DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia

AN INTRODUCTION TO

DOING BUSINESS IN ASEAN 2016

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Note: Some of the material within this guide has previously appeared in Asia Briefing publications and edited to fit the context of this guide. When the text refers to the author in the first person, this material can be attributed to Chris Devonshire-Ellis.

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INTRODUCTION

CHRIS DEVONSHIRE-ELLIS
Chairman
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What happens in and around ASEAN is one of the key factors increasingly impacting upon China and India trade flows, as well as the rest of Asia. While the ASEAN trade bloc has been in existence since 1967, it has really shown its importance in trade and commercial business flows since the rise of China over the past three decades, and through its response to China's changing domestic demographics. Those changes – an aging and increasingly consumer demanding China – have been skillfully adapted by ASEAN to place the future of global manufacturing, and where it takes place, firmly within its own orbit.

Simply put, free trade agreements that came into effect with China and India in 2010 – just five years ago – changed the face of Asian trade and production, and are continuing to do so. For example, bilateral trade figures between China and ASEAN's Big Five of Indonesia, Malaysia, Philippines, Singapore, and Thailand have multiplied by factors of 500 percent. With the smaller ASEAN nations of Cambodia, Laos, Myanmar and Vietnam expected to come into line with their own compliance of ASEAN customs duty reductions at the end of 2015, the entire bloc offers close to zero import-export tariffs for much of emerging Asia, including the giant markets of China and India, possessing some 500 million middle class consumers between them. ASEAN therefore represents a massive trade bloc possessing free trade agreements of global strategic importance. The question of accessing ASEAN for the benefit of North American, European and other global purchasing and manufacturing executives is a key function of this report.

Doing Business in ASEAN introduces the fundamentals of investing in the 10-nation ASEAN bloc, concentrating on economics, trade, corporate establishment and taxation. We also include the latest development news in our "Important Updates" section for each country, with the intent to provide an executive assessment of the varying component parts of ASEAN, assessing each member state and providing the most up-to-date economic and demographic data on each. Additional research and commentary on ASEAN's relationships with China, India and Australia is also provided.

Our practice, Dezan Shira & Associates, has taken giant steps into the ASEAN market through the establishment of offices throughout the region, in addition to the creation of a unique alliance of firms. That, coupled with our existing long experience of handling foreign investment into China and India, puts us in a unique position of truly understanding how Asia works and how to maximize its free trade benefits.

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INTRODUCTION TO ASEAN'S FREE TRADE AGREEMENTS

ASEAN, the Association of South-East Asian Nations, is gaining considerably in importance as a trade bloc and is now the third largest in the world after the European Union and the North American Free Trade Agreement. Comprising the Asia Tigers of Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam, and smaller players such as Brunei, Cambodia, Laos, and Myanmar, it has a combined GDP of US$24 trillion (2013) and is home to some 600 million people. It is the second-fastest growing economy in Asia, after China, and has expanded 300 percent since 2001.

ASEAN's component nations include some weighty economic powerhouses - Indonesia for example is about to become a trillion dollar economy, the world's sixteenth largest.

Of particular note is that ASEAN nations have largely cancelled all import and export duty taxes on items traded between them, with the exception of Cambodia, Laos, Myanmar, and Vietnam, who continue to impose nominal duties on certain items. However, these too will be completely lifted as of December 31, 2015, meaning that the entire region could be duty free from this date.

ASEAN has entered into a number of FTAs with other Asian nations that are now radically altering the global sourcing and manufacturing landscape. It has a treaty with China, for example, that has effectively done away with tariffs on nearly 8,000 product categories, or 90 percent of imported goods. These favorable terms have taken effect in China and in the original ASEAN members, including Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand.

Cambodia, Laos, Myanmar, and Vietnam are also scheduled to implement these terms by December 2015, although an additional phase-in period for some aspects of ASEAN free trade may require longer in certain markets.

This has specific impact upon where manufacturing capacity is heading in the future. At the heart of this is China, which for the past twenty years has been enjoying a 'worker dividend' of cheap, young labor and has become, as a result, the world's manufacturing hub. However, China is also growing old – and fast, as that same workforce is now greying and becoming wealthier. This means that cheap Chinese labor is a thing of the past, yet this is compensated for by China now emerging as a vast consumer market. In 2013, China had an estimated 250 million citizens of middle class standards; this number is set to explode to 600 million by 2020.

The manufacturing trend therefore is to continue to develop products destined for this huge consumer market, yet place the manufacturing capacity required to do so in a cheaper location. ASEAN's FTA with China allows regional companies and MNCs involved in Asia to do just that. It is a trend already in progress – as can be seen, for example, in the case of Foxconn, manufacturer of many of the components that end up in Apple's products, which is relocating its 1.3 million strong workforce out of China to Indonesia where wages are lower and a large and available workforce exists. It is a sound strategy and one that is being increasingly adopted by many manufacturers.

With Vietnam expected to come into full play with the ASEAN treaty at the end of 2015, the development of manufacturing capacity servicing the Chinese market to that country in particular should significantly increase. Vietnam has also deliberately positioned itself to take advantage of the treaty with China by reducing its corporate income tax rate to 22 percent – three percent lower than in China.

Vietnam, Indonesia, and other ASEAN countries are benefiting from the China FTA by being able to offer lower wages, and as such are attracting foreign investment not only from the Chinese market, but also from global destinations such as the EU and United States. There has been some resistance to this, not least where the subject of China's superior infrastructure is raised. However, countries across ASEAN have been upgrading, especially the ASEAN 6. As a general rule of thumb, despite a lower production capability in some ASEAN nations when compared to China, it generally makes economic sense to place manufacturing capacity into the ASEAN 6 if production levels can reach 70 percent of that achievable in China.

ASEAN has a similar FTA with India, which is being phased in and is in the process of reducing tariffs on 90 percent of all traded goods between ASEAN and India. Come 2016, import-export duties on over 4,000 products will be abolished. This will have a similar effect to the China FTA in that it opens up the Indian consumer market to ASEAN manufactured goods. India, in fact, has a sizeable middle class consumer market in its own right of some 250 million, although it is not expected to grow as fast as China's in the short term. The ASEAN-India FTA is also being expanded to include services; discussions are already at an advanced stage.

These two agreements have the collective impact of making ASEAN the strategic hub for global sourcing and manufacturing. ASEAN's own middle class consumer base of 150 million, when coupled with China and India, each with 250 million, represent a total middle class consumer market, with complete free trade, of some 650 million people. By 2030, given Asia's increasing wealth, some 64 percent of the global middle class population will be based in Asia, accounting for 40 percent of all global middle class consumption.

In addition to the China and India FTA, ASEAN also has a combined FTA with Australia and New Zealand, known as the AANZFTA. The deal, also being phased in, has eliminated tariffs on 67 percent of all traded products between the regions, and will expand to 96 percent of all products by 2020. It is the first time ASEAN has embarked on FTA negotiations which cover all sectors, including goods, services, investment, and intellectual property rights, making it the most comprehensive trade agreement that ASEAN has ever negotiated.

Further ASEAN treaties are in the process of being negotiated, not least with Japan, who already has a series of Comprehensive Economic Partnerships, while South Korea already has an FTA. Both of these are along similar lines to those identified above – the reduction of over 90 percent of all traded goods between ASEAN and these countries.

ASEAN has also entered into a forum with China, Japan, and South Korea known as "ASEAN Plus Three", although this grouping has not signed off on any formal trade agreements and exists as a discussion platform only. In addition to this, Japan has proposed a Comprehensive Economic Partnership for East Asia, which includes the ASEAN Plus Three with India, Australia, and New Zealand, amongst whom trade discussions have been on-going since 2006. This is expected now to be folded into the on-going discussions concerning FTAAP, the TPP, and RCEP. ASEAN also entered into negotiations with Hong Kong from July 2014 concerning an FTA with the territory.

ADDITIONAL TECHNICAL DATA

A complete guide to all of ASEAN's Free Trade Agreements can be found under the Treaties section of the Dezan Shira & Associates website at www.dezshira.com

ASEAN'S 2015 AEC COMPLIANCE DEADLINE – WHAT IT ACTUALLY MEANS

A much publicized feature of ASEAN's development is the so-called "AEC Deadline" which is due December 31, 2015. However, the AEC (Asean Economic Community) deadline is rather a misnomer and has led to a great deal of misunderstanding about what it actually means.

In these pre-deadline days, the current status is that the entire ASEAN community – meaning all members - have agreed to reduce their tariffs relating to import-export activities across borders. Of these ten nations however, four of them – Cambodia, Laos, Myanmar and Vietnam - asked for additional time to get prepared for this. That deadline is the one that expires at the end of 2015. All the other nations – Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand – are already in compliance and have reduced tariffs accordingly. As these include the biggest members of ASEAN, the AEC deadline is something of a moot point. Of the six nations above five are major trade and manufacturing players in their own right. Here is a brief snapshot:

The ASEAN 5 at a Glance

The ASEAN 5 is made up of the bloc's five leading economies. Collectively, these nations have one of the best GDPs in the world, but separately, they each possess a diverse array of low, middle and high-end manufacturing sectors that separate them from one another and help investors decide on which country best suits their manufacturing needs. Below, we look at some key figures for the ASEAN 5.

Indonesia

- Manufacturing contributes 24 percent of national GDP.
- Primary manufacturing industries include automotive, electronics, textiles, footwear, food & beverage, palm oils, metal products, and chemicals.
- Is due to have the world's largest demographic dividend by 2020.

Thailand

- With a value of around US$120 billion, manufacturing constituted approximately 33 percent of GDP in 2013 – the highest percentage of any ASEAN country by a significant margin.
- Key manufacturing industries include jewelry, electronic appliances, garments, computers and parts, furniture, petrochemicals, and automobiles.
- As well as a strong export industry, also has a growing consumer market.

Malaysia

- Manufacturing industry constitutes approximately 25 percent of GDP.
- Q1 2014 sales value of the manufacturing sector expanded by 10.9 percent year-on-year to reach approximately US$69 billion.
- Leading manufacturing sector is electrical and electronic products, which constitute 32.9 percent of exports.
- Other key export sectors include petroleum products, chemicals and chemical products, machinery, appliances, and parts, and optical and scientific equipment.

Singapore

- Manufacturing accounts for approximately 21 percent of GDP.
- In 2013, chemicals made up 33.4 percent of total manufacturing output; electronics, 27.8 percent,

precision engineering, 11.4 percent; transport engineering, 11.1 percent; biomedical manufacturing, 8.2 percent; and general manufacturing 8.1 percent.
- Government offers significant incentives for productivity-driven growth, including cash payouts for training and R&D. Also maintains a favorable corporate tax rate of 17 percent – lowest of any ASEAN nation.

The Philippines

- Manufacturing contributes approximately 23 percent of national GDP.
- In Q2 of this year, manufacturing grew by 10.8 percent.
- A mix of high- and low-tech manufacturing. The food industry is current the biggest manufacturing sector, but higher end industries, such as electronics and chemical products, are on the rise.

These members are already in compliance with duty and tariff reductions, meaning that ASEAN Free Trade Agreement terms entered into with Australia, China and India already apply to them. Of the four countries still to follow through, I can make the following comments:

Cambodia has been trying hard to update its systems and educate officials over aligning its economy and administration to ASEAN mutual standards. Recently for example it has been working with the government of Singapore over introducing local IP and patent procedure measures. However, it faces an already significant trade imbalance with China, and AEC compliance may swing that even further to China's favor, causing potential political issues. Cambodia is already close to Beijing, but may baulk at signs of being treated as a vassal state. Given not all administrative procedures are in place and the government has been wary of signing any bilateral tax treaties with other nations, it may be that Cambodia decides the 2015 deadline may be too early to allow free trade to the detriment of its fragile domestic manufacturing capacity at this stage.

Laos is in a similar position to Cambodia, yet politically closer to Thailand, with whom it conducts much of its trade. The government has also been more willing to embrace bilateral agreements. With a pre-existing healthy trade balance with Thailand and the Laos economy better integrated as a result, it may be easier for Laos to accept the 2015 deadline.

Myanmar also has specific problems with the 2015 deadline. It possesses some of the lowest human capital rankings in the world, and would likely be swamped by cheap Chinese imports upon the implementation of AEC compliance to the detriment of local industry. Its current relationship with China has also been rocky, with billion dollar infrastructure project cancellations taking place. Myanmar's potential is assured, being sandwiched between China and India, but a national policy on how best to absorb this has not yet been thought out, and accordingly the 2015 deadline may also be considered too early to allow the country to adapt.

Vietnam meanwhile is positively chomping at the bit for the deadline to arrive. It has strategically positioned itself as a light manufacturing competitor to China, and has already taken large amounts of Chinese investment from its neighbor. A mooted corporate income tax rate reduction to possibly 20 percent - five points below China's CIT rate of 25 percent - can be seen as a Vietnam both expectant and eager for investment from China to flow in given reduced tariffs. China-Vietnamese trade can be expected to boom.

The AEC deadline assumes that all four countries above will be compliant and able to take on the burdens and advantages of complete free trade by the year end. Time will tell which ones will. However, should any of the four countries miss that deadline, it is hardly the end of the world, and impact will be minimal. Cambodia and Myanmar, especially, simply need more time to adjust, and if that is how they end up then longer term, this would be preferable to having them enter tariff free areas too soon for their own domestic manufacturing goods.

WHY ASEAN MATTERS FOR YOUR CHINA BUSINESS

The term “ASEAN” is cropping up more often these days, yet many businesses in China are unaware of what it is and why it is gaining in importance. The basic answer is fairly simple – free trade across Asia. That means reduced or zero customs duties across a space that includes the 10 ASEAN nations in Southeast Asia, and includes China, India, Australia, New Zealand, Japan and South Korea.

China has specifically targeted ASEAN as a bloc for foreign companies to be doing business with. It makes sense; Chinese companies need to expand overseas, ASEAN is right next-door, and it represents a fast growing opportunity for growth in sales and trade. Indeed, ASEAN overtook Japan last year to become the third-largest trade partner with China, with trade figures reaching US$362.3 billion, only behind the European Union (US$567.2 billion) and the United States (US$446.6 billion).

Even so, aware that not everyone has fully recognized the significance of ASEAN, the Chinese government has been going to some lengths to encourage Chinese trade with the bloc, going so far as to recently set up a China-ASEAN trade office to raise ASEAN’s profile within China. That’s important, as China has double tax and free trade agreements with ASEAN, only recently inking a deal that permits zero tariffs on over 7,000 products.

That was done as part of the ASEAN-China Free Trade Area (ACFTA), being an agreement between China and the 10 member states of ASEAN. The ACFTA is the largest free trade area in terms of population and third largest in terms of nominal GDP. The free trade agreement reduced tariffs on 7,881 product categories, or 90 percent of imported goods, to zero. This reduction has already taken effect in China and the six original ASEAN members: Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. The remaining four countries – Cambodia, Laos, Myanmar and Vietnam – will follow suit in 2015.

Additional agreements are also in place with India in the form of the ASEAN-India Free Trade Area (AIFTA); with Australia and New Zealand in the form of the ASEAN–Australia–New Zealand Free Trade Area; with Japan in the form of the ASEAN–Japan Comprehensive Economic Partnership; and in South Korea with the ASEAN–Korea Free Trade Area. All of these came into effect in 2010 and have already begun to lift trade figures between ASEAN and their respective countries.

What this means is that from now until 2015 and then into 2016, the flow of trade, the shape of the global supply chain, and the opportunities for selling goods and services right across Asia are changing and, in doing so, the customs duties will be increasingly attractive. Taking advantage of this means getting prepared now. The impact of the ASEAN bloc upon the region, and upon global trade dynamics will be immense. It also opens up huge potential for global businesses to enter the ASEAN market, establish a presence, and use that to reach out to China, India, and beyond.

It makes sense – China's manufacturing capacity is slowing, and becoming more expensive just at the time when its population is moving to a more consumer-based society. The role of ASEAN, to some extent, is to provide a lower-cost manufacturing base and to use that as a springboard to export to China. This is why manufacturing in Vietnam is starting to take off as an alternative to China – not purely because Vietnam is cheaper in terms of labor costs, but also because as part of ASEAN, that 90 percent of manufactured goods will be traded with zero duties by 2015.

The same applies to Cambodia, Laos and Myanmar, which is one reason the latter suddenly appears to be in such a hurry to get its reforms in place. But for Vietnam, with a border directly with China and that long coastline with increasing TEU capacity through its ports, multinationals being based there in order to target the China and India markets is beginning to make a lot of sense.

ASEAN then is developing as an excellent starting point for reaching out to the region's developing markets, but the benefits of that extend beyond setting up a physical presence in the bloc. An ASEAN-based company enjoys not just the automatic tax and free trade benefits of intra-ASEAN trade, but also those sexy free trade and double tax agreements ASEAN has with China, India, Australasia, Japan and South Korea. Taking advantage of ASEAN then is a relatively simple matter – just as many Hong Kong companies have been used as springboards and advantageous tax structures for getting into China, Singapore as a financial and services hub fulfills the same role for ASEAN.

