

## **AMCHAM WHITE PAPER – CONTRIBUTIONS TO THAILAND 4.0**

### **Background of AMCHAM Thailand**

The American Chamber of Commerce in Thailand (AMCHAM Thailand) is a business association representing 650 corporate members and 2,000 executives and professionals. AMCHAM Thailand actively advocates for U.S. businesspeople to invest in Thailand and promotes strong commercial partnership with the Royal Thai Government. AMCHAM Thailand members have invested cumulatively over 50 billion dollars in Thailand, and have provided 200,000 local jobs.

AMCHAM Thailand is a point of exchange and coordination of efforts to improve business conditions and opportunities for American, Thai, and multinational companies operating in Thailand. AMCHAM Thailand also operates the AMCHAM Thailand Foundation, through which it aims to improve the quality of education and the level of English proficiency in Thailand.

AMCHAM Thailand members are committed to doing business responsibly through compliance with laws, good corporate citizenship, respect for the individual and dignity of the worker, training and education for employees, environmentally responsible business practices, respect and promotion of intellectual property rights, and high standards of professional and business ethics.

AMCHAM Thailand believes in Thailand's potential for economic growth and prosperity. AMCHAM Thailand advocates that it is in the best interest of Thailand that the principles of open markets and free enterprise, the rule of law, regional economic integration, a high-skilled workforce, modern infrastructure, market diversification, and fighting against corruption stand at the core of Thailand's short and long-term policy initiatives.

### **The Role of AMCHAM Thailand in Supporting Thailand 4.0**

The Royal Thai Government is taking several measures to shift the country from a production based to a service-based economy and to move from producing commodities to innovative new products. Thailand 4.0 is intended to lead the country out of the middle-income trap and create equitable growth for its citizens by placing emphasis on promoting technology, creativity, and innovation.

In this vein, the Thailand 4.0 plan targets ten industries. Five are existing industrial sectors that will be advanced through value-adding technology. They are Next-Generation Automotive, Smart Electronics, High-Income and Medical Tourism, Advanced Agriculture and Biotechnology, and Food Innovation. Additionally, five new sectors will serve as growth engines to accelerate Thailand's future development: Automation and Robotics, Aerospace, Bio-Energy and Bio-Chemicals, Digital Technology, and Medical Hub and Healthcare Services.

To prepare the country for Thailand 4.0, Prime Minister Prayut Chan-o-cha has presented a five-pronged policy approach to attract investment from the private sector:

- 1) Technology: Develop technology in fields in which Thailand has large growth potential, such as the agriculture, food, energy, and medical sectors;
- 2) Human resource development: Promote "Thais 4.0" and attract talent from overseas;
- 3) Infrastructure: Develop physical, connective, intellectual, and social infrastructure;
- 4) Enterprises: Empower entrepreneurs and enterprises of all levels, promote startups, uplift SMEs, and encourage large-scale corporations to help develop local suppliers;
- 5) Targeted industries: Promote investment across all ten industrial sectors.

In this paper, AMCHAM Thailand proposes a selection of recommendations to support the Royal Thai Government's endeavors on Thailand 4.0. Our members believe that these recommendations can be attained in the short-to-medium term, and can help promote economic growth, job creation, and investment. AMCHAM Thailand stands ready to constructively engage in a dialogue and provide support to the Royal Thai Government in achieving its vision of Thailand 4.0. Aligned with the 2018 Association of Southeast Asian Nations (ASEAN) Business Outlook Survey conducted by the American Chambers of Commerce in ASEAN countries which have identified top issues that the American business in Thailand are facing<sup>1</sup>, the recommendations in this paper are categorized under regulatory reform, infrastructure reform, and administrative reform.

## 1. Regulatory Reform

### *1.1 Intellectual Property Protection*

The Thailand 4.0 vision is an opportunity for Thailand to foster homegrown talent, innovation, and domestic start-ups that will produce well-paying jobs for Thai citizens. To enable technological innovation and would-be investors from creative industries, it is important for Thailand to resolve a long-standing obstacle by strengthening the enforcement of intellectual property (IP).

