

THE

CORPORATE  
IMMIGRATION  
REVIEW

SEVENTH EDITION

Editor  
Chris Magrath

THE LAWREVIEWS

# THE CORPORATE IMMIGRATION REVIEW

The Corporate Immigration Review

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This article was first published in The Corporate Immigration Review, - Edition 7  
(published in June 2017 – editor Chris Magrath)

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Published in the United Kingdom  
by Law Business Research Ltd, London  
87 Lancaster Road, London, W11 1QQ, UK  
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[www.TheLawReviews.co.uk](http://www.TheLawReviews.co.uk)

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Enquiries concerning editorial content should be directed  
to the Publisher – [gideon.roberton@lbresearch.com](mailto:gideon.roberton@lbresearch.com)

ISBN 978-1-910813-61-4

Printed in Great Britain by  
Encompass Print Solutions, Derbyshire  
Tel: 0844 2480 112

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# ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following law firms for their learned assistance throughout the preparation of this book:

ADVOCAAT LAW PRACTICE

ARIAS, FÁBREGA & FÁBREGA

BAYAT LEGAL SERVICES

CHOW KING & ASSOCIATES

ELVINGER HOSS PRUSSEN

ENRIQUE ARELLANO RINCÓN ABOGADOS SC

FASTMIGRATION

FISCHER & SCHICKENDANTZ

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RODRIGO, ELÍAS & MEDRANO ABOGADOS

VEIRANO ADVOGADOS

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# PREFACE

Who would have thought it? Twelve months ago we considered a most unlikely scenario whereby the UK votes to leave the European Union and Donald Trump is elected President of the United States. This presented fascinating material for journalists to debate and for lawyers to analyse as a theoretical outcome – but hardly likely to trouble the status quo in reality. This ‘double whammy’ started the year as a fanciful possibility and yet became, over time, a harsh reality. 2016 was certainly eventful. Momentous may be a better word.

For UK immigration practitioners, the Brexit vote has been both a gift and a curse. Endless hours have been spent discussing the Article 50 process, the content of the negotiations that follow and the potential outcome for Britain’s new place in the world. Will we opt for a Norway-type solution – ‘EU light’ with access to the single market and the retention of free movement? Or is a hard Brexit the only way of bringing back control and assuaging popular concerns around excessive immigration? The Prime Minister has made it clear, both in her Lancaster House speech and subsequent Brexit White Paper that cake cannot be both had and eaten – immigration control in respect of EU migrants has been mandated by the people and we will not therefore seek to remain in the single market. Forty years of hard work by successive British Prime Ministers, both Labour and Conservative, has been dismissed in a single letter to the President of the European Council.

If change and uncertainty is good for lawyers, then Brexit is all of our Christmases at once. We have written copious articles, addressed endless conferences, published briefings, updates, articles and alerts, advised our clients on their Brexit action plans and tried to mollify disgruntled EU workers with talk of residence documentation, retained rights and certification of permanent residence. And yet one truth remains: nothing has in fact changed (yet) and nobody knows what the final outcomes will be in terms of immigration control, least of all the government.

Theresa May has been clear that the rights of EU migrants to remain in the UK, and British migrants on the continent, must be a priority in the discussions. She had hoped to deal with this issue even before Article 50 was invoked but was rebuked by her EU counterparts. Now that the Article 50 process has started, the issue will be at the top of her agenda. For EU leaders, however, the primary topic will be financial – how much does the UK have to pay for this divorce? A figure of about £50 billion has been posited as the starting point.

There is no doubt that a sensible, calm, ordered solution will have to be found to the position of those EU migrants who may not have been exercising treaty rights for a full five years once the UK eventually leaves (we can call it B-day). To require large numbers of EU migrants, quietly exercising their rights to work, study or be self-sufficient, to suddenly leave the UK would be both politically toxic and administratively impossible. Furthermore, EU migrants are a fundamental part of the UK’s working economy across a wide range of sectors

and regions – the hospitality and catering sector in London is just one example of supreme reliance on young EU workers.

It is likely that an agreement will be reached enabling EU workers to settle in the UK on condition that they were in the country exercising a treaty right prior to the Brexit date. Indeed it is entirely possible that a further transitional period will apply enabling some form of EU free movement even beyond the date of departure. Businesses across the country rely on EU migrant workers in a range of sectors and a hard landing with an immediate cut off of workers from Europe may not be a workable outcome.

Over the course of the next two years the government must design and implement a completely new immigration regime. This will include new schemes not just for EU workers, the self-sufficient, self-employed and students but is likely to include a substantial review of the existing routes of entry for non-EU (third-country) nationals. Mrs May is already on record as saying that a points-based system, such as the Australian model, will not suffice. This position appears strange given that she has advocated such a system as Home Secretary and Prime Minister since 2010. So what can we expect?