Singapore is the de facto financial capital of ASEAN, and enjoys a low corporate income tax rate of 17 percent, has no tax payable on dividends earned externally from its borders, and even offers tax incentives for SMEs wishing to establish operations in the country. It is also possible to operate a Singapore company as a "shelf" entity to take advantage of these benefits without the need to fully go to the expense of setting up a full service office. As such, it is an excellent base from which to direct operations from ASEAN, thus qualifying for the intra-ASEAN free trade agreements and for those with China and India.

Businesses based in China should be looking at Singapore-based ASEAN subsidiaries to take advantage of what is going to be a huge free trade area with a significant impact on global trade and supply chains. For businesses looking at investing in ASEAN countries, the place to start is Singapore, and the time to begin planning your business to ride the free trade train is now.

A legal presence via a Singaporean entity gives access to the ASEAN free trade agreements that the bloc has between its own members, and with China, India, Australasia, Japan and South Korea. Using a Singaporean company to hold subsidiary operations in any of these then allows foreign businesses the ability to enjoy Singapore's low tax rates while also taking full advantage of the free trade and double tax agreements of ASEAN and each of it's trade partners, including China, India and the Japan-Korea-Australasia triumvirate. This is a total free trade area that is already the fastest growing in terms of returns and will become the largest free trade area in the world.

THE ASEAN-INDIA FREE TRADE AREA

The initial framework agreement for the ASEAN–India Free Trade Area (AIFTA) was signed in Bali, Indonesia, on October 8, 2003, and the final agreement was signed on August 13, 2009. The free trade area came into effect on January 1, 2010.

In the aftermath of the recent ASEAN-India Commemorative Summit in New Delhi on December 20-21, 2012, and the subsequent passing of the free trade agreement (FTA) on services and investments, economic ties and prosperity are set to blossom between the two regions.

FTAs between the two regions appear to be operating effectively and efficiently, and the FTA in goods, which was concluded in 2010, has helped trade to grow by 41 percent in 2011-12. The implementation of the 2012 FTA on services and investments has set annual India-ASEAN trade to grow to US$100 billion by the end of 2015. Trade between India and ASEAN presently stands at roughly US$80 billion.

Two intertwined regions

With one of the largest, and fastest growing economies in the world, India is also the seventh largest country by area, covering 3.3 million kilometers, and boasts a population of approximately 1.2 billion people. India's trade with ASEAN is mainly concentrated in Singapore, Malaysia and Thailand.

ASEAN is India's fourth-largest trading partner after the European Union, the United States and China. Trade between India and ASEAN presently stands at US$80 billion, but is likely to receive a significant boost with the finalization of the services and investment FTA.

For a more detailed representation of the trade flows between India and ASEAN, please see the table below:

ASEAN'S TRADE WITH INDIA (US$ MILLION)				
Year	Exports to ASEAN	Imports from ASEAN	Trade Turnover	Balance
2000-01	2.91	4.15	7.06	-1.23
2001-02	3.46	4.39	7.85	-0.93
2002-03	4.62	5.15	9.77	-0.53
2003-04	5.82	7.43	13.25	-1.61
2004-05	8.43	9.11	17.54	-0.69
2005-06	10.41	10.89	21.30	-0.47
2006-07	12.61	18.11	30.72	-5.50
2007-08	16.41	22.68	39.09	-6.26
2008-09	19.14	26.20	45.34	-7.06
2009-10	18.11	25.80	43.91	-7.68
2010-11	25.63	30.61	56.24	-4.98
2011-12	36.74	42.53	79.27	-8.79

India's main exports to ASEAN include:

- Petroleum products
- Oil meals
- Gems and jewelry
- Electronic goods
- Cotton yarn and wool
- Machinery and instruments
- Primary/semi-finished iron and steel
- Transport equipment
- Marine products
- Drugs and pharmaceuticals
- Inorganic, organic, and agro chemicals
- Dyes and intermediates

ASEAN's main exports to India include:

- Coal, coke, briquettes
- Vegetable and petroleum oils
- Electronic goods
- Organic chemicals
- Non-electrical machinery
- Wood and wood products
- Non-ferrous metals, metalliferous ores and metal scrap

Background on the ASEAN-India Free Trade Agreements

The ASEAN-India FTA that was signed on August 13, 2009 was only for trade-in-goods, and did not include software and information technology. Negotiations on an FTA with regards to the services and investment sectors started in October 2008 and were finalized on December 20, 2012.

The trade-in-goods FTA eliminated tariffs for about 4,000 products (including electronics, chemicals, machinery, and textiles) between the regions. Duties for 3,200 products were reduced by December 2013, and duties on the remaining 800 products will be brought down to zero or near zero by December 2016.

There are a total of 489 items excluded from the list of tariff concessions, and 590 items excluded from the list of tariff eliminations pertaining to farm products, automobiles, certain auto-parts, machinery, chemicals, and crude and textile products. ASEAN and India have agreed to allow between seven percent and nine percent of tariff lines or products to be excluded from tariff reduction commitments.

Trade trends and statistics from India to Indonesia, Vietnam and Myanmar

Indonesia and Vietnam make up two of the major six economies in ASEAN, while Myanmar is one of the four smallest economies in the region. Together, these three countries combine for a total GDP of US$1.07 trillion, a population of 378.5 million, and exports to India amounting to US$13.37 billion (or, about 2.7 percent of India's total imports).

In conjunction with ASEAN's continued emergence as a regional economic powerhouse, these figures, although still somewhat small, are poised to grow thanks to the FTAs signed between India and ASEAN.

Indonesia-India trade

As early as 1950, the first President of Indonesia, Sukarno, recognized the importance of the Indonesian-Indian relationship, and called for greater trade ties. In November 2005, Indonesia and India signed a bilateral strategic partnership agreement in which the two countries agreed to increase bilateral trade to US$10 billion by 2010. This target was actually exceeded that year, with total trade amounting to roughly US$12 billion, tripling the US$4 billion amount set in 2005. Bilateral trade between India and Indonesia topped out at US$20 billion in 2012, and is expected to grow to US $25 billion by the end of 2015.

In addition, in 2005, Indonesia and India signed a memorandum of understanding (MoU) to establish a joint study group (JSG) to examine the positive aspects that would arise from signing a Comprehensive Economic Cooperation Agreement (CECA). The CECA is to be an agreement that covers economic cooperation and trade in goods and services and investments, which would lead to a higher-level of mutually beneficial economic cooperation between the two countries. The JSG projected that CECA would raise total exports between India and Indonesia to US$17.5 billion in 2020, with exports from India raising to US$7.8 billion and exports from Indonesia reaching US$9.7 billion.

Over the years, CECA talks have progressed with discussions covering tariff reductions and the lifting of non-trade barriers on various goods of interest, including palm oil products from Indonesia and pharmaceuticals and buffalo meat from India. The CECA, however, has yet to be executed.

In 2010, India implemented a FTA with Indonesia that cut import duties on products such as seafood, chemicals and apparel. In return Indonesia slashed import duties on Indian goods. By 2011, India and Indonesia had signed a total of 18 agreements in the mining, infrastructure and manufacturing sectors worth a total of US$15.1 billion, in addition to an FTA on goods.

INDIA'S TRADE WITH INDONESIA (US$ MILLION)					
Year	2007-08	2008-09	2009-10	2010-11	2011-12
Export	2,026.54	2,334.26	3,715.65	4,441.35	3,849.22
Growth	N/A	15.18%	59.18%	19.53%	-13.33%
Import	5,035.45	6,219.18	7,266.30	11,325.52	10,816.28
Growth	N/A	23.58%	16.84%	55.86%	-4.50%
Total Trade	7,061.99	8,553.44	10,981.95	15,766.87	14,662.50
Growth	N/A	21.12%	28.39%	43.57%	-7%

Vietnam-India Trade

Since India granted Vietnam "Most Favored Nation" status in 1975, trade relations have been robust. In 1978, the two countries signed a bilateral trade agreement, followed by the Bilateral Investment Promotion and Protection Agreement (BIPPA) on March 8, 1997. Then, in 2003, both nations promulgated a Joint Declaration on Comprehensive Cooperation in addition to negotiating a free trade agreement.

Bilateral trade has increased since then, and India has taken a place among the ten largest exporters to Vietnam. Two-way trade reached US$4 billion in 2012, with Indian exports accounting for US$2.34 billion while Vietnam's exports accounted for US$1.56 billion (up from US$178 million in 2002). The two sides have set a target of US$7 billion for bilateral trade by the end of 2015, and, with the signing of the India-ASEAN FTA on trade in goods in 2010, bilateral trade is poised to grow at an even faster rate.

Vietnam continues to be an attractive investment destination for Indian companies in sectors ranging from oil and gas, steel, minerals, tea, coffee, sugar and food processing. India and Vietnam have also expanded cooperation in information technology and education, and are collaborating on their respective national space programs.

In 2010, India implemented an FTA with Vietnam to cut import duties on products such as seafood, chemicals and apparel and, in return, Vietnam slashed import duties on Indian goods.

INDIA'S TRADE WITH VIETNAM (US$ MILLION)					
Year	2007-08	2008-09	2009-10	2010-11	2011-12
Export	1,307.64	1,288.49	1,909.02	2,669.28	2,614.98
Growth	N/A	-1.46%	48.16%	39.67%	-2.03%
Import	337.26	354.80	828.06	1,299.95	1,505.35
Growth	N/A	5.2%	133.39%	56.99%	15.80%
Total Trade	1,644.90	1,643.29	2,737.08	3,969.23	4,120.33
Growth	N/A	-.1%	66.56%	45.02%	3.81%

Myanmar-India Trade

The Indian government has been cultivating ties with Myanmar since 1993 as part of a wider foreign policy to increase India's participation and influence in Southeast Asia. Since then, India has grown to become one of the largest markets for Burmese exports. India is Burma's fourth largest trading partner, and is also its second largest export market taking in 25 percent of total exports.

The Indian government has further worked to extend air, land and sea routes to strengthen trade links with Myanmar, in addition to establishing a gas pipeline. The countries also signed a bilateral border trade agreement in 1994 for trade to be carried out from designated points in Manipur, Mizoram and Nagaland. The two countries have primarily cooperated in agriculture, health, education, pharmaceuticals, telecommunications, information technology, steel, oil, natural gas, hydrocarbons and food processing.

In 2001, India and Burma co-constructed a 160-kilometer highway called the Indo-Myanmar Friendship Road to open up a commercial transport route connecting Northeast India and South Asia to Southeast Asia. Based on the success of this trade route, India and Myanmar have agreed to construct a new triangular four-lane highway running 3,200 kilometers through India, Myanmar, and Thailand. This project, which includes a number of road condition improvements, is expected to be completed by 2016.

In 2012, India and Myanmar signed 12 MoUs extending cooperation on border development, defense and analysis and joint trade and investment. Bilateral trade between India and Burma is expected to more than double by the end of 2015, growing from US$1.28 billion in 2011 to US$3 billion.

INDIA'S TRADE WITH MYANMAR (US$ MILLION)

Year	2007-08	2008-09	2009-10	2010-11	2011-12
Export	173.28	161.05	225.32	356.96	343.01
Growth	N/A	-7.06%	39.91%	58.42%	-3.91%
Import	697.25	961.46	790.84	1,029.23	1,044.64
Growth	N/A	37.89%	-17.75%	30.14%	1.50%
Total Trade	870.53	1,122.51	1,016.16	1,386.19	1,387.65
Growth	N/A	28.95%	-9.47%	36.42%	.11%

INDIA BRIEFING

For more information concerning investment into India, please refer to our India Briefing website: www.india-briefing.com

OPPORTUNITY: HOW INTERNATIONAL COMPANIES CAN USE ASEAN TO ACCESS CHINA & INDIA

Although neither the United States nor the European Union possess direct free trade agreements with ASEAN, China, or India, this does not preclude companies from the West accessing these markets and taking advantage of the import-export concessions offered by the ASEAN-China and ASEAN-India free trade deals. These specific FTA have reduced tariffs on some 97 percent of all products traded between ASEAN and China, and ASEAN and India to zero.

ASEAN does not apply a common external tariff on imported goods. Each ASEAN member may impose tariffs on goods entering from outside ASEAN based on its national schedules. However, for goods originating within ASEAN, ASEAN members are to apply a tariff rate of zero to five percent. This is known as the Common Effective Preferential Tariff (CEPT) scheme.

This represents an important tariff concession available to foreign investors, provided they can access them. This is in fact relatively easy to do – an American or European trader or manufacturer can establish operations in ASEAN as a subsidiary, and armed with such an entity has the automatic right for that legal subsidiary to claim ASEAN domicile and take advantage of the ASEAN Free Trade agreements. Rules of origin apply, and do require study. But these do not prevent, for example, a mix of American or European produced component parts being imported into ASEAN, mixed with ASEAN sourced product and then resold onto the ASEAN, Chinese, and Indian markets.

The general rule is that local ASEAN content must be at least 40 percent of the FOB value of the good. The local ASEAN content can be cumulative, that is, the value of inputs from various ASEAN members can be combined to meet the 40 percent requirement. The following formula is applied:

(Raw material cost + Direct labor cost + Direct overhead cost + Profit + Inland transport cost) x 100 % FOB value

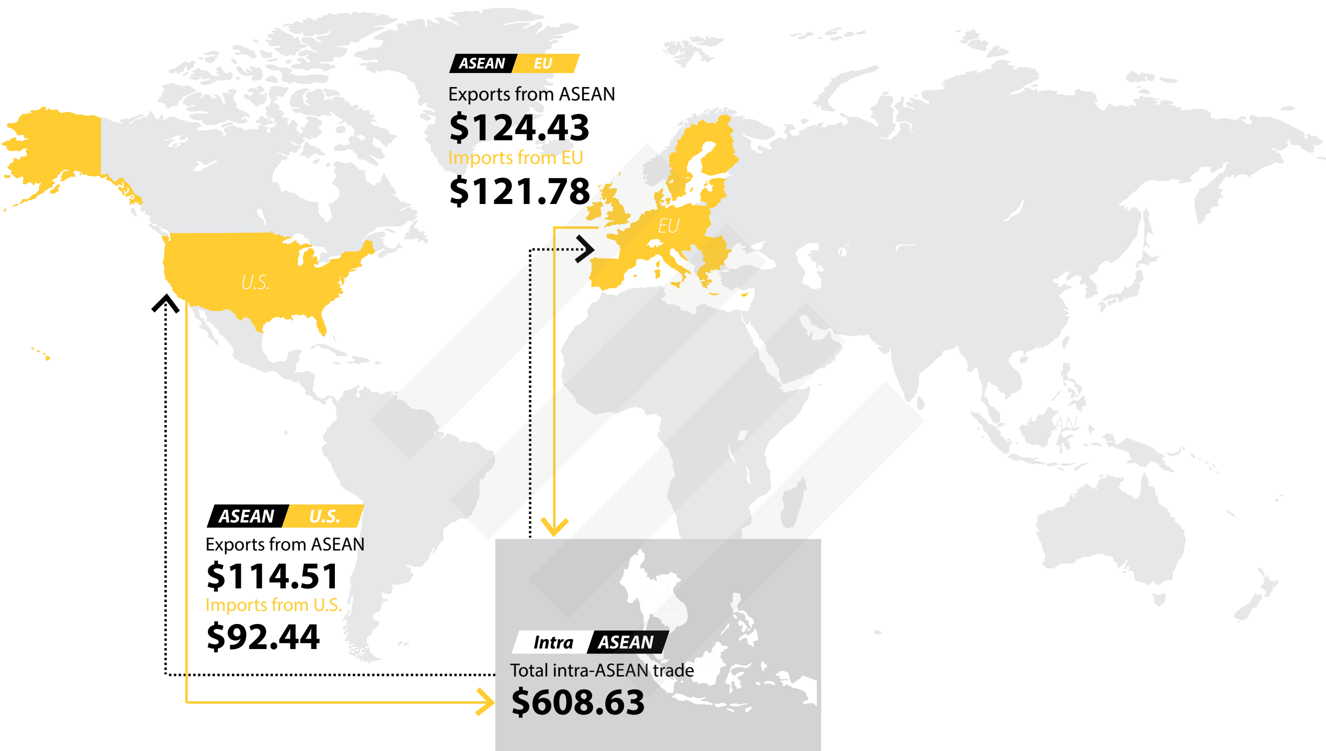
This allows plenty of scope for imported parts from either the United States or Europe to be added to the mix when pulling together the final product. Even that may not be a complete requirement – MNC's with existing facilities in China or India with developed consumer markets in these countries can export to these nations duty free from the ASEAN facility and have it finished off and completed in the point of sale destination country.

As can be expected, there are a handful of variations, and some attention to detail may be required in making the pertinent tariff planning. For example, some wood-based products and certain aluminum and aluminum derivatives are subject to different tariffs and may not be fully exempt. Research into the exact nature of the component and its treatment needs to be carried out.