AMCHAM Thailand applauds the Ministry of Commerce (MOC) and the Department of Intellectual Property (DIP) for their efforts to improve IP protection and enforcement. We congratulate Thailand for being removed from the U.S. Priority Watch List which is a recognition of progress and actions taken by the Royal Thai Government on IP protection and enforcement. We also welcome the country's efforts to reform its patent system through the 20-year IP Roadmap. A strong patent registration, approval, and enforcement system will help drive the country towards the goals of Thailand 4.0 by creating the necessary incentives and safeguards that inventors and businesses need to invest and develop new and innovative products. The MOC and the DIP's commitment to reform and openness to stakeholder consultation and public hearings are commendable. The American business community stands ready to participate in consultative forums to further support these efforts.

To ensure adequate IP protection and enforcement, we encourage Thailand to:

- Re-examine international obligations to ensure full compliance, particularly regarding WTO TBT and TRIPS Articles 15 and 20.
- Establish an effective system to license and regulate broadcasting, including the authority to revoke licenses and take other actions that can deter illegal broadcasters.
- Establish an enforcement proceeding akin to the UDRP, or enact an expansive anti-cybersquatting law with an effective enforcement mechanism against those who are blocking trademark owners without infringing upon use.
- Increase the penalties for counterfeiters to deter offenders and penalize copycat violators who clearly use elements of another's trademark to boost their own products.
- Take greater consideration in the search and seizure and preliminary injunction applications against known or suspected infringers.

### *1.2 Electronic Bank Branch Regulations*

To promote innovation in digital banking and to further support Thailand 4.0, the Royal Thai Government should consider lifting the limit on branch footprints by foreign banks.

- This includes digital branches such as ATM/Cash Deposit Machines and even tablet devices linked to a bank server.

- Alternatively, by separating digital banking activities from branches the government could create more competition and innovation in the market and improve financial access across the country.

### *1.3 Privacy Protection*

The membership of AMCHAM Thailand include numerous global leaders in technology and innovation. These members stand ready to provide consultation and feedback on topics relating to successful data privacy regulation. Our members are committed to finding privacy regulations that offer security without compromising good business practices. These include:

- **Cross-border Data:** In our global economy, many businesses have data centers across multiple locations. Thailand can attract more investment and innovation by working with businesses to allow cross-border data flows, without requiring strict geographical constraints that discourage new entrants into Thailand.
- **Data Accessibility:** Companies invested in Thailand will benefit from regulations that draw a clear distinction between data sharing within and between organizations. For example, if an organization shares customer data internally for information purposes, consent requirements should not be as stringent as if the data were for marketing purposes.
- **Data Security and Integrity:** The law should require service providers to maintain continuous compliance with global industry standards (e.g., ISO) on data privacy and security. Adoption of the APEC Privacy Framework into Thailand's Privacy Law would maximize the benefits of privacy protection and augment the level of accountability and enforcement, while ensuring privacy regulations do not overly burden business operations.

### *1.4 Promoting Thailand as a Medical Hub and Medical Tourism*

Demographic, market and technology trends are increasingly critical to the future of healthcare. Thailand is a healthcare leader in Southeast Asia and positioned to be the medical hub of Asia. According to Business Monitor International (BMI), Thailand has a significant growth in healthcare market, worth of USD 25.3 billion in 2016, up from USD 24 billion in 2015. Besides, Thailand has a strong healthcare system, with more than 99% of the population receiving free health care, but it is also a highly competitive destination for medical tourism. A high investment in healthcare is growing with forecasted opportunity and growth.

- In order to truly escape the middle-income trap and become Thailand 4.0, an innovation friendly ecosystem is needed where both local and international partnerships form the cornerstone for scientific, economic and social advances.
- Critical to becoming a medical hub and achieve Healthcare 4.0; a neutral space where novel therapies have room to grow and innovators room to compete is critical. From Thailand's position of strength in health service provision; indigenous innovation is the next logical step which will only arrive through investment, collaboration and fair competition to find the most optimal improvement to existing practices. Thailand Healthcare 4.0 will be achieved with stronger support if Thailand is promoted as a leading international medical tourism destination. Thailand should develop its reputation as a leader in healthcare by making a greater effort to deliver treatment for complex medical conditions. This will help bring in more patients and tourists which will benefit the country, both in reputation and for the people of the Kingdom.

