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Arbitration in Thailand

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Thailand's Brand Image

Brand Studies and Research Center,
University of the Thai Chamber of Commerce

Doing Business in Creative Economy with the Growing Impact of AEC: ASEAN Economic Community

Waralak V. Siricharoen, Nattanun Siricharoen

Organizational Preparation for the Asean Economic Community

Associate Professor Thongtippha Viriyapan



THAI SKILLED LABOR AND THE AEC

An Analysis of

"Competitive Potential of Skilled Labor in the Service Sector
Free Opening under the ASEAN Economic Community (AEC)"

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“Seven Thai Professionals ... How They Will Compete When We Enter the AEC?”

In a relatively short time, Thailand will have a free flow labor with the other ASEAN member countries. The ten nations of ASEAN have prepared the Mutual Recognition Arrangements (MRA), which specify the basic qualifications for seven groups of professionals to work freely in each other's countries. These groups are Engineering Services, Architectural Services, Surveying Qualifications, Medical Practitioners, Dental Practitioners, Nursing Services and Accountancy Services. With the Free Flow of Skilled Labor, Thailand will receive both advantages and disadvantages, and we face the challenge of developing the personnel and business competitiveness of Thais in these professions.

This edition presents a special report entitled “**Thai Skilled Labor and the AEC**”, which is an analysis of the “**Competitive Potential of Skilled Labor in the Service Sector Free Opening under ASEAN Economic Community (AEC)**”, conducted by the Center for International Trade Studies, of the University of the Thai Chamber of Commerce (UTCC). It provides readers with the results of the Center's research so they may understand how Thai professionals compare with those in other ASEAN countries. These are followed by recommendations on how to prepare for the forthcoming changes. Mr. Sorawit Limparangsri, Judge of the Office of the President of the Supreme Court, Thailand presents a study on “**Arbitration in Thailand**”, which describes the background and current implementation. It is followed by the research results conducted by the Brand Studies and Research Center, UTCC, titled “**Thailand's Brand Image**”. Waralak V. Sirichareon and Nattanun Sirichareon jointly present their study, “**Doing Business in Creative Economy with the Growing Impact of the ASEAN Economic Community**”. The final article is “**Organizational Preparation for the ASEAN Economic Community**”, written by Associate Professor Thongtippha Viriyapan, full-time lecturer in the School of Business Administration, at UTCC.

Once the ASEAN Economic Community becomes a reality, it will become essential for those concerned to understand what it means to them, especially members of the seven effected professions. **Thailand Economic & Business Review** will continue to present the economic and business guidelines, thoughts, analyses, and economic and business needs in order to help Thai organizations move successfully into the competitive fields of ASEAN.

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———— *Special Report* ————

THAI SKILLED LABOR AND THE AEC

Driving towards ASEAN+

An Analysis of “Competitive Potential of Skilled Labor in the Service Sector Free Opening under the ASEAN Economic Community (AEC)”

- Knowledge and understanding of AEC and MRA Agreements in 7 fields of Thai Professionals
- Thai Professionals’ potential under ASEAN
- Thai labor adjustment

*By the Center for International Trade Studies,
University of the Thai Chamber of Commerce*

The purpose of the international agreements is to make ASEAN one market and a joint production base.

The Free Flow of Labor comes under the ASEAN 3 Framework Agreements:

1) Agreements on the Free Flow of Skilled Labor

2) The ASEAN Framework Agreement on Services: AFAS

3) The ASEAN Comprehensive Investment Agreement: ACIA

¹ This means that if service providers have been certified for their professional qualifications by an organization in their own country, they will be approved in the other ASEAN countries as well. The certification and approval must correspond with the internal rules and regulations of each country, which will facilitate the flow of professional service providers throughout the ASEAN region.

² Professionals in 6 fields have been studied: Dental Practitioners, Medical Practitioners, Nursing Services, Accountancy Services, Engineering Services and Architectural Services.

The Free Flow of Labor within ASEAN is considered to be one of the most important negotiation topics proposed to make ASEAN become a single market and joint production base. The Free Flow Labor is under the ASEAN 3 Framework Agreements, which comprise:

1) Agreements on the Free Flow of Skilled Labor

2) The ASEAN Framework Agreement on Services (AFAS)

3) The ASEAN Comprehensive Investment Agreement (ACIA)

The Free Flow of Labor shall be for **skilled laborers and professionals only. It excludes unskilled laborers.** The pattern of Free Flow Labor follows the Mutual Recognition Arrangements (MRA)¹, which are the latest development in the ASEAN services trade co-operation and acknowledge the importance of grouping fields of service. Each ASEAN member country will approve the appropriate educational certificates and degrees, length of experience, and other qualifications to comply with the MRA specifications to issue licenses or certificates to skilled service providers. Approval may be done in accordance with agreements between the member countries or independently. **ASEAN has already completed preparations for commencing the MRA and it has been signed by ASEAN Economic Ministers in**

seven professional fields as are indicated in Table 1.

The knowledge and understanding already acquired of the AEC and MRA by Thai Professionals in 6 fields² are as follows:

1 Dental Practitioners

» About 50% of Thai dental practitioners know about AEC and understand what it will mean.

This is because they have received information from the public relations section of the Dental Association of Thailand, the organization that is responsible for Thai dental practitioners. However, these dental practitioners still do not entirely understand the details of the practice regulations and steps.

2 Medical Practitioners

» About half of Thai medical practitioners also know about AEC and have a basic understanding of it.

Medical practitioners have been informed about the AEC by the Medical Association of Thailand under Royal Patronage, as well as the Medical Council. Both also hold regular seminars to discuss this. Thai medical practitioners realize that the Free Trade Opening in ASEAN will take place in the very near future. However, they still are not aware of what changes may happen, since they tend to consider it something far removed from themselves.

