



**Digital Economy/ICT Update for members of Chambers  
At 20 January 2021. COVID – 19 Scheme – Safe Border  
Opening; Guillotine; FBA; BOI Event  
UNRESTRICTED**

**TWO PARTS: Digital Economy/ICT; GENERAL**

**Digital Economy/ICT**

BEING DIGITAL is our mantra for digitalisation across the board. The webinar series, BEING DIGITAL reflects this.

- #1 – “Digital Tools – Electronic Meetings and Electronic Signatures” - 28 October
- #2 “Digital Government – the key building block for Thailand 4.0 and enabler for economic recovery – TBC 8 Dec: speakers were DGA and DEPA.
- #3 – Privacy Summit – Feb 2021
- #4 Cybersecurity and Trust Summit – Feb/Mar 2021

Series Supporters included 13 chambers. Please be a Supporter.



DGA reported that it might take five years to realise digital government in Thailand. DEPA pushes for full digitalisation (process re-engineering, single sign-on, inter-agency linkage) not just digitisation (on-line, soft versions of hard copy). Our engagement with and support for DGA’s mission continues, as also with the Digitalisation efforts of Fast Track Regulatory reform (see below).

We have spoken with TCEB for and then written for Non Financial support #3 and #4.

**Cybersecurity – Subsidiary legislation**

Subsidiary legislation and operational rules for the Cybersecurity Act are being developed. On 21 December we met with the authors of the five rule sets and will soon meet with the new Secretary General of National Cybersecurity Committee, the National Cybersecurity Agency, Lt Gen Prachya Chalermwat, PhD. We will finalise our submission ahead of that meeting. Points of concern include:

- Designation of Critical Information Infrastructure; process, objections etc
- Reviewability of actions of state actors / officials
- Governance MSM model and transparency.



### **Smart Visas – ‘Freelancer’ and other changes**

BOI is reviewing smart visas, in particular a ‘Freelancer’ visa. BOI plan is to use an existing category ‘T’ to make this for science and technology only. Our proposal is broader – for ‘Innovation’, similar points to software development. We made our submission dated 21 October which we are told was well received and was reviewed. Further discussion with Chiang-Mai entrepreneur community 21 December. BOI has put the development on hold for review. Sec-Gen has agreed to discuss this with us.

Other changes include better support for SMEs, lower salary thresholds and a new category in the industry scope.

We continue to recommend making smart visa the standard for all skilled labour!

### **BOI Software development**

Software development involves many skills (not all technical), rarely all in the one company. Collaboration and short, project-based engagements are the norm. We have finalised a submission to BOI and discussed in person on 23 December. Follow up in progress.

### **eCommerce Tax**

Draft legislation to amend the Revenue Code progresses through the legislature

**2017** discussions on the type of tax proposed

**Feb 2018 – VAT based tax:** Online submission of recommendations

**Early 2020:** Similar to Feb 2020; third draft. Focus is B2C only; foreign providers with more than THB 1.8m annual revenue in Thailand should register for VAT. Simplified system, or full registration.

**October 2020:** OECDs BEPS 2.0

**Status** in Thailand– law in legislative process, may be in force August 2021 with a Guideline from TRD by May. Focus is B2C, simplified system.

We have asked for the draft guideline and operational proposals (TRD has agreed to provide); issues:

- Some unresolved issues (e.g. scope of ‘electronic services’, how to determine that the customer is in Thailand)
- administration/compliance is in line with the OECD guidelines and ‘best practices’ otherwise the world will have multiple models making compliance difficult.
- Filing frequency – quarterly filing instead of monthly is preferred/adopted in other countries
- There should be no requirement to verify the validity of VAT ID number.
- Simplified system is ‘Pay only’ system – no input tax credit; no tax invoice issued. So what does the provider collect if anything? If it is not VAT, then can a surcharge equivalent to VAT be made? Are there rules or accounting practices on what this can be called?



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There would be no Permanent Establishment (PE) issues with using the Simplified system, there may and most likely would be with using the full registration system.