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<sup>1</sup> The top three issues faced in Thailand were: (1) unnecessary and redundant data, regulatory and enforcement measures, (2) lack of clarity on regulations and enforcement, and (3) lack of regional integration and uniformity or regulatory cooperation.

- AMCHAM Thailand highly supports broadening principles of regulatory modernization with transparency, sustainability and clear policy environment. More importantly, Thai people can have continued access to advanced treatment medicines science can provide.

#### *1.5 Regulatory Frameworks for the Use of Biomedicine.*

- To realize the Healthcare 4.0 vision, Thailand is encouraged to enhance the regulatory ecosystem and enabling market environment that support innovation. It is important to accelerate the development of regulatory framework for biomedicine- one of the key tools in the future of medicine and treatments. This would apply to cancer treatments and the use of stem cells to recover degenerative disease. Other Asian countries, such as Malaysia and Japan, have streamlined the regulatory framework process to ensure patient safety while fast tracking options for effective treatment.
- This in turn has led advanced technology companies to move to provide solutions in the region. If implemented in Thailand, it will be a boon to both Thai citizens and medical providers.

#### *1.6 Product Registration in the Food & Agriculture Sector*

- The Food and Drug Administration (FDA) and the Ministry of Agriculture and Cooperatives (MOAC) can play a key role to enhance market environment and improve trade flow to support the development and commercialization of innovative, high-value products by updating and streamlining registration requirements for a variety of goods, particularly health and food product.
- The FDA and the MOAC are encouraged to consider synchronizing their requirements and databases with other ASEAN and global government agencies for registration, licensing, labeling, and marketing controls to make procedures more efficient and transparent.

#### *1.7 Science-based Regulatory Measures*

AMCHAM Thailand sees an opportunity for Thailand 4.0 vision to benefit from a regulatory system based on sound science and data that creates trade opportunities while protecting public health and the environment. We recognize continued efforts of the Royal Thai Government to promote food safety. Our members stand ready to offer consultation on providing a framework for resolving existing regulatory issues to ensure predictability and transparency in agri-food trade in the hope of increasing bilateral trade flows. Two issues that AMCHAM Thailand would like to request the Royal Thai Government to expedite the decision are related to pork and chicken products as follows:

- **Pork:** Thailand is conducting a risk assessment of ractopamine to establish maximum residue levels for pork. At this time, there are indications that ractopamine is being used throughout the Thai pork industry as Thai butchers recognize that ractopamine produces higher yields. However, the importation of U.S. pork products has been put on hold until this assessment has been completed.
- **Chicken:** Thailand has yet to lift a ban on poultry imports from the United States due to the detection of highly pathogenic avian influenza (HPAI) in Washington and Oregon. The scope of the import ban affects fresh and frozen poultry, day old chicks, and hatching eggs but this is inconsistent with OIE guidelines, which recommend that countries take regional approaches to imposing trade restrictions. The U.S. Department of Agriculture has requested that DLD consider applying regionalization so that exports from states free from HPAI can continue.

### *1.8 Embracing Digital Technologies*

Thailand is on the cusp of a Fourth Industrial Revolution where vast technological changes bring on by the digitalization of economic and social life and its disruptive impact on conventional business practices and social norms. AMCHAM Thailand would like to urge the Royal Thai Government to put in place a regulatory framework that encourages technology, innovation and competition, facilitates regular dialogue within the industry, while ensuring those who are negatively affected by innovation are able to keep up with the changes.