Additionally, the exporter must obtain a "Form D" certification from the ASEAN government concerned attesting that the product has met the 40 percent requirement. The Form D must be presented to the customs authority of the importing government to qualify for the CEPT rate. Difficulties have sometimes arisen regarding the evidentiary proof to support the claim, as well as how ASEAN national customs authorities can verify Form D submissions. These difficulties arise because each ASEAN national customs authority interprets and implements the Form D requirements without much coordination, although ASEAN is working to standardize this.

Nonetheless, the rise of ASEAN and its ability to offer American or European subsidiary companies a home as an ASEAN incorporation should not be discarded. These developments are now having a direct impact on the choice of location for reaching out to the ASEAN, Chinese and Indian markets, and offer a one stop ASEAN shop for developing an optimum product source mix. Sourcing is becoming far more technical as Asian countries step up to the production quality mark, and the ability to access and coordinate differing products both from a home base as well as within ASEAN, China and India will be a key issue for export manufacturers worldwide.

ASEAN Trade Flows (US$ Billion)



ASEAN BRIEFING

For more information concerning investment into ASEAN, please refer to our ASEAN Briefing website: www.aseanbriefing.com

THE ASEAN-AUSTRALIA-NEW ZEALAND FREE TRADE AGREEMENT

ASEAN has negotiated a combined FTA with Australia and New Zealand, known as the AANZFTA. The deal, currently being phased in, has eliminated tariffs on 67 percent of all traded products between the regions, and will expand to 96 percent of all products by 2020. It is the first time ASEAN has embarked on FTA negotiations which cover all sectors, including goods, services, investment, and intellectual property rights, making it the most comprehensive trade agreement that ASEAN has thus negotiated. The deal was completed in early 2009, and came into effect in stages from 2010, as follows:

- AANZFTA entered into force on various dates during 2010 for Australia, New Zealand, Brunei, Myanmar, Malaysia, the Philippines, Singapore, Thailand, and Vietnam.
- AANZFTA entered into force on January 1, 2011 for Laos and on January 4, 2011 for Cambodia.
- AANZFTA entered into force for Indonesia on January 10, 2012.

In terms of impact, Australia's bilateral trade with ASEAN was AUD112 billion in 2008, and was growing at 10 percent annually, the fastest trade growth Australia had with any country or bloc with the exception of China. ASEAN countries therefore collectively make up Australia's second largest trading partner, after China. That trade meanwhile grew to AUD86.13 billion in 2013, or 14.3 percent of Australia's total. FDI from Australia to ASEAN was valued at AUD25 billion in 2013, making Australia ASEAN's seventh largest FDI source. We can examine the largest ASEAN trade partners with Australia as follows:

Singapore

In terms of specific ASEAN countries, Australian trade with Singapore reached AUD29 billion in 2014, making Singapore Australia's largest trading partner in Southeast Asia and fourth largest in Asia after China, Japan, and South Korea. Major Australian exports to Singapore include gold, crude petroleum, and refined petroleum. Australia is also Singapore's second largest source of meat and meat products and its third largest source of fruit and vegetable imports. Conversely, Australia is Singapore's eighth principal export destination and its 12th largest trading partner. Singapore is the largest foreign investor in real estate in Australia, making up 28 percent of foreign investment in the sector.

Thailand

Australia was the seventh biggest destination for Thailand's FDI in 2012, while Thailand was Australia's eighth largest trading partner in 2013. Investment from Thailand to Australia now totals some AUD9 billion, an increase of over twenty times since 2007. Commencing in 2010, the separate yet complimentary Thailand-Australia FTA (TAFTA) eliminated 94 percent of Thailand's tariffs and quota barriers on imports from Australia. The remaining tariffs will be phased out in 2015 and 2020 respectively, with quotas on skim milk powder, liquid milk and cream in place until 2025. Trade between Australia and Thailand has doubled since TAFTA initially entered into force in 2005. TAFTA provides preferential rates for Australian livestock exports to Thailand compared to the U.S. or Europe.

Malaysia

Malaysia is Australia's ninth largest trading partner overall and its third largest trading partner in ASEAN, with bilateral trade worth AUD20 billion in 2013. Australia is also Malaysia's 11th largest import source and eighth largest export destination. Australia ranks third for Malaysia as an investment destination, with investment valued at AUD5 billion in 2013, up 76 percent from 2010. Combined, Australia-Malaysia two-way investment more than doubled over three years. The complimentary Australia-Malaysia FTA (MAFTA) entered into force in 2013 and builds on regional FTAs between Australia, New Zealand, and ASEAN. When MAFTA came into effect, Australia eliminated 100 percent of its import tariffs of Malaysian goods, while 97.6 percent of Australian goods exported to Malaysia became eligible for zero tariffs. Ninety-nine percent of Australian goods exported to Malaysia are expected to be tariff-free by 2020. The goods categories susceptible to progressive tariff reductions are: fruits, chemical products, automotive, and upstream iron and steel products.

MAFTA also permits Australian businesses to invest in service industries such as tourism, education, insurance, and telecommunications, with Australian equity in some sectors allowed at up to 70 percent.

Indonesia

Australia-Indonesia trade still has some way to go before reaching its potential; the Indonesia portion of the AANZTFA came into effect during the global slowdown. Political tensions over the treatment of Australian nationals facing criminal charges have also had a recent impact on bilateral ties between the two countries. All the same, Indonesia is Australia's 12th largest trading partner, 11th largest export market, and 19th largest investment destination. The two countries have a comprehensive Economic Partnership Agreement (IA-CEPA) in the pipeline, but negotiations stalled in 2013. A rapprochement between the two nations seems certain to arrive and with that a boost to trade ties. The main port of Surabaya is developing as a key light-manufacturing base for Australian companies looking to reduce production costs by shifting part of their operations out of the country.

AANZFTA Treaty Protocol Amendments

A new AANZFTA protocol was agreed during 2014 and came into effect in 2015. The Protocol does not change any of the preferences under AANZFTA, however it tidies up various inefficiencies and unnecessary issues that created challenges for exporters. These changes relate to product-specific rules of origin, certificate of origin requirements, and the process for the transposition of tariff reduction and origin schedules and classification documents.

Australia's Corporate Financial View

A curious aspect to the AANZFTA is that it remains relatively off the radar when it comes to the average Australian businessman. It remains true that this FTA has been overshadowed by a similar trade agreement with China, which is expected to amount to trade opportunities for Australiasia of double that of the ASEAN FTA agreement. Consequently, the China agreement has rather kept the ASEAN deal in the shade. The Australia & New Zealand Bank (ANZ) however have recently released a report on the potential for Australia and New Zealand's trade capability with ASEAN, and concluded that the potential scope of increased trade with ASEAN remains huge.

Andrew Geczy, the CEO of International and Institutional Banking at ANZ comments in the bank's research paper "ASEAN - The Next Horizon" that "the potential is greater than is commonly understood. New economic blocs will emerge. Demand for infrastructure – and hence Australian ore – is huge. A growing middle class will want a lot more of the calories New Zealand agriculture produces. Deepening economies will demand more of Singapore's sophisticated financial services.

At the heart of the ASEAN opportunity is greater integration through the creation of a single market and production base. During the next 10 years we expect ASEAN to replace China as the world's manufacturing hub and we expect it to become the fifth largest economy in the world by the end of the decade. Consider iron ore: the infrastructure investment required in the region is double the size of the infrastructure investment to which China committed in the financial crisis.

The ASEAN-Australia-New Zealand Free Trade Area Agreement will be vital and completing the implementation of the agreement needs to be prioritised. ASEAN could replace China as the world's leading manufacturing centre and emerge as a key market for Australian exporters with the potential for the Australia-ASEAN trade and investment corridor to double and exceed US$210 billion by 2025."

These are powerful conclusions from Australia and New Zealand's leading bank. ANZ have also been active throughout the region, and have been putting their money where their mouth is. Our own research in looking at Treasury assistance for our own clients investing in the ASEAN region have shown that ANZ are one of the only international banks to have consistently demonstrated a commitment to investing in ASEAN - most of the ASEAN nations have ANZ banking branches in their capital cities, another sign that corporate finance belief in Australia and New Zealand suggests that the region as a whole may in fact possess opportunities equal too, and possibly even greater than mainland China.

New Zealand – ASEAN Trade

The ANZ Bank reported in April 2015 that New Zealand's trade and investment ties with Southeast Asian countries could double to US$35 billion within the next decade. ASEAN countries would provide a significant growth opportunity for New Zealand exports in coming years said the bank.

Southeast Asia could take over as the "world's factory" from China in coming years, as companies take advantage of cheap and abundant labor. This would also allow New Zealand food and agriculture exporters to diversify and reduce their reliance on the key markets of China and Australia. Total New Zealand-ASEAN trade and investment was worth US$13 billion (NZ$17b) last year and had the potential to expand to US$22b to US$27b (NZ$35b) by 2025, ANZ said. New Zealand exports to ASEAN countries were worth almost NZ$5 billion in the past year to February, almost flat on the same period a year before. New Zealand exports to ASEAN countries have doubled in the past 25 years and now account for about 10 percent of all exports.

A document produced by the Australian Customs authority provides a roadmap into using the AANZFTA agreement here: http://www.customs.gov.au/webdata/resources/files/100817MakingUseofAANZFTAtoExport.ImportGoods.pdf

2

COUNTRY PROFILES

- Brunei
- Cambodia
- Indonesia
- Laos
- Malaysia
- Myanmar
- The Philippines
- Singapore
- Thailand
- Vietnam

COUNTRY PROFILES: BRUNEI

The Sultanate of Brunei's reign peaked between the 15th and 17th centuries when its control extended over the coastal areas of northwest Borneo and the southern Philippines. This was followed by a period of decline and internal strife. In 1888, Brunei became a British protectorate, and independence was achieved in 1984. The same family has ruled Brunei for over six centuries.

Located on the northern coast of the island of Borneo, Brunei benefits extensively from its petroleum and natural gas fields. The economy depends heavily on revenue from the extraction of these natural resources (crude oil and natural gas production account for 60 percent of the country's GDP and more than 90 percent of all exports), but also encompasses a mixture of foreign and domestic entrepreneurship, government regulation, welfare measures, and village tradition.

Recently, the country's government has been looking to diversify the economy's heavy reliance on oil and gas, with policies ranging from upgrading the labor force and reducing unemployment, (currently at 2.7 percent), to strengthening the banking and tourism sectors. In aid of this strategy, the government provides free health services and education through university to all citizens.

The country's per capita GDP is among the highest in Asia, and substantial overseas investment supplements income from domestic production. Forbes ranks Brunei as the fifth-richest nation out of 182. However, there are regulatory challenges to starting a business in the country. On average, depending on the type of business, it takes 101 days to set up a business in Brunei.

OFFICIAL NAME
Brunei Darussalam
CAPITAL
Bandar Seri Begawan
LAND AREA
5270 km^2
POPULATION
417,784
CURRENCY
Brunei Dollar (BND) US$1 = 1.29 BND (As of November 11th, 2014)
GDP
US$16,111,135,789
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
US$71,759
IMPORTS OF GOODS AND SERVICES (2013)
US$5,233,679,407
EXPORTS OF GOODS AND SERVICES (2013)
US$12,269,678,086
MAIN INDUSTRIES
Petroleum, petroleum refining, liquefied natural gas, construction, agriculture, transportation
DEPARTURE TAX
BN$12; BN$5 if destination is Indonesia, Malaysia or the Philippines
INFLATION RATE (2009 – 2013)
0.86%
AVERAGE MONTHLY MINIMUM WAGE
None

General steps for setting up a business

The general steps for setting up a business in Brunei include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Check uniqueness of company name and reserve the name	5 days
2	Make statutory declaration at Magistrate's Court	1 day
3	Submit incorporation documents and pay registration fees	10 days
4	Make a company seal	3 days
5	Register for Employees Provident Fund	1 day, simultaneous with previous procedure
6	Purchase application form for miscellaneous license (rampaian) at the Municipal Board of Bandar Seri Begawan	1 day
7	Apply for miscellaneous license ("Rampaian") at Municipal Board	2 months
8	Apply to Fire Services Department (FSD) for rampaian approval	1 day (simultaneous with procedure 7)
9	Apply to the Ministry of Health for rampaian approval	1 day (simultaneous with procedure 7)
10	Receive inspection from Fire Service Department	1 day (simultaneous with procedure 7)
11	Receive inspection from Ministry of Health	1 day (simultaneous with procedure 7)
12	Pick up approval Fire Service Department	1 day (simultaneous with procedure 7)
13	Pick up approval from Ministry of Health	1 day (simultaneous with procedure 7)
14	Submit approval letters to licensing authorities	1 day (simultaneous with procedure 7)
15	Pick up rampaian license	21 days

Investment vehicles available to foreign investors

The following investment vehicles are available to investors in Brunei:

- Partnership
  - » May consist of up to 20 individuals, local or branches of foreign companies. In general, requires one local partner (Bruneian or Brunei Permanent Residence)
  - » Subject to approval, open for foreigners to register.
  - » Not subject to corporate tax.

- Private company (Sendirian Berhad or Sdn. Bhd / Pty. Ltd)
  - » Companies incorporated in Brunei Darussalam governed by the Companies Act (Cap 39).
  - » Subject to a 22 percent gross profit corporate tax.
  - » Public company (BERHAD or Bhd./Plc).
  - » Companies that can transfer shares freely to public.
  - » Subject to a 22 percent gross profit corporate tax.

- Branch of foreign company
  - » Any foreign company wishing to establish a presence in Brunei but not incorporated as local company.
  - » Subject to a 22 percent gross profit corporate tax.

- Joint venture
  - » A joint venture in the form of an incorporation or partnership between foreign & local company.
  - » Subject to approval, open for foreigners to register.
  - » Subject to a 22 percent gross profit corporate tax.

Additional requirements

Certain companies may be required to obtain special licenses from the government before they can begin business. This generally applies to companies that are engaged in a business that directly affects the public, such as banks, finance companies, insurance companies, travel agencies and moneylenders.

HR issues

Foreign labor in Brunei is controlled by the Labor Department's Labor Quota system. The Department of Immigration and National Registration is in charge of issuing Employment Passes. The Brunei Passport Act requires all foreign nationals to obtain a valid visa to enter the country. However, nationals of the following countries are exempted from visa requirements for social, business, or professional visits for certain periods:

- 14 days for: Canada, Indonesia, Japan, The Philippines, Thailand, France, Switzerland, Liechtenstein, Netherlands, Belgium, Luxembourg, Republic of Maldives, Denmark, Norway, Sweden, Spain, Italy and Peru.
- 30 days for: Malaysia, Singapore, United Kingdom, Germany, Sultanate of Oman, Republic of Korea and New Zealand.
- 90 days for: United States

Visas are required for nationals of these countries if they intend to stay longer than the above-specified period.

If a foreign national wishes to be employed in Brunei, they are required to obtain an Employment Permit issued from the Department of Immigration and National Registration – this will enable them to work and live in the country. It takes approximately five days for the work permit to be processed and it remains valid for up to two to three years, depending on the type of work involved.

Health screening, which includes a blood test and chest x-ray, is mandatory as part of the application process for a work permit.

Taxation

Corporate Income Tax

- Rate: 18.5 percent.
- Residency: Considered resident if control and management of the business is exercised in Brunei.
- Compliance: Self-assessment. All filing is done under the System for Tax Administration and Revenue Services (STARS), introduced in 2012.
- Incentives: A number of tax incentives are provided including pioneer industry tax exemptions, tax holidays, tax relief for capital expenditures in excess of BND1 million, and withholding tax exemptions for interest on certain loans.

Indirect Tax

- Rate: There is currently no VAT or equivalent consumption tax.

Individual Income Tax

- Rate: There is currently no individual income tax.

Summary

Brunei is often overlooked as an investment location, but the country's government is eager to change this. The Sultan of Brunei has announced that the country is seeking to increase the level of investment into a number of industries, such as manufacturing and services. This is part of the oil-rich kingdom's attempt to diversify its economic strategy. Key areas that are being targeted for increased levels of investment include petrochemicals, information and communication technology, the high-tech industry, and halal food processing.

Investment Advice?

Please email *brunei@dezshira.com* for information on legal and tax support for foreign investors in Brunei.

COUNTRY PROFILES: CAMBODIA

The Khmer Empire reached its zenith between the 10th and 13th centuries when it dominated most of Southeast Asia, accumulating immense power and wealth. After a long period of decline, Cambodia came under French protection in 1863, becoming part of French Indochina in 1887. Following Japanese occupation in World War II, Cambodia gained full independence in 1953. Communist Khmer Rouge forces captured Phnom Penh in 1975 and evacuated all cities and towns. At least 1.5 million Cambodians died from execution, forced hardships, or starvation during the Khmer Rouge regime. In November 1978, Vietnamese troops invaded Cambodia, driving the Khmer Rouge into the countryside and touching off almost 13 years of civil war. The 1991 Paris Peace Accords mandated democratic elections and a ceasefire. UN-sponsored elections in 1993 helped restore some semblance of normalcy under a coalition government. A second round of national elections in 1998 led to the formation of another coalition government and renewed political stability.