TRD is waiting for OECD developments / consensus about possible additional taxes – ‘Digital Services Taxes’. There is no plan for a direct income tax based impost for eCommerce, only this VAT proposal.

**Digital Education / MoE engagement via OVEC**

Following MoEs mid August announcements about changes to direction in education, we have written to OVEC about MoE’s DEEP (digital education) initiatives and sought a meeting and sent a new letter to the D-G. Date not confirmed.

**Copyright and on-line intermediaries** – DIP has finalised an MoU for on-line intermediaries but limited to on-line marketplaces. This was signed early January. Updated draft Copyright Act changes confirmed to support on-line governance. We have been involved with both.

**NBTC – new Commissioners**

There are some 80 applicants for 7 roles. Our long-standing recommendation is to bring external oversight into NBTC. Currently it is a fully executive board (cf. SET listed companies; other similar agencies in the region; other agencies in Thailand).

**CAT and TOT merged**

The new entity NT is in effect a larger state monopoly (in some respects). Our long standing recommendation is for real reform – focus on fixed backhaul, backbone, local fixed last mile and exit retail mobile for example. Thailand is almost unique in the world in not having evolved its SOEs in this sector. This has negative consequences for market effectiveness and causes policy and market distortions, harms the telecoms sector. JFCCT has made recommendations on this since 2005 and held a conference ‘Unlocking ICT’ in July 2013. <http://www.jfcct.org/ict-conference-2-july-2013-unlocking-ict/> recommendations continue to be relevant and valid.

**Morchana / Thaichana**

In April, our Committee did a report on the Morchana app and the Thaichana premises entry tool, and other apps related to medical management and have updated it from time to time. The resurgence, then winding back of Morchana reflects that it was never properly developed. It is also not clear what elements are considered important: proximity tracing, location tracking, colour coding? Our recommendation (by majority-some do not see the value) is for a basic proximity tracing tool to supplement manual tracing.

We are preparing updated recommendation for DGA and MDES.

**Digital Assets** – new asset classes – Digital Asset Fund Manager and Digital Asset Advisor, some consequential changes effective 27 Nov 2020.



## GENERAL TOPICS

### ECONOMY

World Bank revised forecast from – 5%, to – 10.4%. Average of economists per TDRI 6 January is - 7.9% with say 4% growth this year. Exports and tourism = 70% GDP – 54% Exports, 18% Tourism (Dr Kirida 9 October). Exports may shrink by 8% or so this year. Tourism int'l arrivals down from 40m 2019 to about 7m (mostly in first Q). Join Dr Kirida on 25 Jan, three themes, one is about budget capacity. Short skills needed for Exports – Professionals / technical / business (see below).

**COVID 19** – compendium of government support updated as needed [on JFCCT website](#) – see first file.

### **COVID 19 Border Works – safe and structured opening of borders for short stays**

JFCCT one pager and short supporting slide pack – [on JFCCT website](#) on COVID 19 page (see second and third file). Recent events – a perspective:

#### **A perspective on border opening**

The economy will be further pressured by lockdowns to new crisis cases and scenarios. Targeted lockdowns may be useful if they are married with strengthening of systems and procedures underlying them – including masks, social distancing, some limited closures and, most importantly, testing.

The vaccine solution (never a silver bullet) will take time for its benefits to be realised. In the meantime the economy continues to suffer, with some permanent damage.

The real issue in Thailand which caused the current situation is not people who came in the front door (with the right approvals, are processed, tested quarantined). The real story is about large volumes of unprocessed, illegal back door entries who are covered up and supported by corrupt entry and hiring practices.

We saw two things in Thailand which will likely result in the worst combination:

1. Zero mindset and held up zero cases as a great achievement and an on-going target; avoided a calibrated, targeted approach for safe groups, kept borders essentially closed with 14 day quarantine for all (including safe groups), meanwhile corrupt practices and, lack of sanction for those hiring illegal workers etc. meant that the back door was exploited. Very limited testing meant that the real situation was not understood.
2. Due to zero cases, we became complacent with internal practices – lack of masks, social distancing etc. (That includes many in the private sector including in our foreign business community), mass scale parties. And almost no testing. Failure to implement any systemic use of digital tools.