- AMCHAM Thailand encourages the Royal Thai Government to develop an adaptive regulatory framework that not only evolves in tandem with the technologies but also provides sufficient room for the emerging technologies to grow. The policy framework conducive to such growth should be aimed at maximizing the societal benefits of new technologies. Embracing the economic and social patterns that emerge from the early adoption of the sharing economy in Thailand can be a good starting point.
- Many of the disruptive technologies empower individuals by promoting the concept of collaborative consumption and the sharing economy. The concept enables businesses and consumers to unlock the value of their unused assets and lend it to the world. With generosity being one of the core values of the Thai culture, there is room for the concept to thrive in Thailand and support the growth of the economic activities in the country.
- The Royal Thai Government is at its best position to help the Thai economy navigate through changes by taking a leading role in facilitating the dialogues within each sector. Since the more understanding of the different needs and concerns of relevant stakeholders, the better the government can address digital challenges and paving the way for Thailand 4.0.

## **2. Infrastructure Reform**

### *2.1 The EEC Infrastructure Projects*

For over thirty years, Thailand's Eastern Seaboard has been recognized as a prime manufacturing location for major industrial manufacturers. AMCHAM Thailand welcomes the Royal Thai Government's initiatives on the Eastern Economic Corridor (EEC) which aims to continue and strengthen this Thailand's gateway with ten target industries to spearhead Thailand 4.0 strategy.

For EEC to become the industrial hub of the future and the regional office location for the world's top companies, AMCHAM Thailand supports the plan to expand and further develop the transport infrastructure and logistics systems to allow comprehensive logistic connection to other ASEAN countries and beyond. Investment in transportation infrastructure is a key enabler for sustainable development, economic growth, competitiveness and long-term job creation. To promote inclusive growth, competitiveness and the general well-being of Thai citizens, the Royal Thai Government is encouraged to create conducive regulatory environment and a robust level playing field for business to attract investment in transportation infrastructure to realize EEC vision.

Based on the publicly made available Eastern Economic Corridor (EEC) Infrastructure Plans, an estimated 1.5 trillion baht (about USD 43 billion) from combined public and private investment will be required for the first 5 years (2017 to 2022) for six priority projects, i.e. U-Tapao International Airport, Map Ta Phut Sea-Port, Laem Chabang Sea-Port, High-speed rails connecting three airports, Dual-track railway, and Motorway. AMCHAM Thailand sees a great opportunity to leverage private investment as additional sources of funding to those infrastructure projects when supported by fair and predictable policies to maximize the certainty and timeliness

of financial returns. A robust Public-Private Partnership (PPP) mechanism and legal framework would enable successful development of these infrastructure projects. The Royal Thai Government is encouraged to consider the following recommendations:

- Expedite the government decision making on key investments: The Royal Thai Government's expeditious investment decision will attract investors to invest faster in the 10 target industries in the EEC areas.
- Provide for effective regulatory and legal system: Effective regulatory and legal system that transparently and fairly protect the legitimate interests of both the government and private investors will allow for successful PPP in infrastructure investment projects. By following prudent project financing norm and adhering to internationally recognized standard agreement would help minimize project preparation time and demonstrate the Royal Thai Government's strong commitment to transparency and investor protection.
- Develop a robust mechanism for information disclosure to the public and constructive dialogue with business and local communities in the planning process: This is to avoid potential conflict with the community on land use and environmental impact.

### *2.2 Promoting Electronic Transactions, Storage, and Verification*

To facilitate Thailand 4.0 and achieve its goals for e-government, the Royal Thai Government should implement regulations using paperless processes for transactions in the public and private sector across all industries. For instance, the banking sector could benefit from e-authentication, e-signature, and e-documents which improve efficiency, reduce costs, and enhance financial inclusion. The government should establish a central database of e-authentication for all stakeholders and set standard practices for e-signatures. Key state agencies must agree on e-authentication and e-signatures to ensure that they are widely accepted for commercial use.