Garments, construction, agriculture, and tourism are driving Cambodia's economy, with GDP climbing more than seven percent per year between 2010 and 2013. The garment industry currently employs about 400,000 people and accounts for 70 percent of Cambodia's total exports. Oil deposits were discovered beneath Cambodia's territorial waters in 2005, leading to another possible revenue stream for the government and foreign direct investment interest if commercial extraction is possible. Mining also is attracting investor interest including opportunities for mining bauxite, gold, iron, and gems. The tourism industry also continues to grow rapidly, with foreign arrivals exceeding two million per year since 2007 and reaching over three million visitors in 2012, many drawn by the UNESCO World Heritage Site
Angkor Wat.

Despite all of this, Cambodia remains one of the poorest countries in Asia and long-term economic development will continue to be stymied by endemic corruption, limited educational opportunities, high-income inequality, and poor job prospects. More than 50 percent of the government budget comes from donor assistance, and the major economic challenge for Cambodia over the next decade will be fashioning an economic environment in which the private sector can create enough jobs to handle Cambodia's demographic imbalance. It currently takes around 101 days to set up a business in the country.

Cambodia has 22 special economic zones (SEZs) including one in the capital, Phnom Penh, and four around the Sihanoukville Port Area. The authority responsible for Cambodia's SEZs is the Cambodia Special Economic Zone Board, which operates under the umbrella of the Council for the Development of Cambodia.

OFFICIAL NAME	Kingdom of Cambodia
CAPITAL	Phnom Penh
LAND AREA	176,520 km^2
POPULATION	15,135,169
CURRENCY	Cambodian Riel US$1 = 4,078 KHR *(As of November 11th, 2014)*
GDP	US$15,249,684,397
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)	US$3,042
IMPORTS OF GOODS AND SERVICES (2013)	US$7,633,716,515 (2011)
EXPORTS OF GOODS AND SERVICES (2013)	US$6,938,312,829 (2011)
MAIN INDUSTRIES	Tourism, garments, construction, rice milling, fishing, wood and wood products, rubber, cement, gem mining, textiles
DEPARTURE TAX	$25, included in ticket
INFLATION RATE (2009 – 2013)	2.92%
AVERAGE MONTHLY MINIMUM WAGE	US$ 98.64 (KHR 402,253)

General steps for setting up a business

The general steps for setting up a business in Cambodia include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Deposit the legally required initial capital in a bank and obtain deposit evidence	1 day
2	Conduct an initial check for uniqueness of the company name at the Intellectual Property Department	2 days
3	Obtain the company name approval at the Business Registration Office	5 days
4	Publication of an abstract of the company organization documents (bylaws, memorandum, and articles of association) in a Gazette	7 days
5	Incorporate the company with the Business Registration Department in Ministry of Commerce	25 days on average
6	Make a company seal	1 day
7	Have registration documents stamped and approved by Phnom Penh Tax Department	3 days
8	Register the company for patent at the Tax office at the khan level	30 days on average (simultaneous with previous procedure)
9	Register the company for VAT at the General Tax Department	2 weeks (simultaneous with previous procedure)
10	Notify the Ministry of Labor of the start of operations and hiring of employees	30 days
11	Receive inspection from Labor Inspector	1 day (simultaneous with procedure 10)

Investment vehicles available to foreign investors

The Cambodian government allows for three types of investment, they are as follows:

- Limited Liability Company
  - » This can be in the form of “private limited companies” or “public limited companies”.
- Partnership
  - » An enterprise formed through the creation of a contract between two or more persons.
- Sole proprietorship
  - » An enterprise established and operated by a single natural person who owns all of its capital.
- Foreign Business
  - » A legal entity formed under the laws of a foreign country where it has a place of business and is currently conducting business in Cambodia using one of the following forms:
    - › Commercial representative office, commercial relations office or agency (“representative office”)
    - › Branch
    - › Subsidiary

Additional requirements

The Ministry of Commerce (MOC) and the Council for the Development of Cambodia (CDC) oversee foreign direct investment and business development in Cambodia. There are two stages in the CDC approval process:

- The investment project must obtain a Conditional Registration Certificate.
- The investment project must obtain a Final Registration Certificate.

A foreign business will be considered as "doing business" in Cambodia if it performs any of the following:

- Rents office or any other space for manufacturing, processing or performing services for more than one month.
- Employs any person for more than one month.
- Performs any other act permitted for a foreign physical and legal person by Cambodian law.

All businesses will be subject to tax under the Self-Assessment System (Real Regime Tax System), regardless of their type of activity or level of annual revenue. Every year, taxpayers must submit a tax declaration, a balance sheet, results account, and tables of complementary information to the tax administration.

Businesses must first register with the Ministry of Commerce, and then register at the Large and Medium Tax Payers Bureau (LMTB) of the Tax Department in order to receive a tax identification number (TIN).

Patent Tax

As part of the process to obtain a TIN, a company must also pay a Patent Tax for the first year. This tax is an annual business registration tax, which must be paid on each business activity and for each company location.

Stamp Tax

Once the company is established it must register with the Tax Department's local tax branch office and pay the stamp duty within 15 days of registration at the Ministry of Commerce.

Registration Tax

Additionally, a registration tax is levied on the following legal documents:

Document on establishing a company	1,000,000 Riel ~ US$243.83
Document on merging companies	1,000,000 Riel ~ US$243.83
Document on resolving the company	1,000,000 Riel ~ US$243.83

HR issues

Foreigners are generally required to obtain a visa in order to stay in Cambodia. Visas can be obtained either in the visitor's home country or on arrival in Cambodia. There are two types of visas:

- Tourist Visa
  - Valid for 30 days after moving to Cambodia
  - Can be extended for one month

- Business Visa
  - Valid for 30 days after moving to Cambodia
  - Can be extended for up to twelve months, and renewed as often as necessary

Work permits

There is much debate over whether a work permit is necessary to allow a foreigner to work in Cambodia. The government's regulations are quite unclear on this point, and many foreigners find that they are able to work in the country with just a Business Visa. It is therefore recommended that a professional services firm be contacted in order to ensure that your move to Cambodia goes smoothly.

In order to receive a work permit, the foreigner's employer must submit an application to the Ministry of Interior. Cambodia has two types of work permits:

- Temporary work permits
  - For most regular expats
  - Duration is the same as the length of the individual's visa

- Permanent work permits
  - Generally reserved for major investors and those with government connections

Taxation

Corporate Income Tax/Tax on Profit

- Rate: 20 percent.
- Residence: To be classified as a resident, the business must make Cambodia its principle place of business or conduct the majority of its operations in the country. In the case of a non-resident, only that income which is earned within Cambodia will be subject to corporate income tax.
- Compliance: There is a self-assessment system for filing CIT/ToP returns. Returns are due on March 31 of the year following the income tax year and are filed annually.
- Incentives: There are a number of investment incentives provided by Cambodia that are available to all sectors not on the "negative list." Incentives can include CIT/ToP and import duty exemptions.

Indirect Tax

- Rate: The VAT rate currently stands at 10 percent. Certain goods are zero-rated, such as goods for export, and other goods are exempt.

Individual Income Tax

- Rate: The top rate stands at 20 percent.
- Every month, the employer must pay 0.8 percent of the average wage of their employees into the National Social Security Fund.

Summary

The process of setting up a business in Cambodia is complicated and time consuming, requiring significant patience from foreign investors. However, Cambodia has made significant strides in improving its business environment and the country is quickly becoming an attractive destination for foreign investors.

Given the complex nature of business operations in Cambodia, it is strongly recommended that a potential investor contact an experienced professional firm before making an entry into the country.

Investment Advice?

Please email *cambodia@dezshira.com* for information on legal and tax support for foreign investors in Cambodia.

IMPORTANT UPDATE: CAMBODIA RECOGNIZES FIRST PATENT APPLICATION

Cambodia has recognized its first-ever patent application, marking a landmark for legal services provision in the country. The country has had a patent law in place since 2003, enacted as part of the countries WTO obligations, however it has struggled with the internal mechanisms required to enable it to actively process such applications.

However, in light of the forthcoming ASEAN Economic Community deadline of the end of this year for Cambodian compliance, the nation negotiated an agreement with Singapore's Intellectual Property Office (IPOS) for assistance in processing such applications. Consequently, the first patent was granted protection and recognized in Phnom Penh on March 4th.

In a statement last week, IPOS said the co-operation between Singapore and Cambodia will enable prospective companies to access the regional common market more effectively, and stated that businesses or inventors seeking patent protection in Cambodia may now do so through its office.

Cambodia Patent Application Process

In Cambodia, patent registration is effected by the filing of a patent application to the Ministry of Industry and Handicraft ("MIH") and includes the application form, description, claims drawings (if applicable), abstract, information concerning any previous international registrations and evidence of such prior registrations. As in many jurisdictions, an invention is patentable only if it is new, involves an inventive step and is industrially applicable.

While official timelines for actions to be performed by the applicant or the patent examiner are stipulated in the Patent Law and applicable regulation, these are generally extendable at the discretion of the MIH. In practice, and while the Singapore application has been the initial patent granted in the country, it may take around four years for issuance of a patent from the date of application, although the new IPOS relationship may now reduce this. Application forms must be translated into the national language of Cambodia (Khmer) and this requirement also contributes to the approval process timeline, given a lack of translators and law firms operating in the country to verify these.

To date Cambodian patent law is not fully in line with international standards, although the Cambodian law will be familiar to legal counsel experienced in such work. The nation is a signatory to the Paris Convention for the Protection of Intellectual Property. Thus far, about 125 patents are pending with all these being priority applications from existing patents filed elsewhere.

Accordingly there is great reliance placed on the search and examination reports from the country from which priority is claimed. The new IPOS route with the assistance of Singapore may therefore be considered a preferential route for legal counsel to take for the time being.

Cambodia has also instigated Patent Infringement & Criminal Penalties into law, allowing a civil infringement law suit against offenders. Cambodian courts have discretion to award monetary damages and order injunctive relief, as well as issuing criminal penalties for infringement of five million to twenty million Riels (approximately US$1,250 to US$5,000), or one to five years imprisonment, or both. Repeat offenders are subject to up to double the fine and imprisonment term.

COUNTRY PROFILES: INDONESIA

The Indonesian archipelago has been an important trade region since at least the 7th century. Indonesian history has been influenced by foreign powers drawn to its natural resources. Muslim traders brought Islam, while European powers brought Christianity and fought one another to monopolize trade in the Spice Islands of Maluku. Following three and a half centuries of Dutch colonialism, Indonesia secured its independence after World War II.

Indonesia is the world's third most populous democracy, the world's largest archipelagic state, and the world's largest Muslim-majority nation. Current issues include: alleviating poverty, improving education, preventing terrorism, consolidating democracy after four decades of authoritarianism, implementing economic and financial reforms, stemming corruption, reforming the criminal justice system, holding the military and police accountable for human rights violations, addressing climate change, and controlling infectious diseases, particularly those of global and regional importance.

The country is the largest economy in Southeast Asia, and its estimated GDP as of 2013 was US$908.4 billion. The government has promoted fiscally conservative policies, resulting in a debt-to-GDP ratio of less than 25 percent and historically low rates of inflation. In December 2011, Fitch and Moody's upgraded the country's credit rating to investment grade. Indonesia still struggles with poverty and unemployment, inadequate infrastructure, corruption, a complex regulatory environment, and unequal resource distribution among regions. The government also faces the challenges of quelling labor unrest and reducing fuel subsidies in the face of high oil prices. The average time to set up a business in Indonesia is 52.5 days.

Indonesia has established 20 new development zones as of the end of 2014. These zones include new industrial areas in Bintuni (Papua Province), Pomalaa (Southeast Sulawesi), Batu Licin (South Kalimantan), Kuala Tanjung (North Sumatra), Serang & Cilegon (Banten), Bojonegara (Banten), and Purwakarta (West Java). Other key areas include the Tanjung Lesung SEZ in Banten, which is concentrated on tourism, and the Sei Mengke SEZ in North Sumatra, which focuses on agro-processing and upgrading the port facilities at Dumai and Belawan by the end of 2014.

OFFICIAL NAME
Republic of Indonesia
CAPITAL
Jakarta
LAND AREA
1,811,570 km^2
POPULATION
249,865,631
CURRENCY
Indonesian Rupiah US$1 = IDR 12,168.37 *(As of November 11th, 2014)*
GDP
US$868,345,645,449
GDP PER CAPITA (PPP) (Current international $)
US$9,559
IMPORTS OF GOODS AND SERVICES (2013)
US$223,503,012,056
EXPORTS OF GOODS AND SERVICES (2013)
US$206,171,409,908
MAIN INDUSTRIES
Petroleum and natural gas, textiles, automotive, electrical appliances, apparel, footwear, mining, cement, medical instruments and appliances, handicrafts, chemical fertilizers, plywood, rubber, processed food, jewelry, and tourism
DEPARTURE TAX
150,000 Rupiah, included only in Garuda Indonesia tickets
INFLATION RATE (2009 – 2013)
5.20%
AVERAGE MONTHLY MINIMUM WAGE
US$197.11 (IDR 2,398,507)

General steps for setting up a business

The general steps for setting up a business in Indonesia includehe following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Hire a notary to pay the fee for name clearance at a bank; obtain the standard form of the company deed; arrange for a notary electronically; obtain clearance for the Indonesian company's name at the Ministry of Law and Human Rights; notarize company documents; pay the State Treasury for the non-tax state revenue (PNBP) fees for legal services at a bank	6 days
2	Apply to the Ministry of Law and Human Rights for approval of the deed of establishment	Less than one day (online procedure)
3	Obtain the Building Management Domicile Certificate	1 day
4	Apply for the Certificate of Company Domicile	2 days
5	Apply at the Ministry of Industry and Trade for the permanent business trading license (Surat Izin Usaha Perdagangan, SIUP)	15 days
6	Obtain company registration certificate (Tanda Daftar Perusahaan/TDP) from the Local Government Office	14 days
7	Register with the Ministry of Manpower	14 days
8	Apply for the Workers Social Security Program (BPJS Ketenagakerjaan)	7 days (simultaneous with previous procedure)
9	Apply for healthcare insurance with BPJS (Badan Penyelenggara Jaminan Sosial) Kesehatan	7 days (simultaneous with previous procedure)
10	Obtain a taxpayer registration number (NPWP) and a VAT collector number (NPPKP)	1 day (simultaneous with previous procedure)
11	Receive inspection from Labor Inspector	1 day (simultaneous with procedure 10)

Investment vehicles available to foreign investors

The following investment vehicles are available to investors in Indonesia:

- Representative Office
  - » A foreign company or a group of foreign companies may open a foreign RO in Indonesia in order to manage its/their interests, or to prepare for the establishment and development of its/their business in the country.
  - » Led by one or more Indonesian or foreign citizens who are considered to be the RO executive, the appointment of which is based on a letter of appointment from the relevant foreign company or group of foreign companies.
  - » A KPPA license must be obtained by submitting Form VI-A to the Indonesian Investment Coordinating Board BKPM. The RO must then obtain its Tax Identification Number (NPWP) and its Registered Statement Letter.
  - » The RO's activities are limited to the following roles:
    - › Supervisor
    - › Intermediary
    - › Coordinator
    - › Manager of the foreign company group's interests
  - » An RO cannot conduct the following activities:
    - › Participate in managing the foreign company, its subsidiary, or its branches in Indonesia.
    - › Generate revenues in Indonesia.
    - › Engage in any agreement or sale and/or purchase transaction of goods and services with an Indonesian company or Indonesian nationals.
  - » There are no minimum financial investment requirements to set up an RO.

- Limited Liability Company (Perseroan Terbatas / PT)
  - » The most common form of legal entity used for foreign investment into Indonesia.
  - » Shareholders have limited liability.
  - » A PT company formed with a foreign shareholder in accordance with the requirements of the Foreign Investment Law is referred to as a Foreign Capital Investment, or "Penanaman Modal Asing" (PMA), company.
  - » Can be fully owned by foreign shareholders or exist as a joint venture between local and foreign shareholders. A joint venture PT is also referred to as a PMA company. Any PT with a domestic investment status from the BKPM will be categorized as a Domestic Capital Investment, or "Penanaman Modal Dalam Negeri" (PMDN), company.
  - » Minimum capital investment requirement of US$100,000.

Additional requirements

Depending on their business line, a PT company or RO may be also be required to obtain the following licenses:

- Building Management Domicile Certificate
- Certificate of Company Domicile
- Company Registration Certificate (Tanda Daftar Perusahaan)
- Permanent Business Trading License (Surat Izin Usaha Perdagangan) – for PT companies only

Additionally, the business must apply for the Workers Social Security Program and the Workers Health Insurance Program. Businesses with more than 10 employees or with a monthly payroll of at least IDR1 million must register with the Ministry of Manpower.

According to Indonesia's Company Law, companies are required to prepare annual statutory financial statements in accordance with the Indonesian Financial Accounting Standards. Additionally, companies must submit tax returns on a monthly and annual basis.