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The effect is illusory safety and likely high infection rates and now panic. The reaction is to tighten up further on entries from those from safe places as well, and as we are seeing, to do lockdowns. These will not be useful unless there are changes in shoring up and strengthening.

Some fear the results which large scale testing will inevitably show. Lockdowns are a way of covering up say some. Meanwhile some (not all) other economies are taking a calibrated and targeted approach and going in the opposite direction. The US and most of Europe are not role models.

**Recommendation:** be robust about group hygiene practices, support testing, acknowledge some restrictions (which need to be backup as described), and structured and safe border opening (rather than running in the opposite direction).

### Supporting Short Stays

Three groups of visitors with different risk profiles, economic impact and pathways to reduced overhead:

- i. **Short-stay professionals** (technical skills, professionals, business people.), **short-stay businesspeople** for managing investments, FDI purposes, where, over time via a pathway to no quarantine is needed for defined situations.
- ii. **Tourism**, with an accelerated reduction of quarantine time, from 14 days downward.
- iii. MICE (which could fit into either category).

We focus here first on **professionals / technical / business** visits. For **Tourism**, short stays for international visitors are needed with a similar approach. Domestic tourism and various 14 day-based programmes for international tourists have so far not produced high numbers.

### The future: a Pathway to Safe Border Opening from 14 day quarantine downwards – even before vaccinations

1.To support short stays, safe substitutes for quarantine are needed. For professional, technical and business people, starting with safe economies: green lane and bubble economies (and others by exception in special cases of lack of skills locally or essential business travel) and a calibrated approach based on risk assessment of departure point:

- i. PCR test before departure (co-operation with foreign governments needed to work out protocols, availability and mutual recognition);
- ii. PCR tests at arrival airport;
- iii. observe local hygiene practices (see below);
- iv. visitors should be contactable at all times. The proposed smart wristband needs checking, in some cases allow for an 'escort'
- v. report symptoms daily



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vi. some areas may be off limits (e.g. ‘hotel-to-factory’ / ‘hotel to office’ model);

2. Basic personal and group hygiene (no exceptions) for all:

- masks;
- hand washing;
- respect social distancing.

3. Where quarantine of some period may still be needed, allow it to be done safely at home with PCR test at end.

4. Public health infra can support small number of infected arrivals and prevent community spread. There is also unspent economic recovery budget should that be needed. Procedures (SOP) in place.

6. Public and private sector-supported campaign to highlight the importance of enacting these measures so as to contribute to the economic recovery and well-being of the Thai people.

(Understanding the experiences of other economies can be very useful)

**Why are Singapore and Thailand not in agreement about entry to Singapore?**

Singapore has a ‘calibrated’ approach to entry. In addition to ‘Green Lanes’ and ‘bubble’ arrangements, arrival from economies which are regarded as most safe, entry is by PCR test on arrival (prepaid on line), short self isolation pending result (which usually takes only 6 hours) then no quarantine, safe practices needed. The system is working: there are some infected entrants, how are immediately put into care.