The government is presented with a major challenge: how to reduce net migration to meet the target they have missed by far, while at the same time providing UK businesses with the high and low-skilled workers that are required to fuel the economy? Immigration control necessitates the adjudication of all individual applicants for entry to the country against a set of clear criteria. The design of a new system is a huge undertaking. By the time this new edition of *The Corporate Immigration Review* is published, the government will have launched a consultation, perhaps through the Migration Advisory Committee, on the scope and parameters of new schemes. Initial discussions have focused on the possibility of regional and sectoral schemes. London, for example, will have very different requirements to the south west of England. Hospitality and care sectors have specific requirements. Seasonal programmes, for example in agriculture, may apply. A work permit scheme is likely to follow. Given the enormity of the task of administering a new scheme will the Home Office have the resources, following a period of austerity and public sector cuts, to roll out the new arrangements in 2019?

In the UK one thing is certain: lawyers will have much to discuss and speculate about over the months and years to come.

President Donald Trump. Where do we start? It is often said of politicians that they campaign in poetry and govern in prose. President Trump's campaign rhetoric was anything but poetic. However, his somewhat inarticulate and blunt style certainly struck a chord with voters. Like the UK Brexit vote, a link between immigration and national decline, whether on economic or security grounds, was identified and hammered home. It was suggested that the incumbent administration had lost control of the borders and that a hard nationalist, protectionist approach was the only solution to the country's ills. A suggested link between weak border security, particularly in respect of majority-Muslim countries, and terrorism was the major focus. The fact that scores of innocent Americans had been killed over the preceding eight years as a consequence of the lack of domestic gun control was not mentioned. A wall was to be built on the southern border with Mexico in order to combat illegal entry.

In government, President Trump has found that there is a limit to presidential power and authority. On two occasions his executive orders regarding the ability of individuals from specific Muslim countries to enter the US have been successfully challenged in the courts. At the time of writing, there have been no significant changes to the US immigration framework, although the new President clearly has change in his sights. He will have learned in a sharp

way, however, particularly through his failure to revoke and replace Obamacare, that change often requires compromise and consent. Even with a Republican-controlled Congress he will need to develop pacts and alliances, carefully spending his political capital, if he is to secure fundamental change. Work on the southern border wall is still due to commence.

The outcome of the French presidential election has also created new hurdles for the UK and its Brexit negotiations. President Macron is a committed Europhile and judging by the comments he has already made, he is unsympathetic to Brexit and equally unsympathetic to the UK's apparent negotiating position. Once the issue of British citizens living in EEA countries and EEA nationals living in the UK has been resolved, a 'hard' Brexit deal is more likely than not.

Immigration policy has created major political hurdles for Angela Merkel in Germany. Until recently, Mrs Merkel was considered the unassailable *de facto* president of Europe pushing at the open door of a fourth term as Chancellor. However, her decision to admit one million Syrian refugees into the country and the subsequent difficulties for social cohesion has made her politically vulnerable for the first time. Her language has shifted in respect of immigration and border control and at the time of writing we are several months ahead of the election – the result will be one to watch.

Of course, for immigration practitioners, wherever in the world we practise, much of our focus day to day is on more prosaic matters than sweeping political change. We navigate constantly changing regulations and procedures, we deal with central authorities and anxious clients and we try to innovate and develop new lines of business. Immigration lawyers also collaborate with each other, share information and cross refer clients, perhaps more than in many other legal disciplines. The purpose of *The Corporate Immigration Review* is to share information across borders, identify global trends and provide practical insights into the immigration regimes of many significant jurisdictions. We hope that it is a valuable resource material for practitioners around the globe. We are very grateful again this year to all of our esteemed writers for their hard work and contributions.

**Ben Sheldrick**

Magrath LLP

London

April 2017

# THAILAND

*Jean-François Harvey and Bastien Trelcat*<sup>1</sup>

## 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 (Myanmar, Laos, Cambodia and Malaysia), 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, 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 the first piece of Thailand Royal Immigration legislation in 1927 in order to limit the consequences 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 is obtained prior to engaging into those restricted businesses. Obtaining such foreign business licence can turn out to be a time-consuming process, though it comes with more flexibility and incentives when it comes to hiring a foreign labour force.

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<sup>1</sup> Jean-François Harvey and Bastien Trelcat are partners at Harvey Law Group (HLG).