AMCHAM Thailand and its members stand ready to contribute to discussions and initiatives to improve Thailand's digital infrastructure, considering:

- Digital Signatures: Digital signatures and electronic authentications would vastly increase efficiency across all industries and facilitate trade and transactions between companies.
- E-documents, e-advice, and e-statements: Electronic documents can help regulators and companies lower or eliminate processing and storage costs, allowing companies to develop their business, grow the economy, and innovate, e.g., by developing online and mobile applications.
- E-payments, or a check-less environment: Using electronic payments instead of checks will help increase engagement in all types of business transactions. Ideally, anyone in Thailand should be able to make payments seamlessly whether online, on a mobile device, or at an ATM.

### *2.3 Mobile Infrastructure*

- Upgrading Thailand's mobile infrastructure to 4G is an important step to fulfilling the Thailand 4.0 vision. The American business community welcomes the opportunity to contribute to the greater productivity and innovation that 3G and 4G networks will bring to the ICT.
- The business community asks for greater transparency and updates on the timeline to decommission the 2G network, so that it can make the necessary investments and anticipate costs. Thailand's 2G network is still used by businesses with basic data network requirements. In many cases, this essential equipment is not compatible with newer technology, so once the 2G network is decommissioned, it will stop working.

#### *2.4 Energy Security and Competitive Energy landscape*

Access to reliable, affordable, sustainable and modern energy described as energy security is essential for a country with energy deficit like Thailand. A secure, competitive energy infrastructure would enable Thailand to maintain economic success and robust growth. While technology is a key enabler to materialize Thailand's energy 4.0 vision, it is important for Thailand - as a net energy importer - to pursue all sources of energy to address a growing gap between the country's energy demands and its domestic energy supply. Besides, Thailand's domestic energy industry creates significant value for the Kingdom generating flow on impacts for the local Thai economy that imported energy does not, including stimulating economic growth, supporting Thai jobs, supporting other Thai industries and business clusters, and providing long term national energy security for the country. AMCHAM Thailand and its members look forward to providing continued support to Thailand's energy future.

- We encourage the Royal Thai Government to ensure a clear pathway forward to resolving existing domestic energy issues, and to sustainably diversify energy sources. This should help create secure and competitive energy landscape to support Thailand 4.0 industries, as well as the Thai economy more broadly, in the long run.
- We seek the long-term stability to support investment in the energy sector and level playing field that come with market pricing principles.

### **3. Administrative Reform**

#### *3.1 Treatment of Research & Development (R&D) for Investment Privileges*

Using R&D originating outside of Thailand for the development and improvement of products in Thailand is not considered under BOI regulations. This impedes the progress of companies seeking to expand production and manufacturing facilities in Thailand. There should be an even playing field across the same products under treaty protections, for similar products using the same ingredients and materials, and for the treatment of R&D for investment privileges.

#### *3.2 Bank Pricing Scheme for PromptPay Transactions*

PromptPay has been introduced to create a new e-payment infrastructure for the Digital Thailand Initiative, and international banks operating in Thailand have given their full support. AMCHAM commends the speed, transparency, and efficiency that PromptPay promotes. However, in order for international banks to help develop the platform and better assist Thai consumers, AMCHAM Thailand suggests an e-payment pricing scheme that supports a level playing field between local and foreign banks.

- The Entrance Fee or Monthly Fee for utilizing the PromptPay Platform invested by National ITMX (Sole Operator of PromptPay) is commercially acceptable but should be reasonable as well as applied fairly and transparently across industries. Current transaction fees are different for foreign vs. local banks.

#### *3.3 Adoption of global standards to enhance the adoption of electronic payments*

According to February 2016 Moody's Report titled, "The Impact of Electronic Payments on Economic Growth," increasing use of electronic payments—which include credit, debit and prepaid cards in this report—boosts consumption and GDP. Moreover, the impact increases as penetration rises. For Thailand, card usage added USD 3.18 billion cumulatively to real GDP from 2011 to 2015. This amounts to an average of 0.19% of total GDP per year over this period.