S/N	Travel history in the past consecutive 14 days	Travel Lanes and SHN/Swab Requirements on Entry into Singapore			
		Returning SC/PR Lane	SC/PR Familial Ties Lane (with valid approval letter for entry)	Student's Pass Holder Lane (with valid approval letter for entry)	Work Pass Holder General Lane (with valid approval letter for entry)
1.	<ul style="list-style-type: none"> <li>- Australia (excluding New South Wales)</li> <li>- Brunei Darussalam</li> <li>- Mainland China</li> <li>- New Zealand</li> <li>- Taiwan</li> <li>- Vietnam</li> </ul>	<ul style="list-style-type: none"> <li>• COVID-19 PCR test on-arrival, with self-isolation at self-sourced accommodation or own place of residence, until test results are released to traveler</li> </ul>	Short-term visitors coming from these countries/regions should consider applying for the <a href="#">Air Travel Pass</a> instead.  If approved to enter under the SC/PR Familial Ties Lane, the following health measures apply: <ul style="list-style-type: none"> <li>• COVID-19 PCR test on-arrival, with self-isolation at self-sourced accommodation or own place of residence, until test results are released to traveler</li> </ul>	<ul style="list-style-type: none"> <li>• COVID-19 PCR test on-arrival, with self-isolation at self-sourced accommodation or own place of residence, until test results are released to traveler</li> </ul>	<ul style="list-style-type: none"> <li>• COVID-19 PCR test on-arrival, with self-isolation at self-sourced accommodation or own place of residence, until test results are released to traveler</li> </ul>

But Thailand is not in this category. Entrants to Singapore from Thailand need to do a 14 day quarantine in almost all cases not at home but in a low grade ASQ equivalent.



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<p>3. - Fiji</p> <p>- Hong Kong SAR [Launch of Singapore-Hong Kong Air Travel Bubble (ATB) deferred]</p> <p>- Sri Lanka</p> <p>- Thailand</p>	<ul style="list-style-type: none"> <li>COVID-19 PCR test on-arrival*</li> <li>14-day SHN at SHN Dedicated Facility (SDF) and COVID-19 PCR test at the end of SHN</li> </ul>	<ul style="list-style-type: none"> <li>COVID-19 PCR test within 72 hours before departure for Singapore and obtain a valid negative test result</li> <li>COVID-19 PCR test on-arrival*</li> <li>14-day SHN at SHN Dedicated Facility (SDF) and COVID-19 PCR test at the end of SHN</li> </ul>	<ul style="list-style-type: none"> <li>COVID-19 PCR test within 72 hours before departure for Singapore and obtain a valid negative test result</li> <li>COVID-19 PCR test on-arrival*</li> <li>14-day SHN at SHN Dedicated Facility (SDF) and COVID-19 PCR test at the end of SHN</li> </ul>	<ul style="list-style-type: none"> <li>COVID-19 PCR test within 72 hours before departure for Singapore and obtain a valid negative test result</li> <li>COVID-19 PCR test on-arrival*</li> <li>14-day SHN at SHN Dedicated Facility (SDF) and COVID-19 PCR test at the end of SHN</li> </ul>
<p>Travellers from these countries/regions may opt out of SDF stay and serve the entire duration of SHN at their place of residence, if the following criteria is met:</p> <ul style="list-style-type: none"> <li>The traveller has not travelled to other country/region other than the above specified list in the last consecutive 14 days prior to departure for Singapore.</li> <li>The traveller is occupying the place of residence (i.e. residential address) alone, or only with household members with the same travel history, who are also serving SHN of the same duration and period; and</li> <li>There is no one ordinarily residing at the place of residence (e.g. domestic helper) who does not share the same travel history, and the traveller has already made all necessary arrangements to ensure that any such person will not reside at the place of residence until the end of the SHN.</li> </ul>				

This means that a trip from Singapore to Thailand and return has a 29 night quarantine overhead. This only made the 15 night quarantine worse.

Resolving this issue with Singapore would be a bonus for the Thai economy. Thailand should be in category 1 (S/N 1 in the table above). It is understood that resolution is held up over a 'reciprocity' issue.

Separately to the specific case, there are useful points from that economy's 'calibrated' approach which could be applied in Thailand.

**Insurance:** The required level of insurance cover for COVID 19 of USD 100,000 lacks evidence to support the figure. Another ASEAN economy (with an equally good if not better health care system) reviewed the cost of treatment in private hospitals at SGD 30,000 and that is the mandated level of cover there now. In Thailand, how about USD 25,000 to USD 30,000?