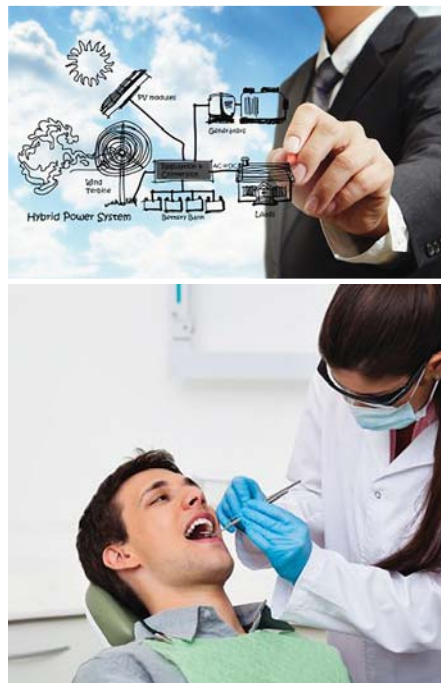
3 Nurses

» Only about 20% of Thai nurses know about anything AEC and the changes it will bring.

The Thai nurses who have been involved in the free opening negotiations and those in the Nursing Council are well informed. However, most nurses have no idea what the Free Flow of Nursing Services means to them. Nevertheless, the Nursing Council continuously tries to provide them with information.

Table 1. Completion of the Signing of MRA agreement in 7 Professional Fields

Mutual Recognition Arrangements – MRA	Year of Signing
1. Engineering Services	2005
2. Nursing Services	2006
3. Architectural Services	2007
4. Surveying Qualifications	2007
5. Medical Practitioners	2008
6. Dental Practitioners	2008
7. Accountancy Services	2008



4 Accountants

» More than 80% of Thai accountants have a good understanding of the AEC.

This is because the AEC continuously sends them information about what will happen. The opening of the AEC will require Thai accountants to develop their skills to international standards, as will then be easier for employers to hire foreign accountants.

5 Engineers

» Only about 30% of those in the Thai engineering professions have heard of the AEC and MRA.

The majority have shown little interest, since they regard it as of little importance to them and most have no desire to work in other ASEAN countries.

6 Architects

» Thai architects are better informed than the engineers, but not more than half of them have shown any interest in the AEC.

Nevertheless, the Architect Council continuously sends information about it to the Council's members.

The realization of professionals' advantage from the Free Flow of Skilled Labor and preparation

of MRA is as follows:

1 Dental Practitioners

» Almost 100% of Thai dental practitioners do not understand what the advantages are, since they feel the Free Opening will not increase the opportunities for Thai dental practitioners.

2 Medical Practitioners

» Only half of all Thai medical practitioners realize the advantages they will gain.

The other half does not understand that the Free Opening of the Services Sector and MRA agreements will greatly benefit Thailand. In fact, Thai medical practitioners will be able to treat an increasing number of patients from ASEAN countries and others as well.

3 Nurses

» More than 80% of the Thai nurses do not realize what they will gain from the Free Opening and preparation of the MRA.

They know very little about the Free Flow of Skilled Labor and the entrance into the AEC, which actually should result in increased employment opportunities for them.

4 Accountants

» About half of all Thai

accountants understand the benefits they will have.

Entering the AEC in 2015 and the increased co-operation of ASEAN will provide more benefits than negatives for accountants, and those as yet unaware should follow the negotiations more closely.

5 Engineers

» Only about one Thai engineer in 10 is aware of the benefits that may come his way.

As many as 90% Thai engineers not only do not understand the free opening and agreements, but are not interested in them either. Thai engineers realize that their engineering work could see more jobs created and cause employees to flow in. The benefits of the Free Opening Agreements will probably go other countries' engineers rather than to Thais, since they do not realize the increased opportunities they will gain to work in other ASEAN countries.

6 Architects

» About 50% of all Thai architects, on the other hand, recognize the benefits of the Free Flow Skilled Labor and MRA.

They understand it will provide opportunities for them to work freely within other ASEAN countries, especially in Brunei, Cambodia, Laos, Myanmar and Vietnam. In addition, it will increase the architecture services market.

Thai Professionals' Potential under ASEAN

1. Dental Practitioners

When considering ASEAN dental practitioners' potential in the total picture, it is found that Thai, Malaysian, Singaporean, Indonesian and Myanmar dental

practitioners have no difference in skills, and can be grouped as follows:

Group 1. Thai, Malaysian, Singaporean, Indonesian and Myanmar dental practitioners

Group 2. Vietnamese and Filipino dental practitioners

Group 3. Laotian, Cambodian and Bruneian dental practitioners

2. Medical Practitioners

Comparing Thai medical practitioners to other ASEAN member countries' medical practitioners, one finds that **Thai medical practitioners have high potential and rank in the top order in ASEAN**. Considered according to the levels, ASEAN medical practitioners can be divided into 3 groups:

Group 1. The top level in ASEAN by knowledge and expertise consists of the Thai, Singaporean, and Malaysian medical practitioners.

Group 2. Ranking second are Indonesian, Filipino and Vietnamese medical practitioners.

Group 3. The last group in ASEAN are the Laotian, Cambodian and Myanmar medical practitioners.

3. Nurses

When Thai nurses' potential is examined in ASEAN, it is found **they have the highest ability of all**. This is because their educational level is higher than in other ASEAN countries. Thai nurses graduate with a four-year bachelor degree; however, their weakness is their lack of

fluency in English. This places them at a disadvantage when compared to nurses in ASEAN countries such as Singapore, Brunei, Malaysia and the Philippines. Nurses from these countries can easily communicate in English, and their countries even offer nursing courses taught entirely in English.