Alien Working Act, BE 2551 (2008) was also enacted in order to set out the rights and limitations towards companies willing to hire foreign staff. The Regulation of Criteria of Work Permit Issuance of Alien Worker BE 2552 (2009) has been 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 opportunity for foreigner who wish to work in Thailand is to utilise the ASEAN Economic Community Treaty (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 local consulates overseas. Foreign nationals wishing to enter Thailand for employment purposes, must first obtain a non-immigrant visa Category B (B visa) at local consulates overseas or 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 also report themselves (whether in person or online) including their current address in Thailand every 90 days unless they exit Thailand.

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 an agency of the government of Thailand. Its 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 Division).

## **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 Immigration Act BE 2522 (1957), such ratio is not applicable for:

- a* a company granted board of investment (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 such ratio may be relaxed depending on the type of business conducted in Thailand.

Furthermore, under the Immigration Police Order No. 777/2551 dated 25 November BE 2551 (2008), there is no restriction of foreign working quota for foreign workers and volunteers, who work for any non-governmental organisation (NGO) in Thailand. Hence, any NGO is eligible 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.

Being the seventh largest economy in the world, AEC market now constitutes the 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 any ASEAN states.

Freedom of movement for AEC workers under the AEC Treaty is assisted by mutual recognition agreements. The MRAs intend 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 come into force for AEC members since 2016, migration and employment of such skilled professionals in Thailand is still subject to meeting working visa and work permit regulations imposed by domestic regulations that have not been changed yet. However, the government of Thailand is actively working toward making free movement of skilled workers easier.

Mobility wise, it is also very important to notice that AEC nationals are now able to travel visa free (only a few exceptions still apply) for short periods to all AEC country members in order to facilitate business meetings and tourism.

## III THE YEAR IN REVIEW

Thailand's economic growth slowed during 2016, particularly in domestic consumption, owing to the uncertain political situation in Thailand. The military government has cemented its power via the Constitution approved in a referendum held in 2016 and it seems that a general election will not be held prior to 2018.

Additionally, the death of King Bhumibol Adulyadej, the world's longest-reigning monarch, has added another factor of uncertainty for Thai society and the economic environment, and has significantly impacted every aspect of business in Thailand.

Despite the slower growth seen in 2016 the economy in Thailand was strongly supported by public investment in the first and second quarters of the year, however, both external and domestic demand continues to be negatively affected due to the death of the King.

Nevertheless, the Thai government has recently taken significant steps to regularise Thailand's migration law and has tried to boost Thailand's economy by waiving the visa fees and tourist visa exemption for 30 days of the period of stay in order to attract foreign tourists. Despite slow economic growth in Thailand, international migration, mostly into Thailand, is driven by the large disparities between the country and some of its neighbours in levels of economic and social development, and in political climate.

Since Thailand's labour market is thriving within some occupations, this has created a demand for labour, consequently, a migration has been increasing steadily in Thailand, particularly in Thailand's labour market.

Currently, there are over 100,000 professional workers who are registered with the Immigration Bureau and hold a work permit. Having said that, these are mainly private-sector employees recruited by companies operating in Thailand. In the near future, Thailand would benefit from developing and implementing a strategy that would give foreigners a higher level of comparative advantage by targeting more technical occupations.

#### **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 in order to obtain the B visa.

A company in Thailand is entitled to hire a foreign worker at a ratio of 3 million Thai baht in capital per one foreign worker, and such one foreign worker per four Thai nationals hired on a full-time basis, however, not exceeding 10 foreign workers unless the company has obtained a foreign business licence (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 one foreign worker and such one foreign worker per four Thai nationals hired on a full-time basis, however, not exceeding 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 to be legally employed are met. Foreign employees of companies meeting criteria in terms of seize can be granted with a work permit valid for two years.

Additionally, when a foreign national is granted a one-year B visa, the holder of such visa needs 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 done if the foreigner leaves Thailand before such 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 the expiration of the visa's validity 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***

Business visitors who wish to conduct business for short-term, necessary and urgent work are not required to obtain a work permit but may file a notification letter to the Ministry of Labour, under the Working of Aliens Act BE 2551 (2008). The definition of such permitted short-term business activities is defined by the Department of Employment as urgent works taking place without notice such as conferences, petroleum technical work, machine repairs or installation work, or other areas 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 the 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 BE 2541 (1998) 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 3518 (1975) outlines rules on how employees and their employers should negotiate their labour disputes in order 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 the low-cost public medical service, compensation for death, injury or sickness, maternity, pensions and child welfare.

The employers must register the social security benefits for employees within 30 days from 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 summons requiring any person to give explanations on any facts and furnish documents or evidence necessary for factual examination and immigration police performs random inspections at workplaces at their discretion, regarding both domestic labour 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 foreign business licence (FBL) and 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 work life is the 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 on 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 such rates are different based on nationality. Transportation costs and benefits shall also be paid to employees in the event that the employee works outside the workplace.