**BOI Consultative session 16 December**

Topics covered: Guillotine / Fast Track Regulatory reform; FBA; Safe Border Opening. Major interest from DPM about work permit and visa. The follow up has resulted in some progress.

**Work Permit and Visa**

On the afternoon of the 16 December BOI – JFCCT Consultative session, we provided a short description of issues for a review meeting the next day 17<sup>th</sup>. BOI translated this overnight. Meetings chaired by DPM and arranged by STO did not yet achieve. Status of other issues will be known soon.

We are also engaged with Board of Trade on these topics.



### **How to change from Non O to Non B.**

Following the 16 December list, BOI have advised the outcome for one issue:

1. Apply for a change of visa type at the Immigration Office by showing the affidavit of the company which you will be working with and at the same time apply for an extension of the non-O if your current visa is expiring very soon.
2. They will renew your non-O (if your current visa is expiring very soon) and make a note on your passport that you will be working with ... company.
3. Once you get this done at the Immigration Office, then go and apply for a work permit.
4. Once you get a work permit, then apply for a non-B. Please make sure that you haven't started working before you get your non-B as you are supposed to have a non-B and a work permit to be legally working in Thailand.

**Other BOI issues:** multi-language interaction (who pays) – our proposal suggests a modest levy to kick this off; who needs a WP if you are BOI promoted or exploring? – our proposal seeks clarification and brings in APEC 'business visitor' principles.

### **PCR test for visa renewal?**

*This is a draft proposal; some further checking is needed*

Discussed by email and in the Digital Economy/ICT meeting 19 January at length. The legislative change is about visas for entry, and permanent residents. We focus on entry (s. 12 Immigration Act). COVID 19 is added as a disease. Currently diseases appear to be administered in a work permit context, not a visa context. The legislation is about entry, not renewal, but by practice some diseases are picked out for renewal; it is about vaccination / inoculation, not testing, although in practice for some diseases it is administered as testing.

The proposal may be about unskilled labour, but there is no distinction between skilled and unskilled.

Pre Departure PCR testing is currently mandatory for anyone entering as is the 'Day 0' Testing for the 15 night ASQ experience. Does there need to a separate PCR test for those applying for a visa for the first time?

JFCCT suggests that structured testing of all communities including by sampling will give a better public health picture. Singling out those applying for or renewing a visa does not seem to fit with such an approach.

COVID 19 is contagious (unlike some other diseases on the list) and treatable. There is no possibility of expelling someone. Thus treatment should be the remedy and not being barred for holding a visa, as there are separate means to do that.

For any test result which is positive, treatment and recovery should be the objective. Avenues should be Immigration, Board of Trade.