HR issues

Indonesia passed new immigration laws in 2011, and as a result there are now various options available to foreign workers for obtaining visas and working permits in the country. Indonesia also offers a visa-on-arrival service that is good for stays of up to 30 days, and work permits/visas obtained prior to arrival are typically issued by Indonesia's Ministry of Manpower. The Ministry also maintains lists of all professional positions in the country that are open to foreign nationals, which includes technicians, directors, managers, field experts, and teachers.

To apply for a work or business visa, your employer must first submit the relevant work permit applications and also obtain government approval to hire you as a foreign worker. To do this, the company must send the Indonesia Investment Coordinating Board (BKPM) a formal request for approval called a Letter of Announcement or an Implementation of Employment Contract Agreement Letter.

The employer must also submit a Manpower Utilization Plan for Foreign Workers on your behalf to show how you will be used in the company's plans. Once all these are approved, the company can then submit a VITAS Visa application (Limited Stay Visa) to the BKPM, which will then issue a Letter of Recommendation to the Department of Immigration to allow you to obtain a visa.

Indonesia allows foreigners to obtain the following types of visas:

Business Visa

Business visas are granted to foreigners who will be conducting business activities (such as attending conferences/seminars) in Indonesia, but do not actually take up an employment position at a company or receive any payments when in the country.

These types of visas typically have a validity period of one year, and are available in both single and multiple entry variants. Multiple entry holders are permitted to stay a maximum total of 60 days in Indonesia, but this 60-day amount can be spread out over the permit's validity period. Extensions are available for business visas.

KITAS

Expatriates working in Indonesia on a full-time basis must obtain residence cards called Limited Stay Permit cards (Kartu Izin Tinggal Terbatas, or KITAS) to legally work in the country. A KITAS can be obtained by foreigners employed by Indonesian companies, foreigners married to Indonesian citizens or the children of foreigners who are married to Indonesian citizens. The company looking to hire a foreigner must prove exactly why this foreign worker must work for them during the KITAS application process (i.e., it has to prove that the worker is an expert in the field by way of experience and educational background checks). Additionally, if the Ministry of Manpower accepts the application, a yearly fee of US$1,200 must be paid to them. A KITAS is issued for periods of one year, and is extendable with at least 30 days advance notice.

KITAP

A KITAP (Kartu Izin Tinggal Tetap) is a permanent stay permit in Indonesia, which can only be issued to investors and workers, retired elderly foreigners older than 55, and foreigners married to Indonesian citizens. Investors and workers are eligible to apply for a KITAP after they hold a KITAS for at least three consecutive years. KITAPs can be obtained for five-year periods, and may be extended for indefinite periods of time.

Visa on Arrival

These visas can be obtained directly on arrival when a traveler lands at certain airports and seaports in Indonesia regardless of the purpose of their visit. The visa on arrival is not a work visa or a visitation visa, so it therefore cannot be converted to obtain other immigration permits. The maximum stay permitted on a visa on arrival is 30 days, and can be extended for another 30 days.

Taxation

Corporate Income Tax

- Rate: 25 percent.
- Residency: A company is deemed resident if it was incorporated in Indonesia.
- Compliance: Companies must self-assess and file annual CIT returns with the Tax Office within four months after the end of the calendar or tax year. Notifying the Director General of Taxation can result in a two-month extension.
- Incentives: R&D undertaken in Indonesia is a deductible expenditure, and other incentives include tax holidays, exemptions for certain transactions, and tax relief in certain regions or industries.

Indirect Tax

- Rate: 10 percent VAT applies to goods, services, and imports in Indonesia. The export of goods is subject to zero percent VAT.

Individual Income Tax

- Rate: Up to 30 percent.
- Employers must contribute to four different social security insurance funds:
  - » Old age compensation: 3.7 percent
  - » Death compensation: 0.3 percent
  - » Health insurance (optional): 3 percent single, 6 percent couple
  - » Accident insurance: 0.24-1.74 percent

Summary

Manufacturing has been one of the main drivers of economic growth in Indonesia, and today it contributes 24 percent of national GDP. With a population of 250 million, the world's fourth largest, this translates to more than 14 million Indonesians being employed in the manufacturing sector. This, combined with some of Asia's lowest volatility in economic growth over the past decade, has recently attracted the attention of manufacturing giants General Electric, LG, and Toyota. The country's primary manufacturing industries include automotive, electronics, textiles, footwear, food & beverage, palm oils, metal products, and chemicals.

Indonesia is working hard to make its business environment even more competitive and attractive to foreign investors. However, the business setup process remains complicated and time consuming, it is therefore strongly suggested that investors contact a professional advisor before entering the country.

Investment Advice?

Please email *indonesia@dezshira.com* to contact our Dezan Shira Asian Alliance practice in Indonesia for legal and tax support for foreign investors into the country.

IMPORTANT UPDATE: INDONESIA ONLINE: A GUIDE TO E-COMMERCE

While currently, e-commerce only accounts for less than one percent (worth ~US$2 billion per year) of Indonesian retail spending, analysts believe that the country's fast growing middle class and proliferation of smartphones will soon raise that share to eight percent (worth US$8 billion) in just a few years. If that scenario were to happen, then Indonesia's e-commerce market would be the largest in Southeast Asia.

Although accurate predictions are hard to make (analyst estimates range significantly), there is general agreement that Indonesia's e-commerce industry should see strong growth over the next few years. The market numbers certainly exist – the country has the fourth largest population in the world. Indonesians are increasingly tech savvy as well, Jakarta is known as the "Twitter capital" of the world, due to the massive level of tweets its citizens emit each year.

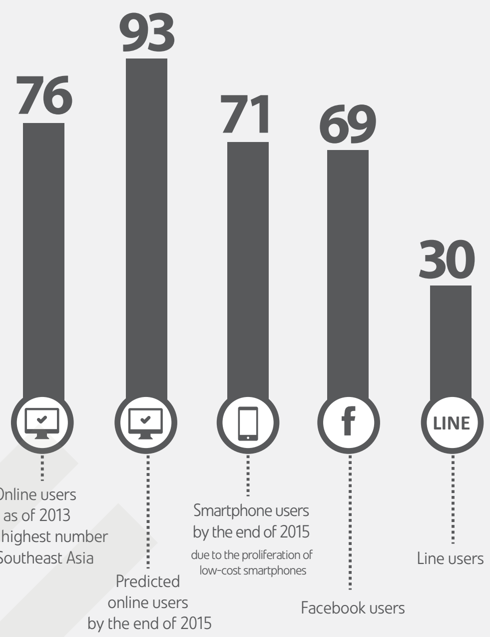
Currently, e-commerce sales in Indonesia are admittedly somewhat low, but sales are expected to triple by 2016. Like most countries, the top category for online shopping is clothing and apparel. In 2014, around 60 percent of online shoppers bought items in this category. Interestingly, 27 percent of all e-commerce transactions occurred via social media.

However, there is certainly much to overcome before Indonesia, and investors, can reach this sunny outcome – 11 percent of the country still lives in poverty and another quarter of the country is living near poverty levels. Internet penetration levels are still low (with high-speed internet lacking in many parts of the country), as are levels of disposable income.

In a counterpoint to this dispiriting news, according to an analysis conducted by the Boston Consulting Group late last year, 74 million Indonesians live in households that spend more than US$200 per month – this number is predicted to grow to 141 million by 2020. Furthermore, according to SingPost, a global logistics firm, there will be 20 percent year on year growth in internet users through the year 2016.

An additional factor contributing to the growth potential of e-commerce in Indonesia, is the fact that more and more people are becoming too busy to shop in traditional stores and do not want the headache associated with navigating the notoriously busy roads in order to reach the stores, instead preferring the products to be brought to their chosen location.

Indonesian E-Commerce (Million Users)



Who is already there?

Companies like Lazada, which is known as "the Amazon of Southeast Asia", are already operating within Indonesia. Lazada, which has been in the country since 2013, became the largest business to consumer site in Indonesia during 2014 (taking the top spot from Amazon). The company reportedly averages around 6.5 million views a months. Maximilian Bittner, chief executive of Lazada, has stated that he believes "Indonesia is predestined for a really massive explosion in e-commerce." According to Lazada, Indonesians spend on average 181 minutes on their smartphones a day – the longest time in the world.

Other sites operating in the country include Alibaba (with 3.9 million views/month) and eBay (with 2.2 million views/month). It is unclear if Amazon has any future plans to invest into Indonesia with a physical presence – the company tending to prefer a light footprint for its operations in much of Asia.

Tokopedia, a local company, is one of Indonesia's top consumer to consumer marketplaces; it has reportedly received over US$100 million in funding from venture capitalist firms Softbank and Sequoia Capital. Many are hopeful that this sort of large cash injection will spur further investment into other e-commerce businesses in Indonesia.

Said Tokopedia CEO and co-founder William Tanuwijaya, "If we can convince and carry the level of the company to match what the investors expect, it will provide them with the confidence to put money into other [local] startups."

Most of the e-commerce companies operating in Indonesia make strategic use of mobile apps for smartphones, since these are the primary means of accessing the internet for most Indonesians. Smartphones are becoming increasingly widespread and affordable due to a high level of competition between mobile companies in the country, which is driving prices down. Additionally, e-commerce companies are finding that they are forced to implement cash-on-delivery payment systems because of the low number of people who have credit cards and/or bank accounts.

Control, alt, delete?

While the future of e-commerce in Indonesia certainly looks bright, it is important not to look at the country through rose colored glasses, there are a number of significant roadblocks that businesses will have to overcome in order to be successful operating within the country.

One possible warning sign about the potential of the Indonesian e-commerce market is that less than half of the country's internet users spend three or more hours online per day. The three hour mark is thought to represent a significant indicator in the potential of online sales. For example, while still a small market, 62 percent of internet users in Vietnam average three or more hours per day. Part of the problem stems from Indonesia's poor internet quality, according to the head of Rakuten Indonesia, this drives people to conduct their online shopping while at work (Rakuten reports its peak shopping time at 11am) since this is the one place where they have access to reasonably reliable internet.

Another problem that companies must overcome if they wish to operate in the e-commerce space in Indonesia is finding a way to deal with the country's poor shipping network. As a result, companies like Lazada have essentially created their own private delivery systems by hiring hundreds of motorbike and truck drivers to deliver their packages. Additionally, due to poor roads, unclear addresses, and a lack of good maps, it is often difficult to actually physically deliver the packages.

An additional area that companies must work on is the lack of trust that many people still have with regards to buying products online. This is an issue that e-commerce companies have had to grapple with throughout Southeast Asia. The populace worries that they will not receive the products that they have ordered, that they might lose their money, or have their information stolen. It is thus incumbent upon companies operating in the region to be open and honest about their policies and to ensure that they provide a high level of customer service.

The use of a system, such as the one used by Alibaba, where the company hold the customer's money in an escrow account until both sides have agreed that they are satisfied with the deal, and then releasing the money to the seller, is a system that can go a long way to reducing customer distrust. Another option, although logistically more complicated, is cash on delivery.

A number of companies have arisen in order to fill the vacuum in the epayments space, these include Doku and Veritrans. In 2014, Doku processed US$520 million in transactions, a whopping 30 percent increase over 2013.

In or out?

Many companies and investors are increasingly viewing Indonesia as on the cusp of a tipping point vis-à-vis the country's e-commerce business potential. For those eager to get in on the ground floor, now would seem to be the time to begin exploring potential strategies for entering the online market. The country is lacking in a range of internet and online services that innovative companies can carve out a market niche in. Certainly, the full pay off on any investment is still a few years away, but companies that do not jump into the Indonesian market now, risk missing out on the explosive early growth that this Southeast Asian country holds within it.

DEZAN SHIRA ASIAN ALLIANCE: INDONESIA

For international clients requiring consistency and professionalism across multiple Asian countries and jurisdictions, the Dezan Shira Asian Alliance provides the highest levels of local knowledge combined with a pan-Asian presence and capability. Dezan Shira Asian Alliance members each follow the same standards and protocols as the main practice and are in regular communication with all of our Asian offices, allowing us to collectively provide both high quality local and multi-jurisdictional services to international investors throughout Asia.

Dezan Shira & Associates is represented in Indonesia by Winnindo Business Consult.

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COUNTRY PROFILES: LAOS

Modern-day Laos has its roots in the ancient Lao kingdom of Lan Xang, established in the 14th century. For 300 years Lan Xang had influence reaching into present-day Cambodia and Thailand, as well as over all of what is now Laos. After centuries of gradual decline, Laos came under the domination of Siam (Thailand) from the late 18th century until the late 19th century when it became part of French Indochina.

The Franco-Siamese Treaty of 1907 defined the current Lao border with Thailand. In 1975, the communist Pathet Lao took control of the government ending a six-century-old monarchy and instituting a strict socialist regime closely aligned to Vietnam. A gradual, limited return to private enterprise and the liberalization of foreign investment laws began in 1988. Laos became a member of ASEAN in 1997 and the WTO in 2013.

Laos is one of the few remaining communist states in the world and implemented economic reforms in 2005 to liberalize its domestic markets. The economy is heavily dependent on capital-intensive natural resource exports and the labor force still relies on agriculture, dominated by rice cultivation in lowland areas, which accounts for about 25 percent of GDP and 73 percent of total employment. The country has benefited from high-profile foreign direct investment in hydropower, copper and gold mining, logging, and construction, although some projects have drawn criticism for their environmental impact.

Laos is in the process of implementing a value-added tax system. Simplified investment procedures and expanded bank credits for small farmers and small entrepreneurs will improve Laos' economic prospects. The government appears committed to raising the country's profile among investors, and the World Bank has declared that Laos' goal of graduating from the UN Development Program's list of least-developed countries by 2020 is achievable. The country is also preparing to enter the ASEAN Economic Community in 2015. Laos is still considered one of the most difficult places in the world to start a business, especially for foreign investors. According to the World Bank, the minimum time required to start a business in Laos is 92 days.

The Laotian government has agreed to set up 41 special economic zones, 25 of which will be launched over the next 10 years. Of these, six are currently under development. In Savannakhet Province, the Savan-Xeno SEZ will accommodate a commercial center, service areas, and processing plants. The zone is about two kilometers away from the Second Friendship Bridge with Thailand and will offer investors many incentives, including a 10-year tax holiday starting from the initial profit year.

OFFICIAL NAME
Lao People's Democratic Republic
CAPITAL
Vientiane
LAND AREA
236,800 km^2
POPULATION
6,769,727
CURRENCY
Lao or Laotian Kip US$1 = 8,057..50 LAK *(As of November 11th, 2014)*
GDP
US$11,141,187,664
GDP PER CAPITA (PPP) (Current international $)
4,812
IMPORTS OF GOODS AND SERVICES (2013)
US$4,547,357,897 (2012)
EXPORTS OF GOODS AND SERVICES (2013)
US$3,401,767,972 (2012)
MAIN INDUSTRIES
Mining (copper, tin, gold, and gypsum); timber, electric power, agricultural processing, rubber, construction, garments, cement, tourism
DEPARTURE TAX
N/A
INFLATION RATE (2009 – 2013)
4.86%
AVERAGE MONTHLY MINIMUM WAGE
US$77.81 (LAK 626,954)

General steps for setting up a business

The general steps for setting up a business in Laos include the following

No.	PROCEDURE	TIME TO COMPLETE
1	Apply for a Name Reservation Certificate	1 day
2	Apply for an Enterprise Registration Certificate and apply for tax registration certificate	1 week for company registration and 2 weeks for tax registration
3	Apply for an Operating License from relevant Ministry	18 days on average
4	Obtain Approval of Content on the Company Signage and the Company Signage Building Permit	5 days, simultaneous with previous procedure
5	Carve a company seal	45 days
6	Register the workers for social security	7 days

Investment vehicles available to foreign investors

According to Article 8 of the Investment Promotion Law, there are three types of investment vehicles that foreign investors can choose from, these are as follows:

- Wholly foreign-owned:
  - » A foreign investment registered by one or more foreign investors without the participation of a domestic partner. It can be a newly registered company or a representative office.
- Joint Venture:
  - » A foreign investment jointly owned by one or more foreign investors and by one or more domestic Lao investors. Investors are required to set up a JV if they want to participate in certain industries, ex. wood production.
- Business by contract:
  - » Foreign companies are able to sign a contract or agreement with a local partner(s) in order to obtain products or goods from Laos or vice versa.

Additional requirements

There are three types of businesses available to foreign investors in Laos. Investors will have to obtain their business license from one of three government agencies depending on the type of business they wish to engage in. The categories are as follows:

- General Business:
  - » Requires a Business License from the Ministry of Industry and Commerce.
- Concession Business:
  - » Requires a Concession License from the Ministry of Planning and Investment.
- Activities for development of special economic zones and specific economic zones:
  - » Requires a License from the Secretariat to the National Committee for Special Economic Zones at the Government Office.

An additional requirement for foreign investors is laid out in the country's Foreign Investment Law.