4. Accountants

If we judge Thai accountants' potential in comparison to the rest of ASEAN, we find that **Thai accountants generally have greater knowledge and ability than their ASEAN counterparts. The ASEAN countries with the highest knowledge and ability as accountants are Singapore, Malaysia, Thailand and Indonesia.**

These four countries have the same accountancy standards, since they all belong to the Federation of Accounting Professions (FAP) or other accountant organizations that supervise accounting practices and standards. Moreover, all four countries are members of the International Federation of Accountants (IFAC), which is the organization that specifies accounting's international standards. In addition, Singapore, Malaysia, Thailand and Indonesia have many important businesses, including the services, industry, commerce, financial institutions, and a securities market. These factors all place their standards at the international level. It can be said that financial standards develop according to the growth of business, capital market and financial institutions, which are diversified. Thus their financial standards have already developed to the international level.

5. Engineers

Comparing Thai engineers' potential to that of other ASEAN

members, we also find that **the Thai engineering potential is at the leader level. ASEAN engineers at the same level are Singapore's and the Philippines'**. However, Singaporean and Filipino engineers have an advantage in that they can use English much more easily for communication. Nevertheless, in engineering practice they are not superior to the Thais. Moreover, in engineering work, the English language is not always essential, as engineers can usually communicate with each other without it.

6. Architects

Thai architects' potential is at the highest level in ASEAN, but they rank second to Singaporean architects in project administration management and their concepts of business competition. Singaporean architects rank higher or equal in expertise to the Thai architects. However, Thailand produces more architects than Singapore, and Thai architects have greater skills and expertise than those of Malaysia, Indonesia and the Philippines. Comparing their competitive ability, architects can be grouped as follows:

Group 1. Singapore's architects, who have higher competitive ability than Thai architects

Group 2. Malaysian, Indonesian and Filipino architects, who have the same competitive ability as Thais

Group 3. Cambodian, Laotian, Myanmar and Vietnamese architects, who have less competitive ability than Thai architects

Recommendations:

1. Dental Practitioners

(1) The MRA must not authorize more than the local rules and these must be clearly followed.

(2) There must be measures



to inspect dentists who will come to work under the MRA.

(3) There should be a specific organization that supervises and enforces the laws concerning professional dental practice. Public health care or hygienic care police should be set up to deal with this.

(4) The enforcement of legal decisions must be done seriously against those professionals who have broken the laws according to the court's judgment.

2. Medical Practitioners

After the Free Opening and entrance to the AEC have been completed, it is anticipated there will be many more people coming in Thailand for medical services. To prepare for the changes that will occur, the medical profession should do the following:

(1) Personnel production should be developed, since Thai medical and medical service standards are already high. The emphasis should be on increased personnel by offering international teaching curriculums

(2) Thailand should be pushed to become the Medical Hub of ASEAN, including attracting people within ASEAN for medical treatment and study in Thailand. Thai medical and public health care standards are already very high.

3. Nurses

(1) Readiness preparation must be arranged for nurses so they understand the AEC, the Free Opening of the Nursing Service Sector, and the preparations for the MRA, including the reasons and need for the agreements.

(2) Negotiations on preparing for the MRA should create equal opportunities both for Thai nurses and the ASEAN nurses who will come to work in Thailand. The right to practice the nursing

profession should not be given only to foreign nurses who have an advantage by speaking English and work in private hospitals caring for foreign patients, nor should they receive higher pay than Thai nurses.

4. Accountants

(1) The Free Opening is an opportunity for Thai accountants who have potential and an interest in working in other ASEAN countries. However, they must adjust themselves to facing stronger competition.

(2) There should be preparation for Thai accountants. Accountants need to follow closely the ASEAN movements and negotiations on agreements regarding their profession. In addition, they must increase their competitive potential and abilities on the profession market. The mechanism that will help the accountants' development consists 3 factors:

1.) The FAP will have to supervise the standards

2.) Educational institutes will have to produce graduates that are ready for ASEAN and international competition levels.

3.) Accountants will have to be alert to create their own opportunities.

5. Engineers

(1) State organizations should create language for communications curricula for English and the ASEAN countries' languages to better prepare Thai engineers.

(2) The Free Opening should be protected and it must not allow the changes to the Engineering Profession Practices Act

(3) Cultural differences may cause serious obstacles to Thai engineers working in ASEAN countries; thus, they should be helped to adjust themselves to adapt to them.

Additional Recommendations for the Free Flow of Profession Fields

If the Government is to increase the Free Flow of Profession Fields more than at present, it should have certain guidelines:

1) It needs to create an understanding of the advantages, impact and opportunities of the AEC, especially for those in the professional fields, before it agrees to the Free Flow of Labor.

2) It should consult groups of those profession fields which are ready for the increased competition through representatives of the groups.

3) It should create ways to develop the potential of the profession fields in order for them to be ready for ASEAN competition.


4) It should have a national strategy in each professional field for to prepare for the ASEAN competition.

Thai Labor Adjustment

1) Thai educational standards should be upgraded to compare with foreign curriculums, including thought development and a learning culture so that educated people can effectively practice what they know.

2) Skills in foreign languages for communication must be developed, especially for the English language.

3) Labor must be developed, corresponding to the production sector.

4) The Government should care for Thai labor by providing state organizations that can assist and give advice to Thai workers in foreign countries. If necessary, the Government should establish Thai Labor Offices in the ASEAN countries. 