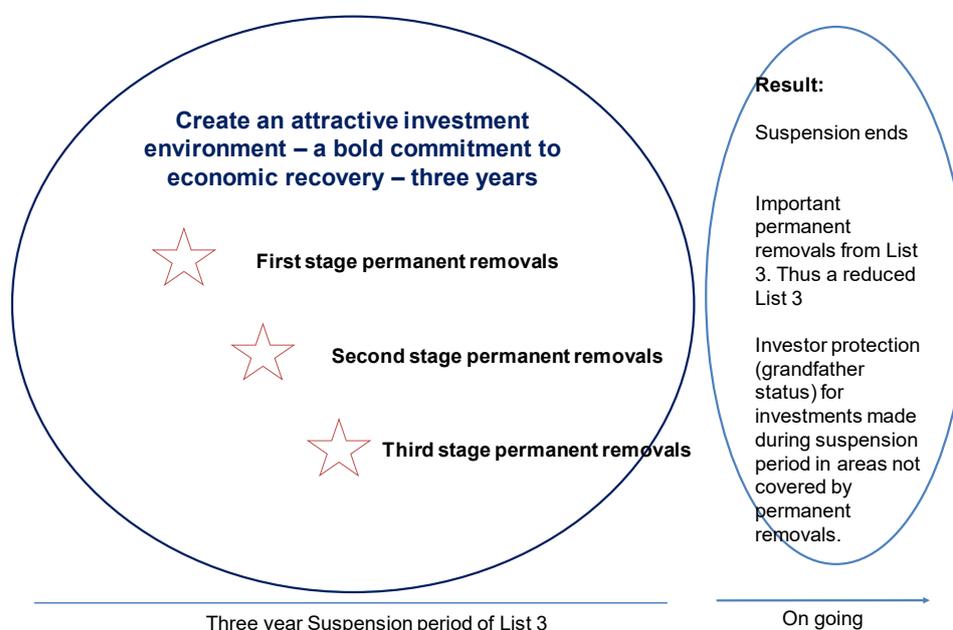


### Anti Corruption – NACC

Anecdotal evidence (eg visas) suggests corruption is on the rise. Thailand has dropped two places in CPI published by TI between 2019 and 2020. We have reached out to the International office of NACC with a suggestion for a working level informal information exchange. Not recorded and no fanfare, no actual cases to be discussed.

### FBA

JFCCT’s submission [www.jfcct.org/major-business-issues/foreign-business-act/](http://www.jfcct.org/major-business-issues/foreign-business-act/) Sent to PM, MOC & DPM, D-G DBD, MoF and others. Various short forms and summaries in EN and TH. A Presidents’ Working Group developed the submission.



### Changes to List 3 : 2013, 2016, 2017, 2019; proposed in 2020:

- **Telecommunications business** is limited to telecommunications operators that operate without their own network/doing applications (i.e., Type 1 telecommunication businesses) ;
- **Treasury centre activities** relate to the management or exchange of foreign currencies between affiliated companies or within a conglomerate, and are regulated under the Exchange Control Law; and
- **Software development business** (carried out by a juristic person incorporated in Thailand) is the development of software for data management or data analytics (including predictive analytics), for information technology and cybersecurity, or for use in controlling or enabling the operation of advanced technological equipment (in addition to business process management software), or in support of industrial manufacturing activities.

Of these, software development does not have another agency or licence.



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**Engagements:** MOC 5 November, Board of Trade 10 Nov, Jan 2021 (briefly). 22 Dec MoC (Bob Fox, Paul Scales with D-G DBD of MOC)

**Next Steps - FBA:** presidents' working group on FBA to meet briefly to identify and prioritise about five areas: Suggested for review are: Logistics, Engineering, Item 21 (possibly apart from some designated activities), Accounting, Education.

### **Fast track regulatory reform – recent chronology:**

**September:** PM Office Notification establishing Fast Track Law Reform Committee

**September:** Release by STO of GU Summary report

**October:** PM Office – Dr Bawornsak chair + 8 Main Committee members

**October:** TDRI (with JFCCT and EABC) Public Seminar – see JFCCT website [here](#).

**October:** Five point Guideline from Cabinet: "Guideline amendments to laws obstructing e-service development" where laws lack digital enablement

**November:** Order appointing 9 Sub Committees, including: Guillotine, Digitalisation, Law Reform to support economic recovery.

**December:** Cabinet Order: Reg Guillotine project a priority; implementation targets 2021, 2022

**Guillotine Sub Committee meeting 15 Dec:** WP, Non 'B' Visa, Immigration App.

**Our focus** – engagement with two sub committees – TDRI people on both. – Guillotine (JFCCT Dr Charlie, Bob Fox) – next meeting soon; Digitalisation – meeting end January.

**Benefits:** if all 1,092 or so recommendations were implemented, savings to private sector well over THB 100bn annualised. For public sector (without touching headcount issues) – THB 9bn. EoDB enhanced.

**Issues/Challenges:** sub committees are re-visiting. Pace of progress will be slow. Target to implement 85% of topics chosen (not the full list) in 2021; 100% in 2022. STO and OPDC supporting all sub committees.

