the employee entering Thailand, whereby the labour department will issue a letter of approval upon completion of documents. After that, the employee must submit the letter of approval to the Thai consulate in his or her country to obtain the B visa.

A company in Thailand is entitled to hire foreign workers at a ratio of 3 million Thai baht in capital per foreign worker, and one such foreign worker per four Thai nationals hired on a full-time basis (not exceeding, however, 10 foreign workers unless the company has obtained a FBL (or is BOI approved)). In other situations (i.e., joint ventures where Thai shareholders hold a majority interest), the minimum capital ratio to hire a foreign worker is 2 million Thai baht per foreign worker and one such foreign worker per four Thai nationals hired on a full-time basis (not exceeding, however, 10 foreign workers).

Work permit validity

The work permit issued by the Ministry of Labour is usually granted for a period of up to one year maximum (at the officer's discretion based on the documents submitted and the effective business of the sponsor company). Such permits can be renewed annually as long as the conditions for legal employment are met. Foreign employees of companies meeting applicable size criteria can be granted a work permit valid for two years.

Additionally, when a foreign national is granted a one-year B visa, the visa holder has to report his or her place of residence to the Thai immigration authorities every 90 days (either in person at the immigration offices or online). The 90-day report does not need to be made if the foreigner leaves Thailand before the 90-day period ends.

If a foreign national has to leave Thailand temporarily, a re-entry permit must be applied for prior to any temporary departure, which then allows the foreign national to exit Thailand prior to the expiry of the visa and re-enter Thailand; otherwise the visa may be cancelled if the foreign national exits Thailand without obtaining a re-entry permit.

Work permit exemptions

A foreign national who wishes to work in Thailand under the following business activities are not required to obtain a work permit under the Royal Decree on Management of Alien Workers BE 2561 (2018) (No. 2) (Royal Decree):

- a* being a member of a diplomatic mission or a consular mission, a representative of the United Nations and other specialised agencies, or a personal assistant as recognised by the diplomatic mission of the aforesaid person;
- b* performing duties or missions under an agreement concluded by the national government with a foreign government or international organisation, or performing duties or missions for educational, cultural, artistic, sports or other purposes as prescribed in a ministerial regulation;
- c* organising or attending a meeting, conference, public speaking event, lecture, training, workshop or seminar;
- d* performing artistic and cultural activities or participating in sports competition or activities prescribed by the Council of Ministers;
- e* establishing a business or investment, or possessing knowledge, ability or high-level skills beneficial to Thailand, as prescribed by the Council of Ministers; and
- f* representing a foreign juristic person licensed to operate business under the foreign business law (i.e., the director of such foreign licensed juristic person, representative office managers or branch office managers).

Further, business visitors who wish to conduct business for short-term, necessary and urgent work (within 30 days) are not required to obtain a work permit but must file a notification letter to the Ministry of Labour before entering the country and after being in the country for 15 days, under the Royal Decree. These permitted short-term business activities are defined by the Department of Employment as urgent works taking place without notice, such as conferences, petroleum-related technical work, machine repairs or installation work, or other areas of work under the consideration of the Director-General of the Department of Employment.

Intra-company transfers

Intra-company assignment does not exist in Thailand and any foreign worker assigned from overseas to a Thai subsidiary is still required to apply for a B visa and a work permit.

Visa and work permit regulations will be flexible for skilled professionals who work with companies that obtain a BOI promotion certificate and have a representative office.

ii Labour market regulation

The employment of both Thai nationals and foreign workers are ruled by Thai labour laws, unless otherwise specified on the visa and work permits. All rights and duties pertaining to employees and employers are according to Thailand labour laws that have been enacted as follows:

- a* The Labour Protection Act (No. 6) BE 2560 (2017) protects the fundamental rights and duties of the employees. This Act outlines working hours, overtime pay, public holidays, welfare and labour standards for the employees.

- b* The Labour Relation Act BE 2518 (1975) outlines rules on how employees and their employers should negotiate their labour disputes to maintain peace in the working environment. The Act aims to maintain and improve a good relationship between employees and employers.
- c* The Workmen's Compensation Act BE 2492 (1994) rules the fundamental rights of employees, who die or injured from conducting their work during the working hours. Employers are required to compensate their employees for any medical expenses, funeral expenses or work rehabilitation expenses as a result of death or injury caused during the course of employment.
- d* The Social Security Act BE 2533 (1990) provides benefits for employees such as low-cost public medical services; compensation for death, injury or sickness; maternity services; and pensions and child welfare.