For investors wishing to set up a wholly foreign-owned enterprise, (not including representative offices) foreign investments must have a minimum registration capital of US$100,000. For joint ventures, investors must contribute at least 30 percent of the total investment.

Additionally, foreign investors must open bank accounts both in LAK (the currency of Laos) and in foreign currency with a bank in Laos.

HR issues

In general all foreigners will need to obtain a visa in order to enter Laos. Thirty-day tourist visas can be obtained on arrival at all airports and most border crossings. However, certain nationalities may need to obtain their visa from a Lao consulate or embassy. In addition, nationals of the following countries are exempted from visa requirements for social, business, or professional visits for certain periods:

- 14 days – Brunei
- 15 days – Japan, Luxembourg, Russia, South Korea, Switzerland
- 30 Days – Cambodia, Indonesia, Malaysia, Philippines, Singapore, Thailand, Vietnam

Visas are required for nationals of these countries if they intend to stay longer than the above-specified period.

If a foreigner wishes to work in Laos, they must obtain a business visa (B2 Visa), as well as a work permit and residence card. Foreign employees can only make up 10 percent of a company's unskilled labor and 20 percent of its skilled labor. A B2 Visa can be issued to the following persons:

- Foreign business persons.
- Foreign experts who are under loan-funded projects.
- Experts and volunteers of non-governmental organizations.
- Staff members of diplomatic missions, general consulates, United Nations agencies and other international organizations that hold ordinary passports.

Obtaining the B2 Visa can be a long process, and involves the following steps:

- The foreign worker must obtain sponsorship from a company or individual located in Laos.
- The sponsoring company or individual must then gain approval from the Lao Ministry of Foreign Affairs (MFA) and present a financial guarantee for the prospective foreign employee.
- After approval, the MFA will contact the Lao consular post specified in the application, which will then issue the B2 Visa.
- After arriving in Laos with the valid B2 Visa, the foreign worker must then apply for a work permit from the Ministry of Information, Culture and Tourism and a residence card from the Immigration Department.

Taxation

Corporate Income Tax

- Rate: 24 percent, with a five percent reduction for companies listed on the Lao Stock Exchange.
- Residency: No strict definition of residency: all companies registered under Lao law or carrying out business in Laos are subject to Lao profit tax.
- Compliance: Payments are made on a quarterly basis, based on self-assessment.
- Incentives: Available for companies with investment agreements with the government and for relevant projects in specific industries or regions.

Indirect Tax

- Rate: 10 percent VAT.

Individual Income Tax

- Rate: The top rate stands at 24 percent.

Summary

As mentioned above, setting up a business in Laos requires a significant amount of time. The country suffers from a lack of infrastructure and a complex regulatory environment. However, the government is working hard to fix both of these areas, calling for a vast influx of investment into its infrastructure and streamlining its business processes so that they are more in line with ASEAN. Laos is thus an increasingly attractive investment destination to foreign investors.

Given the complex nature of business operations in Laos, it is strongly recommended that a potential investor contact an experienced professional firm before making an entry into the country.

Investment Advice?

Please email *laos@dezshira.com* for assistance with establishing a business in Laos.

IMPORTANT UPDATE:
LAOS TO INCREASE FOREIGN WORKERS

Laos is currently suffering from a shortage of skilled labor and, as a result, the Laotian Ministry of Labor has announced that the country needs to bring in at least 70,000 more foreign workers to support its current workforce. Laos has already brought in 20,000 foreign workers as of late, but it has recognized that this amount is by no means enough to handle the actual work requirements of the country.

"Workers in Laos need more training to equip them with the skills needed to keep pace with competition from its Southeast Asian neighbors eying the formation of a single market in two years," said Laotian Labor Minister Onechanh Thammavong.

Laos is currently the third poorest country in the ASEAN organization. However, the country has recently seen a large amount of investment coming in from China, Thailand and Vietnam – which has helped boost the country's economic growth by 8 percent in 2012.

Under Laotian law, 10 percent of the workforce of a company that operates within the country can be made up of unskilled foreign laborers. In addition, up to another 20 percent may be foreign technical specialists. However, generally, at least 70 percent of the workforce must be local hires. It is possible, however, to receive special permission to hire a greater number of foreign workers.

According to international news agency Radio Free Asia: "Foreign investors say they prefer to bring their own workers to Laos because the locals they hire can be undisciplined or unreliable, with many failing to show up for work when rice-planting season begins as they tend to their own fields instead."

Other foreign companies have also blamed their reluctance to take on local hires on the poor skills training programs that are provided by the Lao government. As ASEAN aims to further liberalize the migration of workers within Southeast Asia, Minister Onechanh has stated that Laos will greatly expand and improve its skills training programs so that the country can be much more competitive once the ASEAN Economic Community goes into effect in 2015.

According to a senior adviser to the Lao National Chamber of Commerce and Industry, the industries that are experiencing large shortages of workers include the following: garment, processing, tourism, steel, furniture and construction.

According to the U.S. Department of State, currently a foreigner traveling to Laos must arrange to obtain their business visa prior to arrival. The visa must be sponsored by an individual or a company that is located in Laos, and the sponsor must then contact the Lao Ministry of Foreign Affairs (MFA) and request a visa on the foreigner's behalf in addition to offering a "guarantee." Once the request is approved, the MFA will send the forms to the relevant foreign embassy where the actual process of applying for the visa can continue.

Once in the country, a business visa can be extended for one month.

COUNTRY PROFILES: MALAYSIA

Transitioning from a raw material-based economy to a multi-sector one in the 1980s and 1990s, Malaysia's economy has maintained an average growth rate of above seven percent since 1967. While still considered an upper-middle income country by the World Bank, the Malaysian government is aiming to achieve high-income (developed nation) status by 2020 through attracting increased FDI in the country's high tech, biotechnology, Islamic finance, and services sectors. Over the past decade, Malaysia's rapid economic growth has enabled the country to succeed in significantly reducing poverty levels from more than 50 percent in the 1960s to less than two percent today.

According to the IMF and World Bank, continued growth in the near and medium-term hinges on the implementation of structural reforms that reorient the country's economy towards the private sector. Launched in 2010, Malaysia's Economic Transformation Program (ETP) has been the driving force behind government efforts to diversify and liberalize the economy by decreasing reliance on state owned enterprises (SOEs). Alongside the ETP, Malaysia's New Economic Model has further eroded the clout of SOEs over the country's economy by mandating the enactment of a wide range of government-funded projects and policy initiatives designed to incentivize foreign investment. On average, depending on the type of business line, it takes 5.5 days to set up a business in Malaysia.

While electronics, oil, gas, palm oil, and rubber have historically been the mainstays of Malaysia's economy (primarily state-owned and accounting for around 32 percent of government revenue), several other sectors including financial services, tourism, education, retail, and healthcare have grown rapidly in recent years. Malaysia's retail sector in particular has gained momentum since 2010 with the country's e-commerce market set to grow from US$1 billion last year to more than US$10 billion by the end of 2015.

Malaysia's East Coast Economic Region includes the states of Kelantan, Terengganu, and Pahang and the district of Mersing in Johor. It was established in 2009 and has proven to be a game changer for the country's manufacturing output. Malaysia has expanded this concept by collaborating with the Iskandar SEZ, which has positioned its east coast as a key area for the development of ASEAN free trade.

Official Name
Malaysia
CAPITAL
Kuala Lumpur
LAND AREA
328,550 km^2
POPULATION
29,716,965
CURRENCY
Malaysian Ringgit US$1 = 3.33962 MYR *(As of November 11th, 2014)*
GDP
US$312,435,494,621
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
23,298
IMPORTS OF GOODS AND SERVICES (2013)
US$226,736,805,357
EXPORTS OF GOODS AND SERVICES (2013)
US$255,787,870,132
MAIN INDUSTRIES
Rubber and oil palm processing and manufacturing, petroleum and natural gas, light manufacturing, pharmaceuticals, medical technology, electronics and semi-conductors, timber processing, logging, agriculture processing
DEPARTURE TAX
N/A
INFLATION RATE (2009 – 2013)
1.86%
AVERAGE MONTHLY MINIMUM WAGE
US$269.67 (MYR 900.59)

General steps for setting up a business

The general steps for setting up a business in Malaysia include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	File necessary documents with the Companies Commission of Malaysia (SSM) one-stop shop	Less than one day (online procedure)
2	Company Secretary prepares the company incorporation documents	3 days on average
3	File necessary documents with the Companies Commission of Malaysia (CCM) one-stop shop and obtain company incorporation, tax registration, registration with the Employment Provident Fund (EPF), Social Security Organization and the Inland Revenue Board, as well as the post-incorporation package (company seal, share certificates and statutory books)	2 days on average

Investment vehicles available to foreign investors

Generally, any person or foreigner can set up and operate a business in Malaysia. The requirement is that the firm or company must apply for registration from the Companies Commision of Malaysia (SURUHANJAYA SYARIKAT MALAYSIA {SSM}). Malaysia allows foreign investors to use the following investment vehicles:

• Sole proprietorship
  » Owned by an individual operating as sole proprietor.
  » Must register with the SSM under the Registration of Businesses Act 1956.

• Partnership
  » Can be between two or more (but not more than 20) persons
  » Must register with the SSM under the Registration of Businesses Act 1956.
  » Partners are both jointly and severally liable for the debts and obligations of the partnership should its assets be insufficient.

• A locally incorporated company or a foreign company registered under the provisions of the Companies Act (CA) 1965

The CA 1965 governs all companies in Malaysia. The Act stipulates that a company must be registered with the SSM in order to engage in any business activity. There are three types of company structures that can be incorporated under CA 1965:

• Company limited by shares
  » A company formed on the principle that the members' liability is limited by the Memorandum of Association to the amount, if any, unpaid on the shares taken up by them.

• Company limited by guarantee
  » The liability of the members is limited by the Memorandum and Articles of Association to the amount which the members have undertaken to contribute to the assets of the company in the event the company is wound up.

• Unlimited company
  » A company formed on the principle of having no limit placed on the liability of its members.

The most common company structure in Malaysia is a company limited by shares. Such limited companies may be incorporated either as a Private Limited Company (identified through the words "Sendirian Berhad" or "Sdn Bhd" as part of the company's name) or a Public Limited Company (identified through the words "Berhad" or "Bhd" as part of the company's name).

A company having a share capital may be incorporated as a private company if its Memorandum and Articles of Association:

- Restrict the right to transfer shares.
- Limit the number of members to 50, excluding employees in the employ of the company or its subsidiary and certain former employees of the company or its subsidiary.
- Prohibit any invitation to the public to subscribe for its shares and debentures.
- Prohibit any invitation to the public to deposit money with the company for fixed periods of payable at call, whether interest-bearing or interest-free.

A public company can be formed or, alternatively, a private company can be converted into a public company subject to Section 26 of CA 1965. Such a company can offer shares to the public provided:

- It has registered a prospectus with the Securities Commission.
- It has lodged a copy of the prospectus with the SSM on or before the date of its issue.

A public company can apply to have its shares quoted on the Bursa Malaysia subject to compliance with the requirements laid down by the exchange. Any subsequent issue of securities (e.g. issue by way of rights or bonus, or issue arising from an acquisition, etc.) requires the approval of the Securities Commission.

Additional requirements

Special licences or approval must first be obtained from the respective authorities for certain businesses such as banks, insurance companies, share broking companies, professional firms, investment corporations, and manufacturing corporations before registration may be made to the SSM. The other respective approval authorities include:

- Ministry of Finance (MOF)
- Ministry of International Trade & Industry (MITI)
- Ministry of Domestic Trade & Consumer Affairs (MDTCA)
- Malaysia Industrial Development Authority (MIDA)
- Economic Planning Unit of the Prime Minister's Department

Malaysia's Industrial Coordination Act 1975 (ICA) requires manufacturing companies with shareholders' funds of RM2.5 million and above, or engaging 75 or more full-time paid employees, to apply for a manufacturing licence from the Ministry of International Trade and Industry's (MITI) Malaysian Investment Development Authority (MIDA).

Malaysia's approval guidelines for industrial projects are based on the Capital Investment Per Employee (C/E) Ratio. Projects with a C/E Ratio of less than RM55,000 are categorised as labor-intensive and thus will not qualify for a manufacturing licence or for tax incentives. Nevertheless, a project will be exempted from the above guidelines if it fulfils one of the following criteria:

- The value-added is 30 percent or more.

- The Managerial, Technical and Supervisory (MTS) Index is 15 percent or more.
- The project undertakes promoted activities or manufactures products as listed in the List of Promoted Activities and Products - High Technology Companies.
- Existing companies (formerly exempted) applying for a manufacturing licence.

HR issues

Malaysia has a flexible visa policy that allows the majority of countries to enter without a visa for business trips that do not last longer than 90 days, including foreign nationals from the United States, France, Australia, Brazil, Germany, and the United Kingdom. It is important to check ahead of time if Malaysia requires a visa from your country.

Foreign workers in Malaysia can be employed in the manufacturing, construction, plantation, agricultural, services and domestic help sectors. All applications for foreign workers should be submitted to the One Stop Centre, Ministry of Home Affairs, except for applications for foreign domestic helpers which should be submitted to Malaysia's Immigration Department.

Foreign workers who wish to be employed by a company within Malaysia will have to have their application reviewed by the relevant government agencies, such as the Ministry of Manpower. The employee's sponsoring company must also work with the government to ensure that the worker is approved for entry. There are two types of visas available:

- Single Entry – Valid for three months
- Multiple Entry – Valid for three to 12 months

Applications must be made through the nearest Malaysian Representative Office Abroad or, for Indian and Chinese nationals, through the online I-Visa System.

Work permits are required for foreign nationals working within the following eligible work sectors:

- Manufacturing
- Plantation
- Agriculture
- Construction
- Services

In order to work in Malaysia, the applicant must obtain approval from the Local Center of Approval under the Ministry of Home Affairs, and the applicant's employer must also file for a Visa with Reference and a Visitor's Pass if the employment is on a temporary basis.

Taxation

Corporate Income Tax

- Rate: 25 percent.
- Residency: Considered resident if, at any time during the basis year, the management and control of the business was exercised in Malaysia.
- Compliance: Self-assessment with estimated tax payable one month before the commencement of the year of assessment and monthly installments paid on the estimate of tax payable.
- Incentives: Exemptions and double deductions for certain R&D expenditures and incentives for investments in promoted products, activities, and specific companies.

Indirect Tax

- Rate: Service tax of six percent, sales tax of five or 10 percent.
- Service tax is chargeable on the value of taxable services implemented by a taxable person. Sales tax is a form of consumption tax levied on taxable goods manufactured in Malaysia or imported into Malaysia for local consumption. On April 1, 2015, Malaysia implemented a goods and services tax (GST) of six percent, which replaced the current sales and service taxes. This process is still being settled down and some confusion and compliance issues remain. For assistance please contact our firm.

Individual Income Tax

- Rate: Up to 26 percent (will be reduced to 25 percent in 2015).

Summary

Boosted by an average annual GDP growth rate of 4.68 percent between 2000 and 2014, Malaysia has transformed itself within a short span of time to become a diverse multi-sector economy. With its central location in Southeast Asia making it an ideal base for regional ambitions, this market-oriented economy remains an investor favorite. Malaysia offers a vibrant and dynamic business atmosphere distinguished by its pro-business policies, comparatively stable economic and political environment, sophisticated financial facilities, and well-developed infrastructure.

Investment Advice?

Please email *malaysia@dezshira.com* to contact our Dezan Shira Asian Alliance practice in Malaysia for legal and tax support for foreign investors into the country.

IMPORTANT UPDATE: MALAYSIA GST: IMPLICATIONS FOR MANUFACTURERS

Malaysia has introduced a new Goods and Services Tax of six percent. However, the country's Customs Department has said that confusion over the new tax will last six months to a year. Consumer concerns regarding the GST have been over price increases, whereas businesses concerns have focused on compliance costs and its effect on competitiveness.

For manufacturers, local and imported manufacturing inputs such as capital assets, raw materials and components, and services and utilities are subject to GST, except zero-rated and exempt supplies. In order to avoid double taxation, manufacturers are allowed to claim input tax credit on any purchases that are inputs to their business.

Manufacturing outputs fall into two categories: zero- and standard-rated. All supplies of goods exported from Malaysia and international services are zero-rated. Standard-rated outputs are taxable and include all supplies made by the manufacturer; this not only includes goods but also the following:

- Disposal of business assets
- Application of business assets for non-business purposes
- Business gifts exceeding RM500 given to the same customer in the same year
- Goods which are business assets on hand at deregistration
- Employee benefits given to employees

The Customs Department will refund the net difference to the manufacturer if the input tax is larger than the output tax payable.