ARBITRATION IN THAILAND

by Sorawit Limparangsri*



Arbitration has been in existence in Thai laws for centuries, but its roles had been extremely limited. When Thailand reformed its legal system in the 1930s, the Civil Procedure Code also provided for arbitration, both court-annexed and out-of-court arbitration. However, because the law lacked elaborate procedure to support the arbitration process and to guide parties through the process, the use of out-of-court arbitration was so rare that there was no reliable record which showed the provisions had been actually used in practice. **The court-annexed arbitration, even though there was more detail rules, did not come to live in practice as well.**

It is appropriate to say that modern arbitration in Thailand was instigated by a couple of factors that happened in the same period. The first is the introduction of the Arbitration Act B.E.2530[1987] (The “old act”). The law, for the first time in Thailand, navigates parties through various steps in arbitral proceedings, supplements arbitration agreements when parties fail to provide for procedural solutions, lends judicial support to arbitral tribunals in conducting the

proceedings, and, last but not the least, gives parties assurance that arbitral awards will be enforceable in court subject to some conditions.

Another factor is the role of the Ministry of Justice in promoting arbitration by dedicating a division solely for this purpose. **The Arbitration Office of the Ministry of Justice has played a prominent role in promoting the use and understanding of arbitration in Thailand.** Prior to the Arbitration Office’s inauguration, arbitration in Thailand was very rare, because very few people knew exactly how arbitration really worked and how it could benefit them and their business, and, for those who knew something about arbitration, they still did not know where to obtain arbitration service in Thailand. **Realizing these shortfalls, the Arbitration Office has indefatigably promoted arbitration** by organizing many seminars, meeting, training programmes and round-table discussion, publishing materials on arbitration, and joining force with academic institutions to incorporate arbitration in their curricula. Moreover, the Arbitration Office has made administrative service for arbitral tribunals easily accessible and free of charge for parties who

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¹ Chantara-opakorn, Anan, *LAW ON OUT-OF-COURT ARBITRATION* (Nititham Publishing 1993) p.6.

want to commence arbitral proceedings in Thailand.

From those early years of development of modern arbitration in Thailand, arbitration laws and practice has dramatically changed. Furthermore, those involving in arbitral proceedings have gained considerable experience and understanding over time. **Many in arbitration circle in Thailand agreed that the time may be ripe for another round of improvement. Therefore, a new draft of arbitration law was prepared. The law has gone through the legislative process and become effective from the 30th of April 2002.**

THE ARBITRATION LAW

The Arbitration Act

The new Arbitration Act B.E.2545 [2002] (the “new act”) was drafted by basing on the internationally-renowned UNCITRAL Model Law on International Commercial Arbitration (the “Model Law”). The new act encompasses all core principles of the Model Law, and contains some minor deviation based on the experience of arbitration in Thailand.

As in the Model Law, the new act warrants the principle of “*party autonomy*”, and allows, in most situations, parties to design and choose arbitration of their choice. The new act also tries to ensure that “*due process*” will be the cornerstone of arbitral proceeding conducted under the law. To achieve the goal, the new act tries to strike the balance between giving parties freedom in conducting arbitral proceeding and, at the same time, being fair to both parties by giving them sufficient opportunity to present and argue their cases. Parties can agree and determine the proceeding that they want to pursue as long as such agreement is not contrary to public policy. The court will be vested with the authority to supervise the “*due process*” requirement once

parties request the court to support arbitral proceedings or awards. **However, the new act also tries to draw an unambiguous line as to how far the court can go in exercising its supervisory authority so that the court will not unduly intervene the parties’ autonomy.** The new act contains so many provisions that can guide parties throughout the proceedings, but, in this occasion, we would like to mention only a couple of specific features some of which has just been introduced by this new act, as follows:

Enforcement of Arbitral Award

Under the old act, the parties must request the court to enforce an arbitral award within one year after the receipt of the award by the parties. **The period seems to be inadequate especially for a foreign award that may have to go through a lot of procedures.** The time limitation also lacks some flexibility in the case of an award on agreed terms which may allow a party to perform his or her obligations for a period exceeding one year; a legal question might be raised in that case if the party is in default after the one year period elapses. The new act extends the time limitation for enforcing an award, both domestic and foreign, to three years. It also adds some flexibility to the commencement of the period, by providing that the time limitation will start from the date on which the award becomes enforceable. If a party is obliged to fulfill his or her duties immediately, the time limitation will start when the party receives a copy of the award. On the other hand, if a party is given a period of time to discharge his or her obligation, the time limitation will start from the expiration of such period.

In an effort to promote the use of arbitration in Thailand, the new act realizes that there is a need for consistency and



² Section 42

“The party seeking enforcement of the arbitral award shall file an application with the competent court within three years from the day that the award is enforceable. After receipt of the application, the court shall promptly examine and give judgment accordingly.
....”

³ Id.

uniformity in the construction and application of the law. **The act, therefore, adds the intellectual property and international trade court, which is a fairly new court in Thailand with quite modern rules of procedure, as another competent court for the purpose of the act, with the hope that parties will choose the court as a natural choice due to its adequate facility and rules, and its knowledgeable judges with good understanding of arbitration.**

The new act has also significantly departed from the old act in terms of grounds for refusing recognition and enforcement of arbitral awards. Under the old act, the enforcement of an arbitral award may be refused if the court is of the opinion that the award is *“contrary to the law governing the dispute, is the result of any unjustified act or procedure or is outside the scope of the binding arbitration agreement or relief sought by the party.”* The grounds are relatively subtle, and leave broad authority for the court to review the merit of an arbitral award, which may be inconsistent with the original intention of the parties to have the dispute finally settled by the award. **The new act, instead, adopts all grounds for refusing recognition and enforcement of an arbitral award of the New York Convention, so that the boundary for reviewing an award by the court will be more clearly stated, and the review will focus more on the question of “due process”, and less on**

the merit of the award. Therefore, now, the criteria for enforcing a domestic award is in line with those of international standard.