AMCHAM Thailand welcomes the Royal Thai government's National E-Payment agenda to increase usage of electronic payments. In that context, AMCHAM Thailand encourages the Royal Thai government to continue to support the adoption of global payment and industry standards in Thailand, such as those of EMVCo and Payment Card Industry (PCI), in order to support interoperability and acceptance of secure payment transactions. For example, the Bank of Thailand's move in August 2017 to support a standardized QR code based on the EMVCo QR code specifications is a positive move to support the foundation of QR code payment methods in Thailand and provide a consistent experience for merchants and consumers.

### *3.4 International Internet Gateway*

- It is the view of AMCHAM's members that a single international internet gateway (IIG) would be detrimental to Thailand's digital infrastructure. Reorganizing the industry to one IIG would create additional risks and costs without bringing any additional security benefits.
- Competition in IIG services should be encouraged, as it leads to reduced consumer costs, more international bandwidth, and improved quality of service to service providers and consumers.
- IIG liberalization can deliver major tangible benefits to Thailand by lowering the cost of business, ensuring diversity of supply and international competitiveness, attracting more investment, and increasing connectivity in the global economy.

### *3.5 Human Resources Development*

Cheaper and better technology is creating a more connected world and is generating a fierce debate about its economic and societal impacts. Companies and employees alike are required to adapt to stay relevant in the technology-driven and digitally-transformed world.

AMCHAM Thailand and many of AMCHAM member companies have and will continue to develop programs and work in partnerships with key ministries, schools, and universities to support Thailand's education and skill development aligned with Thailand 4.0 vision. AMCHAM Thailand members in the energy and petrochemical sector, for instance, have been helping Thailand strengthen its competitiveness by improving the study of STEM (science, technology, engineering, and mathematics) nationwide.

While technology and digital transformation have created investment and employment opportunities, some industries - such as the digital sector - are facing unique challenge on the near-term ability to find skilled employees with requisite English fluency. As education and upskilling take time, Thailand is encouraged to relax outdated and restrictive visa and work permit rules and regulations to allow foreign digital economy professionals to relocate here to resolve immediate challenge on skill shortage. Doing so will make Thailand a magnet for international investors and help move Thailand further towards a truly digital economy:

- Revisit work permit requirements, such as minimum capital and staff ratio metrics, and adopt BOI's "One Stop Shop" services for all applicants.
- Encourage cooperative education programs between educational institutions and enterprises focusing on building the supply of skilled workers both in quality and quantity.

### *3.6 Government Procurement*

- Government procurement can also benefit from the digital economy. Digital technologies can bring greater efficiency and transparency, leading to greater competition among suppliers, and

- A virtual paper trail increases accountability. These practices encourage more multinationals to invest in Thailand, bringing world-class technology, solutions, and know-how to the country.
- The Royal Thai Government should consider adopting a project evaluation strategy based on a two-stage bidding scheme with a technical and performance evaluation at the first stage and a price evaluation at the second stage or a price-to-performance value measurement where outputs, deliverables, and efficiency are measured against project cost and expenses. Capped liabilities or agreed compensation should replace unlimited liability for damages caused by failed project implementation/delivery.

### *3.7 Affordable Mobile Broadband to drive the Digital Economy*

- The Royal Thai Government and the mobile industry have a shared interest in connecting everyone and everything to a better future. This will require continued investment and innovation from the private sector and a new approach to regulation of the digital ecosystem. Without investment in high-quality connectivity and innovative network and services, benefits of the digital revolution may not be realized.
- A clear roadmap will help network and terminal suppliers as well as mobile operators prepare technology deployment to cope with huge mobile data growth. Providing more spectrum to mobile operators and making better use of it would bring down service fees for consumers.

### *3.8 Strengthening the Healthcare Sector*

Thailand can gain efficiencies and competitive advantages in healthcare by welcoming investment partners. To attract such investment, a vibrant and open environment is vital. To support the healthcare sector, we therefore encourage Thailand to:

- Eliminate discriminatory and non-transparent practices in respect of Maximum Procurement Price (MPP) and the Thai Innovative List.
- Involve the industry when formulating policy at an early stage. AMCHAM Thailand member companies stand ready as equal partners to support Thailand in its endeavor and are willing to share international best practices and research to support Thai national health reform.

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