Working contracts are divided into two categories, hire of services and hire of work. In the event that 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 obligated 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, *supra*, 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 prior to conducting such urgent business. A period of stay in Thailand for conducting necessary and urgent work cannot exceed 15 days.

Directors of companies incorporated in Thailand are required to hold a B visa and work permit in order to hold board meetings and to sign any document or act on behalf of the company (including being a signatory on the bank accounts of the company).

### **ii Investors and entrepreneurs**

Thailand does not grant any visa related to investments made into the country, other than under the BOI scheme (investment is only taken into consideration when application for permanent residency is lodged).

### **iii Skilled migrants**

The Immigration Bureau Order No. 327/255 defines the '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.

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

Furthermore, according to the Regulation of Criteria of Work Permit Issuance of Alien Worker BE 2552 (2009), foreign self-employed workers may obtain a work permit without hiring a full-time Thai national. He or she must prove that his or her business is necessary and appropriate to the benefit of Thailand. However, this regulation has never been enforced.

#### **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**

Since the death of the king, in the past year the military government has been trying to boost domestic business and investment by introducing new measures and legislation. A new draft of the Company Incorporation Act regarding company incorporation with one shareholder, aims to facilitate and encourage start-up entrepreneurs.

In addition, the Ministry of Commerce is planning to develop business partnerships between Thai entrepreneurs and foreign investors, especially for the exportation of Thai products. The plan will start with China, India and Russia, and then the other ASEAN countries.

Based on a Cabinet Resolution made in 2017, Prime Minister General Prayut Chan-o-cha, with his government, aims to promote investment opportunities in Thailand by promoting the concept of 'Thailand 4.0', a new economic model driven by a value-based economy aimed at developing Thailand as a high-income country.

The government further aims to enhance Thailand's competitiveness in targeted industries, introducing new mechanisms to attract investment in high-tech sectors by promoting a new economic investment zones and waiving corporate income taxes for the BOI-eligible companies for up to 15 years.

Additionally, the government is expected to promote significant investment in Thailand as an investment hub of ASEAN upon the emergence of new economic investment zones.

According to the Thailand 4.0 model, 10 target industries are identified as 'new engines of growth' to transform the country into a regional innovation hub through the use of creativity, advanced technology, research and development, and human resource development.

Furthermore, with regards to the mutual recognition agreements under the AEC Treaty, seven skilled occupations will be promoted in order to enable skilled workers who hold certain professional licences as required by the Thai Ministry of Labour, to be eligible to obtain a work permit and legally work in Thailand.

As such, the work permit procedure for AEC professional workers will be processed more easily and quickly compared with a general work permit. In such cases the approval of a work permit will be reduced from seven days to one day upon the completion of application.

Those policies are expected to increase the flow of foreign workers in AEC members country, and it is expected that a further special reserved occupation 'tourism business', under the recent MRAs will also benefit from a simplified work permit process.

In the near future, the requirements for applying for the visa and work permit are expected to be more flexible in order to facilitate bringing foreign investors and skilled workers to Thailand.

## ABOUT THE AUTHORS

### **JEAN-FRANÇOIS HARVEY**

*Harvey Law Group (HLG)*

Jean-François Harvey founded Harvey Law Group (HLG) in Montreal, Quebec in 1992. He completed a bachelor of laws degree from the University of Ottawa and was appointed to the Quebec Bar in 1992, and is a member in good standing of both the Quebec and Canadian Bar Associations.

Jean-François is recognised internationally as an expert in immigration law, and he brings a wealth of experience in providing comprehensive immigration law services to corporations and high net worth individuals.

He also brings extensive experience in commercial legal matters, and in particular has advised on many high-value due diligence and merger and acquisition activities for a broad range of international and multinational industries.

### **BASTIEN TRELCAT**

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Bastien Trelcat obtained his master in business law and corporate taxation from the Law School of Aix-en-Provence University, France in 2002. During his studies, he was ranked among the 10 best business law students by Freshfields Bruckhaus Deringer in 2001 and won the first edition of the Landwell Award (PwC) in 2002. The following year, in 2003, he received his LLM in international business law from the City University of Hong Kong. In 2004, Mr Trelcat became a member of the Paris Bar.

In 2004, Bastien Trelcat relocated to Shanghai where he advised several leading companies throughout China and Europe in their M&A transactions, including structuring and negotiation of joint ventures.

Mr Trelcat is a partner of HLG and acts as the managing partner of HLG Thailand. He also plays an important role in the development of the South East Asia market.

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