Thailand and the New York Convention

Thailand accessed to the New York Convention 1958, since 21 December 1959. Under the new act, a party may request a competent Thai court to enforce a foreign arbitral award that falls within the scope of any convention or protocol in which Thailand is a member. As stated above, the new act also applies the criteria for reviewing an award under the New York Convention to domestic awards. Therefore, in the process of enforcing an arbitral award, either domestic or foreign, the court will apply the same section and provision of the law. In sum, if an award obtains the benefit of protection under the New York Convention, it will receive such protection in Thailand.

THE ARBITRATION PRACTICE

As stated earlier, arbitration in Thailand has gained popularity by leap and bound since the old act was promulgated. At the beginning of the era for modern arbitration in Thailand, there was only one active arbitration institute, i.e., the Thai Arbitration Institute. Now, there are quite several arbitration institutes that specialize in a specific field of disputes. From a simple method of alternative dispute resolution, arbitration is now even used as a symbol of *“good*

“In an effort to promote the use of arbitration in Thailand, the new act realizes that there is a need for consistency and uniformity in the construction and application of the law, therefore, adding the intellectual property and international trade court.”

governance” in some industry. This paper will try to show you a brief tour of arbitration institutes in Thailand, and we would like to start with the most prominent one.

Thai Arbitration Institute (TAI)

The Thai Arbitration Institute was first founded in 1990, within the Ministry of Justice at that time. Now, after the separation between the Court of Justice and the Ministry of Justice under the new Constitution, the TAI has been assigned to operate under the umbrella of the Alternative Dispute Resolution Office, the Court of Justice. **TAI arbitration rules has been very flexible and practical, and allow parties to design and agree on how to conduct their proceedings to a great extent. It has very much been influenced by the popular UNCITRAL Arbitration Rules.**

TAI provides services free of charge. Parties have to pay only the actual expenses occurred in the course of conducting an arbitral proceeding. TAI administers not only arbitration conducted under its own rule, but also arbitration conducted under other ad hoc rules such as the UNCITRAL Arbitration Rules etc. It sometimes provides secretariat service to arbitral tribunals under other institution rules such the ICC if they carry out their proceeding in Thailand. TAI staffs have quite extensive experience in the administration of arbitral proceedings.

Thai Arbitration Committee, Board of Trade of Thailand

This arbitration organization is the oldest institute in Thailand. It was established in 1968, but its operation regarding administration of arbitration proceeding has been idle for several years. Recently, it has tried to reinvigorate its arbitration service. In 2000, the committee enacted a new set of rules called *“Thai Commercial Arbitration Rules”*. Its rules contain several similarities with the ICC arbitration rules. Given its close relationship with the Thai business community, if the committee begins its full service, it has the potential to become one of the major forces in promoting arbitration in Thailand.

Security and Exchange Commission Arbitration

This is another new-comer arbitration organization in Thailand. It has just been established in 2001, under the auspices of the Security and Exchange Commission. Its mission is apparently to administer arbitration relating to security trading and mutual fund business. Under this regime, the member companies comprising stock broker and mutual fund companies pledge a prior consent to submit disputes occurred between them and their clients to arbitration. Any client who has a claim against the member companies regarding violation of security service

agreement or security laws may submit the disputes to arbitration according to the rules prescribed by the Security and Exchange Commission. Its rules is quite compact and flexible. Primarily, the arbitral tribunal will decide the dispute on the basis of documentary evidence, unless it deems appropriate to take oral testimony from the parties or expert witnesses. The commission also retains a list of panel of arbitrators that consists of many prominent lawyers and security experts. The commission is so generous that it pays part of remuneration for arbitrators as well as the ordinary costs in holding the hearing or meeting in the arbitral proceedings. The commission also permits the member companies to use its arbitration sign in any brochure, circular or pamphlet to their clients, in order to be a gesture of good faith to their clients and show that the companies’ dealing with clients is so fair enough that they are willing to give prior consent to go to arbitration if clients want to lodge any claim against them.

Casualty Insurance Company Association

In 1994, the Casualty Insurance Company Association, in cooperation with the TAI, set up its Office of Arbitration to handle disputes relating to claim under insurance policy of its members. **All**

Although there is a significant room for improvement, it should not be too difficult to bring arbitration in Thailand forward

In such scenarios, arbitration is more than capable of providing a solution for the parties, and brings such disputes to rest in peace. Arbitrating the disputes in Thailand will definitely be a choice that the parties can choose.

members agree to incorporate an arbitration clause into their policy which allows policy holders to submit any claim arising under such policy to arbitration under the auspices of the association. The association also retains a list of panel of arbitrators comprising respectable lawyers and experts. This initiation proves to be a success. In its first year of operation, it had only 34 cases. During 1998 – 2001, the association handled more than 5,000 disputes each year.

Intellectual Property Arbitration

Disputes relating to intellectual property arise very often each year. Previously, such disputes have to be settled by litigation. **The Department of Intellectual Property, Ministry of Commerce, has established an arbitration service for intellectual property disputes in 2002, also in cooperation with the TAI.** The department aims at helping those involved in the intellectual property circle settle their dispute amicably and without undue delay, so that they will be able to focus more on creating intellectual property works. **The arbitration rules of the department is almost identical to the TAI rules.** The department has just started to promote its arbitration work, so it will take some time

before its effort will produce a fruitful result.