**Meetings:** 12 internal meetings in 2020: #1 16 Jan, #2/20 Feb; #3/24 March (Zoom meeting); #4/21 April (Zoom meeting); #5 18 May (Zoom meeting), #6 16 June (Zoom)+ specials, #7 14 July (Zoom), #8 18 August (Zoom), #9 15 September (Zoom).; #10 20 October (Zoom), #11 17 Nov (Zoom), #12 15 Dec. #1/2021 19 January; #2 16 February. Participation is over 20; others welcome. See 'how to participate' one pager and backgrounder on Digital Economy, on website.



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**Select Recent Events (since Presidents' Council 18 Nov)**

- 19 November – ASEAN-EU regional Business Summit – Fullerton Hotel SGP- hybrid
- CEBIT ASEAN virtual 23-29 November
- 1 Dec multi European chambers webinar “Enhancing Healthcare Access and Delivery through Digital Innovation”.
- 8 Dec – TCEB discussion on ‘One Chamber, One Community’ and JFCCT Events.
- 8 Dec BEING DIGITAL Webinar series #2 “Digital Government – the key building block for Thailand 4.0 and enabler for economic recovery”
- 9 December – Fast Track Regulatory Reform update with TDRI
- 9 Dec – ‘Is it Yet Decision Time for 5G in Asia?’ TPRC/GSMA, IMDA
- 7-11 Dec Singapore Fintech Festival (24 hours)
- 15 Dec – MDES Cybersecurity subsidiary legislation public hearing.
- 15 December – WEF ‘Advancing Data Governance’- Data Flows
- 15 Dec – Fast Track Sub Committee Guillotine meeting
- 16 Dec – BOI – JFCCT Consultation – 3 topics: FBA, Fast Track Reg Reform; Safe Border Opening
- 17 Dec – EUD update – in person meeting
- 17 Dec – EFTA Business Group launch
- 17 Dec – MTCC dinner talk “Digital & Asset Tokenization for Businesses in Thailand”.
- 18 Dec D-G DIP (MOC) in person, Bob Fox, Paul Scales and others.
- 21 Dec – Cybersecurity subsidiary legislation – with Dr Metha and Dr Mai.
- 21 Dec – World Bank on finance – in person
- 21 Dec EBO network in SE Asia – RCEP roundtable
- 21 Dec – Digital Economy/ICT group social event at Arnoma
- 21 Dec – Smart Visa discussion – CNX and DEPA
- 22 Dec – MOC DBD in person meeting with D-G DBD, Mr Thosapone
- 23 Dec – BOI on software development
- 23 Dec – dialogue with Sec-Gen BOI – various
- 29 Dec – further discussion on Cybersecurity subsidiary legislation
- 5 Jan – discussion with NACC Int’l Office – proposed informal dialogue
- 6 Jan – ISEAS Regional Outlook Forum – Thailand part – Dr Kirida
- 14 Jan – Ministry of Finance – FPO Electronic signatures topic
- 18 Jan – Ministry of Finance – TRD and FPO: Telecoms SOEs, eCommerce Tax
- 18 Jan – EU–ABC dialogue with EU Ambassador to ASEAN

**Up coming Events**

- 21 Jan EBO network in SE Asia – RCEP roundtable
- 25 Jan -3pm Dr Kirida (TDRI ) January 25 [Register here](#)
- 26 Jan – Board of Trade update on pandemic management
- (TBC) MoE (OVEC) / DEEP engagement
- Early Feb - DGA third meeting



Joint Foreign  
Chambers of Commerce  
in Thailand

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- BEING DIGITAL series – Privacy Summit – Feb
- BEING DIGITAL series – Cybersecurity and On-line Confidence Summit – Feb/Mar

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

See Past Events 9, 14, 28 October, 5 Nov, 8 Dec, 16 Dec <http://www.jfcct.org/jfcct-past-events/>

**Laws portal for members** [www.jfcct.org/information-for-digital-economy-committee-members/](http://www.jfcct.org/information-for-digital-economy-committee-members/)

please use common DE/ICT password to access.

**Updated Glossary** - Glossary [here](#)- updated four times.

**How to join us:** see one pager + longer backgrounder on Committee page of website.