Government help

In order to help manufacturers manage the effects of GST, the Malaysian government has created the following schemes:

- Special Approved Toll Manufacturer Scheme (ATMS)
  - » Shifts GST liability from approved toll manufacturers to the local customers who, whether a registered person or not, have "to account and pay for the tax as if [they] had supplied and acquired the goods."
  - » A taxable person can apply for Toll Manufacturer status if the value of supplies for further treatment or processing is RM 2 million or more, the final treated/processed good is sent back to the overseas principal, and at least 80 percent of the finished good is exported.
- Warehousing scheme
  - » GST on goods, including imported goods, is suspended when the goods are stored in a warehouse or transferred between warehouses.
- Approved Trader Scheme (ATS)
  - » Allows manufacturers to suspend GST payment on imported goods, and will benefit re-exporters of imported supplies by providing access to cash flows as they will have large input tax credits and no output GST.

GST regulations require all taxable businesses to keep their tax payment records for seven years.

Manufacturing subsectors

General GST guidelines apply broadly to all major manufacturing subsectors like petroleum, automotive, base metals, and fabricated metal products.

Petroleum Industry

In terms of downstream implications, as of April, the GST has been imposed only on RON97 petrol, while RON95 and diesel prices remain the same. As for upstream implications, companies carrying out upstream activity in Malaysia (including offshore) must sign a Production Sharing Contract with Petronas. The upstream petroleum GST guide recommends that companies register under the GST in order to be able to claim input tax credit.

Automotive Industry

The effect of the GST on the automotive industry, one of Malaysia's most important manufacturing sub-sectors, is unclear. According to the Customs Department and Malaysian Automotive Institute (MAI), car prices are expected to decrease by one to three percent. At the same time, car manufacturers are split on the impact of the new tax regime. Some warn that the prices are going to increase, while others expect them to stay the same or decrease.

Base Metals, Fabricated and Precious Metals

Investment precious metals (IPM) are a GST exempt supply. IPMs include gold, silver, and platinum, as well as certain gold, silver, and platinum coins.

Under the Approved Jeweler Scheme (AJS), an approved jeweler manufacturer and not the supplier is liable for the payment of GST. However, the output tax is to be paid by the approved jeweler only when prescribed precious metals are manufactured into finished goods and supplied to the local market. Prescribed precious metals include gold (≥99.5 percent), silver (≥99.9 percent), and platinum (≥99 percent). Following the general rule for exported manufactured goods, jewelry goods for export are zero-rated.

According to Reuters, there are no clear legal guidelines on the warehousing of base metals, and the London Metal Exchange (which has almost 50 percent of its nickel, 85 percent of tin, and one-third of lead stocks in Malaysia) is considering stopping the issuance of warrants at its two Malaysian locations from July 1, 2015.

Looking forward

The new indirect tax regime is expected to increase the competitiveness of Malaysia's exports. As a result, export-oriented manufacturers will be the least affected by the GST since exports are zero-rated and input tax can be recovered.

The input tax credit helps offset the potential negative effects of the GST on manufacturers' costs. Therefore, if the price of manufacturing inputs remains the same, the GST should not have any negative effects on manufacturers' profits.

DEZAN SHIRA ASIAN ALLIANCE: MALAYSIA

For international clients requiring consistency and professionalism across multiple Asian countries and jurisdictions, the Dezan Shira Asian Alliance provides the highest levels of local knowledge combined with a pan-Asian presence and capability. Dezan Shira Asian Alliance members each follow the same standards and protocols as the main practice and are in regular communication with all of our Asian offices, allowing us to collectively provide both high quality local and multi-jurisdictional services to international investors throughout Asia.

Dezan Shira & Associates is represented in Malaysia by Christopher Heng & Peng Sam.

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COUNTRY PROFILES: MYANMAR

Myanmar's 2014 ASEAN chairmanship and the country's transition to a civilian government in 2011 have thrust the once-reclusive economy into the international spotlight. Enacting a series of comprehensive economic reforms aimed at attracting increased foreign investment, President Thein Sein has spearheaded Myanmar's attempt to reintegrate itself into the global economy. Alongside the easing of western sanctions in 2012, Myanmar's economic reforms have included a floating of the Burmese kyat in late 2012, granting the country's central bank operational independence, and passing a new anti-corruption law in late 2013.

Although these reforms have yet to attract substantial foreign investment, several promising developments, such as improved business confidence, buoyant tourism, growing commodity exports, and the commencement of an ambitious structural reform program, accelerated the country's GDP growth to 7.5 percent in 2013 and increased capital goods imports by nearly 60 percent. However, natural gas exports and Myanmar's agricultural sector (which currently employs more than half of the country's workforce) continue to dominate the economy.

Myanmar's abundant natural resources, young labor force, and close proximity to several key regional economies provide the country with the key ingredients necessary to transform itself into an economic heavyweight over the next two decades. While Myanmar remains one of the poorest countries in Asia – more than one fourth of the country's 60 million people currently live in poverty – meeting critical benchmarks such as agriculture and land reform, economic restructuring, and financial sector liberalization have the potential to sow the seeds for long-term economic growth and development. On average, depending on the type of business, it takes 72 days to set up a business in Myanmar.

The Japanese government and three Japanese multi-national corporations, including Sumitomo, have committed US$537 million to develop Myanmar's Thilawa Special Economic Development Zone, which is located downstream from the old Rangoon Port. It will house factories for the high-tech, textile, labor intensive, and light manufacturing industries. It is expected to open at the end of 2015.

OFFICIAL NAME
Republic of the Union of Myanmar
CAPITAL
Naypyidaw
LAND AREA
653,290 km^2
POPULATION
53,259,018
CURRENCY
Burmese Kyat US$1 = 1,015 NMK *(As of November 11th, 2014)*
GDP
US$53.14 billion (2012)
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
1,324.61 (2011)
IMPORTS OF GOODS AND SERVICES (2013)
US$134B (2012)
EXPORTS OF GOODS AND SERVICES (2013)
US$7.39B (2012)
MAIN INDUSTRIES
Agricultural processing, wood and wood products, copper, tin, tungsten, iron, cement, construction materials, pharmaceuticals, fertilizer, oil and natural gas, garments, jade, gems
DEPARTURE TAX
N/A
INFLATION RATE (2009 – 2013)
4.24%
AVERAGE MONTHLY MINIMUM WAGE
None (To be announced by end of 2014)

General steps for setting up a business

The general steps for setting up a business in Myanmar include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Obtain reference letter from the ward chief	2 days
2	Obtain criminal history from the township police station	1 day
3	Conduct a name check at the Company Registration Office (CRO) at the Directorate of Investment and Company Administration (DICA)	1 day
4	Request temporary business incorporation certificate	1 day, simultaneous with previous procedure
5	Obtain signature of the directors before a lawyer or certified public accountant	1 day
6	Payment of registration fees	1 day
7	Obtain temporary certificate of incorporation	3 days
8	Obtain the permanent incorporation certificate	2 months
9	Pay the stamp duties for the permanent incorporation certificate	1 day, simultaneous with previous procedure
10	Obtain a seal or a rubber stamp	1 day
11	Register for commercial tax	1 day

Investment vehicles available to foreign investors

The following investment vehicles are available to investors in Myanmar:

- 100% Foreign-owned Company
  - » A limited liability company that is 100 percent owned by the foreign investor. However, there are certain controlled industries where private investment is still not allowed.
- Joint Venture
  - » Set up between one or more foreign investors and local investors. Foreign investors can set up their business either as a limited liability company or as a partnership. There are certain special sectors that require investors to set up a partnership with a Myanmar citizen or company.
- Branch Office
  - » A branch office is allowed to perform as a manufacturing or a service company.
- Representative Office
  - » An RO can only collaborate with the head office and collect useful data for the company, but is not permitted to act in direct commercial or revenue generating activities.

Additional requirements

Businesses requiring substantial investment, such as manufacturing, construction or mining, need to register under the Myanmar Foreign Investment Law (MFIL); foreign trade companies and service providers are able to register under the Myanmar Companies Act (MCA). In general, 100% foreign owned companies and joint ventures with the Myanmar government can be registered under the MFIL. Businesses registering under the Myanmar Companies Act (MCA) do not have to apply for the Myanmar Investment Commission's (MIC's) Permit.

The minimum share capital requirement varies from case to case depending on the business activities of the investments. In general, the minimum share capital for foreign investors needs to be more than 35 percent.

The law states that for companies registering under the Myanmar Foreign Investment Law (MFIL), the minimum specified capital requirement is US$500,000. However, in reality the minimum share capital is determined on a case-by-case basis by the Myanmar Investment Commission (MIC) - businesses are often required to invest between US$1,000,000 to US$2,000,000.

For companies registering under the Myanmar Companies Act (MCA), the minimum rate tends to be much lower, with the minimum share capital being US$150,000 for a manufacturing company or US$50,000 for a service company.

If a company wishes to engage in import/export activities, it must first obtain an importer/exporter card (EI card). Currently, only companies with operations in the manufacturing and industrial sectors are able to obtain an EI Card. Additionally, an import/export License is required for each importing/exporting activities for each good that is to be imported/exported. The EI License must be issued in advance of shipping the good.

HR issues

Myanmar's transition to a civilian government has allowed for a significant economic overhaul aimed at attracting foreign businesses and investment. With steady growth and a stream of foreign cash, Myanmar's integration into the global economy is expected to be fast and fluid.

Types of Visas

To enter Myanmar, a foreigner can obtain a visa from within Myanmar, or from a Myanmar Embassy or Consulate in a foreign country. Foreigners may apply for any of the following types of visas:

- Transit Visa – Myanmar offers a Visa on Arrival (VOA) service: a transit visa lasts for 24 hours and is given to individuals who do not have the time for a formal application before entering Myanmar.
- Entry Visa – Lasts for a duration of 28 days and is intended for individuals visiting for pleasure or tourism. Can also be used to attend events, workshops, and meetings.
- Business Visa – Lasts for a duration of 70 days and is granted to applicants coming from business organizations, or to foreign investors seeking to establish a business. Multiple entry types are available.

Tourist and business visas can be extended for a maximum of two weeks upon completing an extension application. To be successful, a letter of endorsement from the Myanmar Ministry of Hotel and Tourism is required.

As of September 2014, the Myanmar government also introduced an online visa application system to expedite the visa process. Citizens of 43 countries will be able to use the e-Visa website to apply for a transit visa and will be sent an e-Visa barcode which can be shown at the departing airport.

Taxation

Corporate Income Tax

- Rate: 25 percent if the company is established under the Myanmar Foreign Investment Law (MFIL), 35 percent or graduating rates from five to 40 percent if not registered under MFIL.
- Residency: An enterprise is considered resident if it is incorporated in Myanmar.
- Compliance: Tax year follows the fiscal year between April 1 and March 31, and annual tax returns must be filed with the Internal Revenue Department by June 30 of the following income year.

Indirect Tax

- Rate: No standard rate of commercial tax, a turnover tax levied on goods and services. Commercial tax rate for specified services applied at five percent of gross sales.

Individual Income Tax

- Rate: Progressive tax system with tax rate of up to 20 percent on employment income for residents.
- Tax rate of up to 35 percent rate for non-residents and up to 30 percent on other income if the individual is a resident citizen or resident foreigner.

Summary

The process of setting up a business in Myanmar is complicated and time consuming, requiring significant patience from foreign investors. However, now that Myanmar has opened up its economy, the country is quickly becoming an attractive destination for foreign investors.

Given the complex nature of business operations in Myanmar, it is strongly recommended that a potential investor contact an experienced professional firm before making an entry into the country.

Investment Advice?

Please email *myanmar@dezshira.com* for information concerning legal and tax professional services in Myanmar.

COUNTRY PROFILES: THE PHILIPPINES

The Philippine Islands became a Spanish colony during the 16th century; they were ceded to the U.S. in 1898 following the Spanish-American War. In 1935, the Philippines became a self-governing commonwealth and on July 4, 1946 the Republic of the Philippines attained its independence. The 20-year rule of Ferdinand Marcos ended in 1986, when a “people power” movement in Manila forced him into exile and installed Corazon Aquino as president. Her presidency was hampered by several coup attempts that prevented a return to full political stability and economic development. The country saw increased stability and progress on economic reforms throughout the 1990s and was one of the few economies to avoid contraction following the 2008 global financial crisis. The Philippines faces increased tension with China over disputed territorial and maritime claims in the South China Sea.

The economy has weathered global economic and financial downturns better than its regional peers due its minimal exposure to troubled international securities, lower dependence on exports, relatively resilient domestic consumption, large remittances from four to five million overseas Filipino workers, and a rapidly expanding **business process outsourcing industry**. Efforts to improve tax administration and expenditure management have helped ease the Philippines’ tight fiscal situation and reduce high debt levels. The country has received several credit rating upgrades on its sovereign debt, and has had little difficulty tapping domestic and international markets to finance its deficits. On average, depending on the type of business, it takes 34 days to set up a business in the Philippines.

The government in Manila has also been working to boost the budgets for education, health, cash transfers to the poor, and other social spending programs, and is relying on the private sector to help fund major infrastructure projects under its Public-Private Partnership program. Long term challenges include reforming governance and the judicial system, building infrastructure, improving regulatory predictability and the ease of doing business, and attracting higher levels of local and foreign investment. However, the Philippine Constitution and other laws continue to restrict foreign ownership in important activities/sectors such as land ownership and public utilities.

The Philippines has eight SEZs or free port areas, 17 specific agri-business zones and a further 250 proclaimed economic zones spread throughout the country. These mainly come under the jurisdiction of the Philippine Economic Zone Authority.

OFFICIAL NAME	Republic of the Philippines
CAPITAL	Manila
LAND AREA	298,170 km^2
POPULATION	98,393,574
CURRENCY	Philippine Peso US$1 = 44.78988 PHP *(As of November 11th, 2014)*
GDP	US$272,017,377,292
GDP per Capita (PPP) (CURRENT INTERNATIONAL $)	US$6,533
IMPORTS OF GOODS AND SERVICES (2013)	US$86,999,236,681
EXPORTS OF GOODS AND SERVICES (2013)	US$75,933,958,752
MAIN INDUSTRIES	Electronics assembly, garments, footwear, pharmaceuticals, chemicals, wood products, food processing, petroleum refining, fishing
DEPARTURE TAX	550 Pesos
INFLATION RATE (2009 – 2013)	3.76%
AVERAGE MONTHLY MINIMUM WAGE	US$193 (PHP 8,683.035*) **Note: Calculated based on average daily minimum wage of PHP 399.22, assuming a 5 day work week and average 21.75 work days per month*

General steps for setting up a business

The general steps for setting up a business in the Philippines include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Verify and reserve the company name with the Securities and Exchange Commission (SEC)	1 day
2	Deposit the paid-in minimum capital at the bank	1 day
3	Notarize articles of incorporation and treasurer's affidavit at the notary	1 day
4	Register the company with the SEC and receive pre-registered Taxpayer Identification Number (TIN)	2 days on average
5	Obtain barangay clearance	1 day
6	Pay the annual community tax and obtain the community tax certificate (CTC) from the City Treasurer's Office (CTO)	1 day
7	Obtain the business permit to operate from the BPLO	6 days
8	Buy special books of account at bookstore	1 day
9	Apply for Certificate of Registration (COR) and TIN at the Bureau of Internal Revenue (BIR)	1 day
10	Pay the registration fee and documentary stamp taxes (DST) at the AAB	1 day
11	Obtain the authority to print receipts and invoices from the BIR	1 day
12	Print receipts and invoices at the print shop	7 days
13	Have books of accounts and Printer's Certificate of Delivery (PCD) stamped by the BIR	1 day
14	Register with the Social Security System (SSS)	7 days
15	Register with the Philippine Health Insurance Company (PhilHealth)	1 day
16	Register with Home Development Mutual Fund (Pag-ibig)	1 day (simultaneous with previous procedure)

Investment vehicles available to foreign investors

The Philippines allows 100 percent foreign ownership in almost all sectors as well as offering a Build-Operate-Transfer (BOT) investment scheme that other Asian countries emulate. State-owned enterprises are being privatized and the banking, insurance, shipping, telecommunications, aviation, mining, and power industries have been deregulated. Incentive packages include a reduced corporate income tax, 32 percent, and companies in the Special Economic Zones (Eco Zones) subject to only five percent overall tax rates. Multinationals looking for regional headquarters are entitled to incentives such as tax exemptions and tax and duty-free importation of specific equipment and materials.

The Philippines allows the following investment vehicles:

- Single proprietorship
  - » A business with a single owner and not registered as a corporation, partnership or limited liability company. A sole proprietor can work as an independent contractor or operate a small business.
  - » Required capital: US$200,000.

- Branch office
  - » A foreign-organized corporation that is registered in the Philippines under existing foreign laws. A branch office should carry out the business activities of its parent company, and is authorized to earn income from its operations inside and outside the Philippines. Its

main purpose is to provide marketing, sales, or customer assistance to new and existing customers of its parent corporation.
  » Required capital: US$200,000, which can be reduced to US$100,000 if (a) activity involves advanced technology, or (b) company employs at least 50 direct employees.

- Domestic partnership
  » Treated as juridical person, having a separate legal personality from that of its members. May either be general partnerships, where the partners have unlimited liability for the debts and obligation of the partnership, or limited partnerships, where one or more general partners have unlimited liability and the limited partners have liability only up to the amount of their capital contributions.
  » There are no minimum financial investment requirements.