Types of Disputes Submitted to Arbitration

Other than those arbitration conducted under the auspices of arbitral institutions that have an interest on specific kinds of disputes, the disputes that parties submit to arbitration under the auspices of TAI consist of variety of disputes. One of the regular users of arbitration is governmental agencies or public entities. Transactions that involve some governmental agencies or public entities are vulnerable to dispute, because the government often has some tedious bureaucratic process which cause troubles to the implementation of the transactions, and the policy has often been changed according to the ruling party in the government. Hence, we have seen some mega projects of the government going to arbitration quite often. The other big users in the clientele of arbitration in Thailand is the developers and the construction companies. This is understandable and also the case for other countries, because construction projects often involves many problems and differences between the parties that can emerge along the way. **Other kinds of disputes include those relating to joint**

venture and partnership contracts, agency agreements, negotiable instrument contracts, stock purchase agreements, sale contracts, insurance policies, concession contracts etc.

Final remark

Arbitration in Thailand has developed over a long period of time. Experience has been gathered along the way. Although there is a significant room for improvement, it should not be too difficult to bring arbitration in Thailand forward, especially given the vast interest from several organizations to do just that. Such development can be accelerated by the integration of the ASEAN economic community where many more economic activities are expected to arise as its result. Such increasing economic activities may also bring some unfortunate disputes which the parties do not want but have to deal with. **In such scenarios, arbitration is more than capable of providing a solution for the parties, and brings such disputes to rest in peace. Arbitrating the disputes in Thailand will definitely be a choice that the parties can choose.** Once chosen, arbitration practitioners and institutions in Thailand will be willing to, and capable of, delivering a just and fair proceedings for all parties concerned. 

THAILAND'S BRAND IMAGE

 *Brand Studies and Research Center,
University of the Thai Chamber of Commerce*

Starting from the government's policy about *"Thailand Brand"* which has the theme *"Connectivity"* including infrastructure, trade, manufacturing, and hospitality. Unlike the past, the theme "Connectivity" will be applied to every government sector in order to follow the same direction.

Mana Kuntaraporn, Assistant President for Corporate Communication and Director of Brand Studies and Research Center of University of the Thai Chamber of Commerce, has conducted the qualitative research about *"Thailand's brand image in the viewpoints of foreign investors, SMEs, government officers, and journalists"* by using the in-depth interview method. There are 4 groups of the total 20 samplings--Big FDIs, SMEs, government officers, and journalists.

The research found the foreigners' top-of-mind awareness of Thailand are that Thailand is one of the best tourist attractions including spicy food, beautiful sceneries (e.g. beaches), and diversity of culture and lifestyle. Moreover, Thailand is outstanding for

its hospitality and flexibility of Thai people. In contrast, they concern about the political uncertainty, corruption, and flood the most mentioned.

Using "Connectivity" as the theme for brand communication, there are both agrees and disagrees. For those who agree that connectivity is an appropriate theme for branding Thailand because Thailand is the central location of ASEAN, the Economic hub of South East Asia. For those who disagree, they think that Thai people need to improve English language skill. Also, "Connectivity" is quite unclear.

The respondents' opinions toward Thailand's *"infrastructure"* are

- Thailand should position itself as the crucial link between China and India
- Infrastructure investment in Thailand is crucial and it effects the investment in Asia e.g. development in Thailand will yield prosperity for the region
- Thailand should democratization of wealth from Bangkok to the rest of the country

The research found the foreigners' top-of-mind awareness of Thailand are that Thailand is one of the best tourist attractions including spicy food, beautiful sceneries (e.g. beaches), and diversity of culture and lifestyle.

- Agree with the slogan “We’re moving forward. Come with us.”

The respondents’ opinions toward Thailand’s **“trade”** are

- Thailand is like a bustling place 24 hour a day
- Thailand has the variety of exports, especially agricultural products
- Thailand has somehow easy regulation and low taxes

The respondents’ opinions toward Thailand’s **“manufacturing”** are

- Thailand has advantage on the extent of Thailand’s labor force
- Thai people are flexible and ready to learn
- Thai people still need to improve the English skill

The respondents’ opinions toward Thailand’s **“hospitality”** are

- Thailand is unique for Thai service culture – friendly and warm
- Thailand is quite good at cleanliness
- The investors think that they

always being treated like a VIP

Mana Kuntaraporn said that it is necessary and urgent for Thailand to have a good manage for the Thailand brand to be ready for the coming AEC. Thailand needs to differentiate and strengthen its strengths in order to attract the investors.

The communication campaign “Connectivity” will bring about good image for investment in Thailand. **However, the government needs to invest on the infrastructure such as the rapid train in order to build the foreigners’ trust.**

Moreover, Thailand should not leave its impressive identity such as friendliness, smile, and great culture. Every government sector (such as commerce, industry, tourism, foreign affair, etc.) should **use the same “connectivity” theme and the 4-sub brands (infrastructure, trade, manufacture, hospitality) and apply to their work.** 



Doing Business in Creative Economy with the Growing Impact of AEC: ASEAN Economic Community

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The creative economy is a powerful and positive global force. Together, artists, cultural nonprofits, and creative businesses produce and distribute cultural goods and services that impact the economy by generating jobs, revenue, and quality of life. [1] **The question is how people make money from ideas in the digital age.**

Absolutely essential in doing business today is marketing strategies. We need the media (radio, television, print, and internet) to promote and need to use the internet for networking with the world. The internet is a very important tool. It will help you make conscious decisions in your business development and courageously follow through and will help on searching a trading channel those who want to sell and buy the products or services.