The employers must register the social security benefits for employees within 30 days of the date of employment. Five per cent of the salary in an amount not exceeding 15,000 Thai baht shall be deducted and paid to the social security fund on a monthly basis. A monthly social security fund to be paid to the Social Security Department is maximum of 750 baht per month.

The minimum rate of salary of foreign workers is also prescribed by the Order of Royal Police Office No. 327/2557 as follows:

- a* Canada, Japan, the United States, Europe (except Russia) and Australasia: 50,000 baht per month;
- b* South Korea, Singapore, Taiwan and Hong Kong: 45,000 baht per month;
- c* South America, eastern Europe (according to the categorisation of the United Nations geoscheme for Europe), Central America, Mexico, Russia, South Africa and the Asian continent (except Cambodia, Myanmar, Laos and Vietnam): 35,000 baht per month; and
- d* Cambodia, Myanmar, Laos, Vietnam and Africa (except South Africa): 25,000 baht month.

For instance, a foreign worker who holds Canadian nationality earning a salary of 50,000 baht per month shall pay social security at a maximum rate equivalent to 750 baht per month.

The Act establishing the Labour Court and Labour Court Procedure BE 2522 (1979) outlines the procedures of the Labour Court as well as detailing the jurisdiction for each labour matter.

Labour officers and social security officers are entitled to issue in writing enquiries or summonses requiring any person to give explanations on any facts and furnish documents or evidence necessary for factual examination, and immigration police perform random inspections at workplaces at their discretion, in relation to both domestic and foreign labour.

All employers must ensure that their foreign employees work within the scope of work specifically referred to under the relevant work permit or FBL and that they hold a valid visa. All employers must also provide a report on investment and work progress to the Department of Business Development.

For the renewal of the FBL and visa of each foreign employee, foreign employers must provide confirmation to an Immigration Officer and to the Department of Business Development that their employee continues to comply with the immigration requirements.

iii Rights and duties of sponsored employees

When it comes to employment issues, quality of working life is key. Thai labour laws provide that employees shall receive wages or a salary in the form of money and not less than the minimum wage rate and as agreed in the employment agreement between the employee and the employer, unless they are foreign workers. Foreign employees shall obtain a salary at a rate prescribed by the immigration laws of Thailand and the rate varies according to nationality. Transportation costs and benefits shall also be paid to employees if the employee works outside the workplace.

Working contracts are divided into two categories, hire of services and hire of work. If employees work under hire of services agreements and receive a salary continuously on a monthly basis, for the purpose of the health of the employees, working hours must not exceed eight hours per day and 42 hours a week. Besides, during normal working hours, employees are entitled to a one-hour rest per day and one day's holiday per week.

Furthermore, a holiday of no less than 13 days of traditional holidays, including national Labour Day, per calendar year, shall be provided by employers. Other than traditional holidays, employees are entitled to annual holiday determined by employers.

Under the employment agreements, employees are obliged to work for the employer during the period of employment, pay social security contributions to the Social Security Office and pay personal income tax to the Thai Revenue Department, according to Thai tax laws. Foreign workers who reside in Thailand or stay in Thailand for 180 days or more are also required to comply with Thai tax laws.

V INVESTORS, SKILLED MIGRANTS AND ENTREPRENEURS

i Business visitors and directors

As mentioned in Section IV.i, business visitors who wish to conduct necessary and urgent business for a short time in Thailand are not required to obtain a work permit. Nevertheless, such business visitors must obtain a letter of approval from the Labour Department before entering the country to conduct the urgent business. If said urgent work cannot be completed within 15 days, the sponsoring company may request an extension for a further 15 days by notifying the Department of Labour before the conclusion of the initial 15-day term. Thus, foreign businesses and workers are entitled to conduct necessary and urgent work without obtaining work permits for a period of up to 30 consecutive days.