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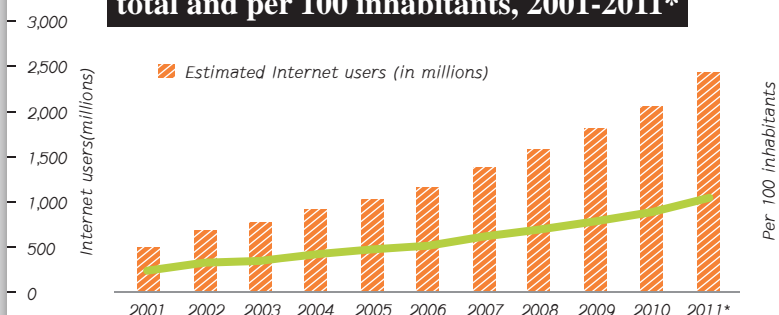
ITU Statistics (<http://www.itu.int/ict/statistics>)

Global numbers of Internet users, total and per 100 inhabitants, 2001-2011*

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011*
Estimated Internet users (in millions)	495	677	785	914	1,023	1,151	1,374	1,575	1,805	2,044	2,421
Internet users per 100 inhabitants	8	11	12	14	16	18	21	23	27	30	35
*Estimate											

Global numbers of Internet users, total and per 100 inhabitants, 2001-2011*

Estimated Internet users (in millions)



This graph is useful in exploratory data analysis in order to determine the extent of internet. It can be seen that the trend of an increasing number of Internet users are highly statistically significant. Therefore, it is very important for everyone to acknowledge new media from internet, because in creative economy period people make use of new media through new technology everywhere and almost every time whenever they needed.

Today, new media strategies named “social media marketing strategies” have changed the way of doing business.

The development of new technologies, also called “New Media or Digital Media” and they are gaining popularity from public all over the world. **In the 21st century, the role and impact of new media international communication technology in business will be the popular culture which deals with buying and selling products for profit.**

One example of the business and commercial at the moment is that the internet users buy and sell on eBay. Everybody talks about “starting an eBay business”, eBay is a great way to start an online business. Facebook, one of the popular social networking, also has been used for business. **Connecting more than 800 millions who may be the customers are actively using, more than 50% of our active users log on to Facebook in any given day, average user has 130 friends, on average, more than 250 million photos are uploaded per day.** All necessary skills to access new media with the intention of doing everything efficiently are needed the creative economy era. **The mentioned skills are new technologies for example; computer skills, internet searching skills, social networking and also reading and writing in English skills.**

Market integration is the same in trade with countries outside the community and a key economic goal of AEC. The ASEAN countries have been doing a lot of work for building,

renovating and upgrading basic infrastructure for transport, ICT and energy [4]. ASEAN stands for Association of South-East Asian Nations. ASEAN was established on 8 August, 1967 in Bangkok, Thailand. The ASEAN region has a population of about 500 millions and a total area of 4.5 million square kilometers. **The goal of a mission statement is to set a standard of People-to-People Connectivity in ASEAN; the plan would focus on Tourism, Education and Culture.**

A Methodology for Goal

The questions are “*How do we plan to achieve our goals?*”; “*What are the strategies for the value added administration in creative economy age?*” From gathering all the information, it was revealed that there are a variety of helpful strategies, methods. **The process of value added administration in creative**

economy age; the creative economy is a comprehensive analysis of the new economy, based on creative people, creative industries and creative cities [3]. The unique goods and services will reflect the value of cultural & social, economic & technology and environment together.

The success of value added administration primarily depends upon how good the media management, media skills, presentation skills, and advanced presentation skills are. In term of value added administration, it can be applied to the success principles of “Marketing mix” (often called the 4Ps). It can be applied through social media news blog covering new websites and social networks such as Facebook, Google, Twitter, MySpace, YouTube etc. They are daily news sources of information which also rapidly developed by social networking marketplace.

Table 1. Marketing mix

4Ps	Requirement
Product	The product quality and image buyers
Price	Reasonable price with quality
Place	Convenient and easy ways of shopping
Promotion	The amazing variety, Convince consumers as well

Table 2. The five I’s: Framework

The five I’s : Framework	Goals
1. Idea: The idea of using creativity to make products look more valuable.	Using creativity for more valuable in product
2. Impact: The design strength of information and the material presented.	Strength Design and the Material Presented
3. Interest: Fun, exciting interesting and truly memorable.	Exciting, interesting, and Truly Memorable
4. Information: Show highlight & background of products or services.	Good highlight and background of products
5. Impulsion: Stimulate the demand of consumers.	For selling goods and services

Fig. 1. The Process of Doing Business in Creative Economy with the growing impact of AEC: ASEAN Economic Community



Fig. 2. Model of Value added Administration in Creative Economy Age by Using New Media International Communication Innovation



All of these new technologies are appropriate for every situation and they can motivate the consumers to purchase the products or services. Consumers should have a clear

point of sale or "Point Of Service" (POS). Showing a single point called the "USP: Unique Selling Point" [5]. The principles of the USP are as in Table 3:

Conclusion

Another important factor that we must know in order to bring goods, services, investment capital and skilled workers for more opportunities. There are 10-ASEAN member countries. By observing the norms of the ASEAN compromise benefits and also a friendly competition in terms of trading may be different from other regions or natural trading partners [6]. In particular, the marketing communications for the international competition is essential

Table 3. USP: Unique Selling Point

USP: Unique Selling Point	Examples
The Great Guarantee of the Product itself	Certified Standards, High security etc.
The Special Different Products from other.	Pricing, Packaging and Colour Trend etc.
Products meet Consumer needs	Products for Different Groups etc.
Consumers Benefits	Lower Prices, Better Service etc.
Creating a Product Image	Product Presenters.

The goal of a mission statement is to set a standard of People-to-People Connectivity in ASEAN; the plan would focus on Tourism, Education and Culture.


The process of value added administration in creative economy age; the creative economy is a comprehensive analysis of the new economy, based on creative people, creative industries and creative cities [3].

and very significant. It can be applied to correct the strengths, weakness, opportunities and threat for national strategies for sustainable development.

Recommendation

The strategies of new media are the underlying the method of communication, both domestic and international for managing value-added products to create economic goods and services. And the benefits expected from the amount of growth in the future of ASEAN Economic Community: AEC. Doing business in the modern era, it is more comfortable than the past. **This article discusses the creative economy which is a gaining stream in the location and the widespread popularity across the world, because the creative economy creates complex-valued competitive learning for enhancing value-added products.** The key of communications aspect, apart

from the understanding and perception, is the two-way communications strategy which aims to stimulate feedback between senders and receivers.

However, the government of every country will need to reinforce all the procedures of the project concretely and to improve public relations for better understanding and collaboration from the public. It should be verified and inspected for thorough transparency. Collaboration is a useful and powerful tool. By learning how to collaborate efficiently and effectively [7], Collaboration brings individuals together with a range of different backgrounds, perspectives, and experiences. The dynamic of being present or absent are significant. For many participants, *“being-there”* may create a more powerful influence in collaboration and we can hope to see finally our clear future for doing business in the creative economy. 

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ORGANIZATIONAL PREPARATION FOR THE ASEAN ECONOMIC COMMUNITY

Amidst the current changes, Thai organizations must prepare themselves to enter the ASEAN Economic Community (AEC) in 2015, less than three years away. Executives and employees of the organizations need to ready themselves in every aspect, including adjusting their ways of thinking, their methods of administration, their working methods, their decision making methods, and in short adapting their minds to be ready to face competition in every way in the AEC in the very near future.

To prepare the organizations, the executives who are their leaders first of all have to make everyone in their organization realize the need to accept these unavoidable changes and encourage them to prepare themselves and adapt their minds to be ready for the many changes that may occur in the future. This will help them speed their potential development to be able to function in increased international administration management dimensions. They will thus be able to apply their full potential in organizational operations to correspond with the rapidly changing situations caused by globalization. Each member of every organization must be ready



to work together to move the organization in the same direction with efficiency, effectively and economically. This will yield the best result for the organizations as a whole.

Apart from the adjustment of attitudes so that everyone in the organization accepts the changes and has wide sight and thoughts towards future events, executives need to set visions and missions that emphasize creating organizational sustainability; they must make plans leading to concrete practices, especially in risk administration planning, to create an organizational immunity. **To administer the organizations and achieve this sustainability, executives should**

apply His Majesty the King's Sufficiency Economy Philosophy, in which the Thai monarch gave advice on guidelines for balanced, stabled and sustainable administration management through following the principles of moderation and reason, including the need to have a good self-immunity system for possible impacts that may result from changes both inside and outside the kingdom. Academic subjects should be studied to use in planning and operation at every step so the organizations will be flexible and ready to adjust immediately to any changes that occur and will not waste time, which would cause bad results for

an organization in the total picture. At the same time, the executives must support and create a mind base of their employees at every level following ethics realization, honesty, and suitable knowledge, so they may lead their lives with patience and industriousness, using conscience and wisdom. These are all required to create balance, stability and sustainability in the organizations so they will be prepared for the inevitable changes which will come rapidly and widely in economy, society, technology, as a result of an environment which will have a work force that often migrates from one country to others. In short, Thailand must prepare itself to adjust to other nations' cultures and traditions, which will enter the country through a door that Thailand will be unable to close.

In order to run their organizations sustainably and efficiently for the AEC, executives should apply the main principles of the Efficiency Economy Philosophy, which are as follows:

1. Use moderate ways. For example, the executives should run the organizations in an appropriate manner which is neither too rushed nor too slow. They should invest or expand their businesses once the organizations are ready in every aspect.

2. Give priority to sufficiency. For example, the executives should follow the principle of reason, such as when making decisions concerning their organization and employees, they must judge wisely and carefully. They should follow their conscience and intelligence


in deciding matters without favoring materialism, which could lead to overinvestment or spending money uneconomically and inefficiently.



In administering their organizations to achieve this sustainability, executives should apply His Majesty the King's Sufficiency Economy Philosophy, about which he advised using guidelines for a balanced, stable and sustainable administration management by following the principles of moderation and reason, including the need to have a good self-immunity system against negative impacts which may occur.

3. Give priority to supporting and creating a base of people in their organizations in order to have a sufficiency of both material and minds. For example, plant in their conscience concerns that they follow ethics, morality and honesty, and help them understand the word “**sufficient**” to lessen any greediness so they will conduct their business ethically. There must be company governance to make optimize profits for the organization, society and environment.

If executives apply the Sufficiency Economy Philosophy as a tool to achieve readiness for the AEC opening in 2015, it should result in many good results for their organization.

This is because the Sufficiency Economy Philosophy method will support and create the strength of the organization and their employees so they obtain sustainable growth. They will have effective administration management, keeping in mind of the limitations of the economy, society, technology, environment, culture and traditions of the organization, which will result in their ready preparation through priority to creating balance, stability and sustainability corresponding to the need and environment of the organizations and employees. They will know “**how to depend on themselves**”, using their knowledge to create innovations for an increased value of their organization. This will stimulate them to put their potential into practice to benefit themselves, the organizations and all of society. If practice, this should benefit the interests of the entire country. 



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