Directors of foreign licensed juristic persons duly incorporated in Thailand are entitled to conduct their business in Thailand without a work permit.

ii Investors and entrepreneurs

With regard to Order No. 327/2557, foreign investors who invest at least 10 million Thai baht via either condominium purchasing, state-issued or state enterprise securities where the Ministry of Finance or Bank of Thailand is a guarantor, or the stock market, as approved or certified by the Stock Exchange Commission, such as ordinary shares, bonds, preference shares or investment units, are eligible to apply for an investment visa (Category B non-immigrant visa).

iii Skilled migrants

Immigration Bureau Order No. 327/255 defines 'skilled occupations' as corresponding to different types of visa, such as: a teacher, educational professor or expert in government or private education; a medical practitioner who imparts medical knowledge to Thai nationals; or a person who performs installations or repairs to aircraft or ocean vessels.

To work in Thailand, skilled migrants must first obtain a non-immigrant visa (either a Category B business visa for work, a Category B-A business-approved visa, or a Category IB investment and business visa) and must be granted a work permit prior to starting work.

Nevertheless, requirements for skilled migrants engaged in BOI-eligible activity or companies may be relaxed depending on the type of business conducted in Thailand under BOI status. Some types of FBL (i.e., a representative office or regional office) may allow skilled migrants to conduct the permitted business without employing four full-time Thai employees.

In addition, according to BOI Announcement No. Por 12/2561 under Section 13 of the Investment Promotion Act BE 2520 (1977), foreign skilled workers (foreign experts, executives, entrepreneurs and investors) earning more than 200,000 Thai baht per month, foreign retirees earning more than 50,000 Thai baht per month or foreign investors investing at least 5 million Thai baht in foreign start-ups business and working within one of the 13 targeted Eastern Economic Corridor (EEC) industries will be eligible to apply for the Smart Visa. The new Smart Visa will entitle qualified foreign workers to a four-year stay in Thailand, instead of a general one-year stay, as well as the right to work in Thailand without any additional work permit required. The 13 targeted EEC sectors are:

- a* next-generation automotive industry;
- b* smart electronics;
- c* affluent, medical and wellness tourism;
- d* agriculture and biotechnology;
- e* food for the future;
- f* robotics;
- g* aviation and logistics;
- h* biofuels and biochemicals;
- i* digital;
- j* 'medical hub'-related industries;
- k* alternative dispute resolution;
- l* human resource development in science and technology; and
- m* environment management and renewable energy.

Further, the Smart Visa holder's legal dependents – hence spouse and dependent children – will be entitled to live, study and work in Thailand too.

iv Permanent residency

Foreigners may submit an application to become a Thai permanent resident after holding, among other criteria, the same Thai non-immigrant visa type (employment, business, etc.) for at least three years prior to the submission of the application. However, a Thai permanent resident still needs to apply for a work permit if employment is needed.

A Thai permanent resident can then apply for citizenship under certain conditions (for example, the ability to speak Thai) in which case, a work permit will no longer be required to legally work, invest or administer a company in Thailand.

VI OUTLOOK AND CONCLUSIONS

In 2019, the outlook for Thailand's economy is positive owing to strong domestic demand. In addition, exports and major investment projects are progressively increasing, particularly in the infrastructure sector. A considerable increase is also notable in the number of public and private investments in the government's mega projects, including those in the EEC investment zone (covering all three provinces of Rayong, Chonburi and Chachoengsao), the double-track railways and rapid mass transit rail lines.

Although the number of tourists visiting Thailand during the third quarter of 2018 was low owing to the Phuket boat tragedy, tourism is still expected to sustain Thailand's economic growth. The service sector, including tourism and financial services, continues to grow and contribute to the country's gross domestic product. Despite political instability, Thailand is expected to promote significant investment, focusing on the EEC, with a view to establishing the country as ASEAN's investment hub.

The government aims to enhance Thailand's competitiveness in these sectors by offering exclusive investment incentives and amending numerous Thai laws and regulations, such as a new engine of growth scheme, which includes promoting businesses in next-generation cars; smart electronics; affluent medical and wellness tourism; agriculture; biotechnology; food; the restrictions on foreign business activities; and the types of visas granted for skilled workers (see Section IV on work permit exemptions, and V.iii on the Smart Visa).

Furthermore, as mentioned above, under the Smart Visa scheme, skilled foreign workers wishing to enter Thailand to work or invest in the EEC targeted industries will be granted a four-year visa with eligibility to work in Thailand with no requirement for an additional work permit or re-entry permit. Those policies are, of course, expected to increase the flow, as well as the quality, of foreign workers into Thailand.

In the near future, the application requirements for the Smart Visa are expected to be widened and become more flexible to facilitate bringing foreign investors and skilled workers to Thailand.

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