- Corporation
  » Juridical persons established under the Corporation Code and regulated by the Securities and Exchange Commission with a personality separate and distinct from that of its stockholders. The liability of the shareholders of a corporation is limited to the amount of their share capital.
  » Required capital: five thousand pesos (5,000).

- Regional Operating Headquarters
  » Regional headquarters are suitable only for businesses that plan to utilize the Philippines as a manufacturing or services hub in a much larger operation.
  » Required capital: US$200,000, one time remittance.

- Regional Headquarters
  » Undertakes activities that are limited to acting as a supervisory, communication, and coordinating center for its subsidiaries, affiliates and branches in the Asia-Pacific region, acting as an administrative branch of its multinational parent company engaged in international trade.

- Representative office
  » An office established by a company to conduct marketing and other non-transactional operations.
  » Required to have an initial minimum inward remittance in the amount of US$30,000 to cover its operating expenses.

Additional requirements

The Philippine government allows companies that are registered in other countries to obtain a license to do business in the Philippines. Running a business is not only about having a great product/service and certain amount of capital, but also requires certain permits and licenses from several government agencies.

HR issues

The Philippines' Bureau of Immigration is responsible for processing and issuing visa requests in the country. For foreigners seeking employment in the Philippines, there are three eligible non-immigrant visa types. These are:

- 9(A): Short-term business visit
- 9(D): Foreign treaty trader or foreign investor
- 9(G): Pre-arranged employment

For individuals planning to visit the Philippines for 30 days or less, no visa is required, but trips in excess of 30 days will require a valid visa. Visa applications can be made through any Filipino Consular Office or by submitting a notarized application via mail to the Philippine Consulate General prior to travel or at the Bureau of Immigration upon arrival.

9(A) Visa

The 9(A) visa covers any short-term business activity pursued by a foreign worker in the Philippines and is valid for 59 days. The Bureau of Immigration on a case-by-case basis will grant an "Extension of Authorized Period of Stay" approval for those individuals seeking a longer visit.

9(D) Visa

The 9(D) visa covers two types of activities by foreigners: international trade and investment. A treaty trader is anyone engaging in cross-border trade with the Philippines and is subject to existing trade treaties. A foreign investor is any nonlocal engaged in the financing and operation of a Filipino business enterprise.

9(G) Visa

The 9(G) visa covers any foreign national seeking long-term employment in the Philippines. The applicant's employer must submit an Alien Employment Permit request with the Bureau of Immigration before a 9(G) visa will be issued.

Special Investment Visas

There are two special visa categories for foreign nationals involved in investment or endorsed businesses within the Philippines. The Pro-Investment Visa Upon Arrival program allows Board of Investment approved employees to receive a visa upon arrival in the Philippines for a duration of 30 days to six months. The Special Investors Resident Visa (SIRV) will be awarded to foreign nationals who have invested US$50,000 or more in tourism and retirement park projects.

Taxation

Corporate Income Tax

- Rate: 30 percent based on net income for resident companies, or two percent minimum corporate tax rate based on gross income. For nonresident companies, 30 percent based on gross income.
- Residency: Considered resident if the company is carrying out business in the Philippines.
- Compliance: Self-assessment system with the annual income tax return due on the 15th day of the fourth month following the close of the fiscal year.
- Incentives: Certain R&D expenses are deductible, and other incentives are available for businesses in preferred areas.

Indirect Tax

- Rate: 12 percent VAT.
- Imposed on the sale of goods, services, and property, as well as the importation of goods.
- Some goods and services are subject to zero percent VAT.

Individual Income Tax

- Rate: Up to 32 percent.
- Employers are required to deduct a certain amount from the salary of each employee for the Social Security Fund and Medicare System.
- businesses in preferred areas.

Summary

The Philippines is located in the heart of Asia, and is within four hours flying time from the major capitals of the region. Sited at the crossroads of eastern and western business, it is a critical entry point to the over 500 million people in the ASEAN market and a gateway of international shipping and air lanes suited for European and American businesses.

Investment Advice?

Please email *philippines@dezshira.com* to contact our Dezan Shira Asian Alliance practice in the Philippines for legal and tax support for foreign investors into the country.

IMPORTANT UPDATE: PHILIPPINES THE FIRST ASEAN COUNTRY TO JOIN THE EU'S GENERAL SYSTEM OF PREFERENCES PLUS (GSP+)

On December 18, 2014, the European Parliament officially granted the Philippines' request for inclusion in the European Union's (EU) General System of Preferences Plus (GSP+). The Philippines will soon be able to export, tariff-free, over 6,200 products (66 percent of all product tariff lines) to the EU, including processed fruit, coconut oil, footwear, fish, and textiles.

In a statement about the inclusion of the Philippines in GSP+, EU Ambassador Guy Ledoux stated: "This is very good news for the Philippines as it will bring tariffs to zero percent for two thirds of tariff lines including strategic products that the Philippines is already exporting to the EU. This will immediately translate into savings of tens of millions of euros per year in foregone customs duties."
The EU is the Philippines' fourth largest trading partner and fourth largest export market – accounting for 11.56 percent of total Philippine exports. In 2013, the Philippines and the 28 Member States of the EU reached US$12.8 billion in bilateral trade.

GSP+, which the Philippines applied to join on February 28 of last year, is the next round of the EU's Generalized Scheme of Preferences (GSP) – a trade preference scheme for developing countries and which covers a total of 6,274 tariff lines. Under the original GSP, the Philippines was able to export 2,442 products to the EU duty-free and reduced tariffs were applied to a further 3,767 products. GSP ended its cycle in December 2014.

Philippine Trade Undersecretary Adrian S. Cristobal Jr. has indicated that he believes GSP+ will help to boost the country's trade with the rest of the world and substantially reduce poverty at home. An estimated 200,000 new jobs will be created mainly in the agriculture and manufacturing sectors, most of which will be in rural areas outside the major cities. The job creation and increased revenues from trade will also help to contribute to governmental economic rehabilitation efforts, especially in areas devastated by typhoon Haiyan last year.

The Philippines has been in need of some good economic news, the recent Thomson Reuters/INSEAD Asia Business Sentiment Index found that business sentiment in the country dropped from 83-67 in the final quarter of 2014 – this was the largest decline in Asia. However, any number over 50 is still seen as positive. In 2015, it is to be hoped that GSP+, when combined with such factors as the low price of oil, will help boost the Philippine economy and create a growing wave of optimism throughout the business community.

DEZAN SHIRA ASIAN ALLIANCE: THE PHILIPPINES

For international clients requiring consistency and professionalism across multiple Asian countries and jurisdictions, the Dezan Shira Asian Alliance provides the highest levels of local knowledge combined with a pan-Asian presence and capability. Dezan Shira Asian Alliance members each follow the same standards and protocols as the main practice and are in regular communication with all of our Asian offices, allowing us to collectively provide both high quality local and multi-jurisdictional services to international investors throughout Asia.

Dezan Shira & Associates is represented in the Philippines by The Machica Group.

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COUNTRY PROFILES: SINGAPORE

As the de facto financial services hub for South East Asia, the city-state of Singapore has established itself as the gateway to ASEAN and all major Asian markets for foreign companies. Offering foreign companies access to an English-speaking business environment, highly skilled workforce, and the single most business-friendly legal and tax system in the world, Singapore is the ideal starting point for companies seeking to reap the benefits of the ASEAN Free Trade Area and the 19 other regional and bilateral Free Trade Agreements that connect Singapore to the global market.

Consistently ranking first in the World Bank's "Ease of Doing Business Index" for nine consecutive years (2006-2014), Singapore is well known as one of the most politically and economically stable countries in the world. Singapore's vaunted style of pragmatic, efficient and ethical governance has rightly earned it the nickname "Singapore Inc." among foreign investors lauding the city-state's tendency to run like a corporation itself. On average, it takes 2.5 days to set up a business in Singapore.

Strategically located in the heart of South East Asia, Singapore's central role in ASEAN makes the city-state a popular hub for western companies looking to conduct business in the wider regional market. The ASEAN, ASEAN-China, and ASEAN-India FTAs provide companies operating from Singapore unprecedented access to the largest combined free trade zones in the world, with an estimated three billion consumers and combined GDP of US$12 trillion. With a GDP of US$295 billion and population of only 54 million people, Singapore is one of the world's wealthiest countries, with the third highest GDP per capita (on a PPP basis). Despite the high exposure of the Singaporean economy to the global recession, the economy is expected to grow between two and four percent in 2014.

Singapore has the world's second-largest port by shipping volume, but the city-state is too small to have space for special economic zones of its own. Instead, it has partnered with the government of Malaysia to create the Iskander SEZ in nearby Johore Bahru and with Indonesia to create the Batam Export Processing Zone. Both are highly successful among Singaporean companies, which now use these zones as bases for factory extensions of their manufacturing operations to sell across Asia and beyond.

OFFICIAL NAME
Republic of Singapore
CAPITAL
Singapore
LAND AREA
700 km^2
POPULATION
5,399,200
CURRENCY
Singapore Dollar US$1 = 1.28979 SGD *(As of November 11th, 2014)*
GDP
US$297,941,261,088
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
US$78,744
IMPORTS OF GOODS AND SERVICES (2013)
US$499,075,601,375
EXPORTS OF GOODS AND SERVICES (2013)
US$567,643,810,437
MAIN INDUSTRIES
Electronics, chemicals, financial services, oil drilling equipment, petroleum refining, rubber processing and rubber products, processed food and beverages, ship repair, offshore platform construction, life sciences, entrepot trade
DEPARTURE TAX
N/A
INFLATION RATE (2009 – 2013)
3.12%
AVERAGE MONTHLY MINIMUM WAGE
None

General steps for setting up a business

The general steps for setting up a business in Singapore include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Registration on-line with ACRA including company name search and filing the company incorporation and tax number (GST)	Less than one day (online procedure)
2	Make a company seal	1 day
3	Sign up for Employee Compensation Insurance at an insurance agency	1 day

Investment vehicles available to foreign investors

Singapore allows for a full range of business types, including:

- Wholly foreign owned
- Partnerships
- Branches
- Representative offices

The requirements for establishing a local business presence in Singapore are minimal, and setting up a business takes only two and a half days on average. In general, the minimum required investment capital is S$1, however, certain types of businesses may require higher levels of capital. For companies eligible for self-incorporation without the assistance of a professional services firm, registration can be completed online via the BizFile Accounting and Corporate Regulatory Authority (ACRA) portal.

Additional requirements

Once the decision has been made to move ahead with self-incorporation, the following steps should be taken to register a private limited company:

- Choose the right business structure
- Name Registration
  - » Typically approved in one hour, the name must not conflict with an existing name
- Company Registration
  - » After a company's name has been approved, a formal incorporation request can be filed on ACRA's BizFile with the following:
    - › SingPass
    - › Name application number or approved company name
    - › Company type
    - › Particulars of additional directors/shareholders/members
    - › Registered place of business
    - › Share capital details
    - › PDF of Memorandum and Articles of Association
- Receive the Official Certificate of Incorporation and Company Business Profile
- Annual Compliance: General Meetings and Annual Returns
  - » Annual compliance requirements are fairly minimal and include holding an annual general meeting and the filing of annual returns.

It should also be noted that certain types of businesses might require a special license; these include professional services such as doctors or lawyers, and for setting up a private school.

Additionally, businesses wishing to set up a subsidiary company (private limited) must meet following requirements:

- At least one shareholder
- At least one director who is a Singaporean resident
- A company secretary who is a Singaporean resident
- Paid-up capital
  - » The minimum paid-up capital (share capital) for the registration of a Singaporean company is S$1
- Registered address

HR issues

Regulating the country's immigration flow has been, and still is, one of the major concerns of Singapore's government. The basic rule underlying the release of visas and work passes is to attract highly skilled and talented workers.

For short trips to Singapore, citizens from most countries are able to obtain a visitor visa upon arrival. These can then be extended or turned into other types of passes. The easiest way for a foreigner to be eligible for a long-term employment pass is to earn a high salary (say above S$3,300). Even in these cases, visas and work permits are subject to prior approval from the Ministry of Manpower, which is bound by employment sector-specific quotas decided on by the government.

In addition, the government charges a monthly levy on each foreign worker. The amount of monthly levy per worker depends on the business sector, the worker's skill level and the percentage of foreign workers in a company's total workforce (with a higher amount correlated to a higher percentage of foreign workers in a company).

ELIGIBLE INDIVIDUALS BY WORK PASS TYPE

Work Pass Type	Eligible Individuals
Employment Pass	Foreign professionals working in managerial, executive or specialized jobs earning a fixed monthly salary of at least S$3300 are eligible.
Personalized Employment Pass (PEP)	Unlike the Employment Pass, which must be cancelled when the passholder leaves an employer, Personalized Employment Pass holders are not tied to employers. PEP passes, which are granted on the strength of an applicant's merit, are valid for up to three years, and the holder is permitted to remain in Singapore for up to six months between jobs to evaluate new employment opportunities. To be eligible, overseas professionals must have a salary of S$18,000 per month, or S$12,000 per month if they are Employment Pass holders.
EntrePass	To obtain an EntrePass, applicants must be foreign entrepreneurs seeking to start a business in Singapore and meet specific qualifications, including holding at least 30 percent of shares in a company with at least S$50,000 in paid-up capital.
S Pass	Mid-level skilled foreigners earning a fixed monthly salary of at least S$2200 are eligible to obtain an S Pass.
Work Permits	If a foreign unskilled worker does not meet the criteria for other work passes, they are able to apply for a work permit on a case-by-case basis.

Source: Singapore Ministry of Manpower

Taxation

Corporate Income Tax

- Rate: 17 percent.
- Residence: Tax residency applies if primary control and management of the company is in Singapore.
- Compliance: If a company accrues, receives, or derives income from Singapore then it must file an income tax return. The due date for filing is November 30 of the year of assessment and the tax is assessed on a preceding year basis.
- Incentives: IP incentives exist relating to the acquisition and licensing of IPR under the PIC Scheme. Incentives are also available for businesses that set up their headquarters in the country.

Indirect Tax

- Rate: GST of seven percent is levied.
- Certain goods and services are zero-rated on chargeable income or exempt from GST.

Individual Income Tax

- Rate: Residents are taxed at graduating rates between zero percent and 20 percent. For non-residents, employment income will be taxed at the higher of a 15 percent flat rate or the resident tax rate.

Summary

Singapore is well known as one of the most politically and economically stable countries in the world. Singapore's vaunted style of pragmatic, efficient and ethical governance has rightly earned it the nickname "Singapore Inc." among foreign investors lauding the city-state's tendency to run like a corporation itself. Investors would be well advised to consider making Singapore their business hub for their ASEAN operations.

Investment Advice?

Please email *singapore@dezshira.com* to contact our Dezan Shira & Associates' office in Singapore for legal and tax support for foreign investors into the country.

IMPORTANT UPDATE: EU-SINGAPORE FINALIZE FREE TRADE AGREEMENT

The European Union (EU) and Singapore have finalized their negotiations on a free trade agreement (FTA). Singapore expects that exporters of electronics, pharmaceuticals, chemicals, and processed food products will especially benefit from the completion of the FTA.

Negotiations for the FTA began in 2010 and were all but completed by 2013, however, the issue of investment protection held up proceedings until recently.

Negotiators on both sides hailed the completion of the agreement as a key step in strengthening their economic relationship. EU Trade Commissioner, Karel De Gucht, summed things up succinctly by stating, "Now, we have a comprehensive agreement which is a gateway to this important region in Asia. It will help boost economic growth, investment, and job creation in the EU. It will help open the door for Europe to the Association of Southeast Asian Nations (ASEAN) market with 600 million consumers."

The importance of ASEAN continues to grow, with 2015 set to see the implementation of the ASEAN Economic Community (AEC). The AEC seeks to "transform ASEAN into a single market and production base, a highly competitive economic region, a region of equitable economic development, and a region fully integrated into the global economy." Collectively, ASEAN represents a market of some 600 million people, with a combined GDP of about US$2.5 trillion and upwards of US$1.5 trillion in trade flowing throughout the region.

Key takeaways from the EU-Singapore FTA include:

- The EU and Singapore have committed to ensuring a stable and fair regime for foreign investors, while also keeping the right to regulate in the public's interest.
- EU exporters will be granted immediate duty-free access to the Singaporean market for all products.
- The EU will eliminate virtually all tariffs over a five-year period.

In 2013, Singapore was the EU's 15th largest trading partner and second largest Asian investor into the EU. In turn, the EU makes up around 10 percent of Singapore's trade volumes and is the largest contributor of FDI.

The EU is also currently negotiating FTAs with Vietnam, Malaysia, and Thailand.

DEZAN SHIRA & ASSOCIATES IN SINGAPORE

As a regional practice, we are not tied to any one nation. Rather, we specialize in the tax, accounting, and operational aspects of foreign direct investment throughout Asia.

For businesses and investors seeking to conduct business in Singapore and the wider ASEAN region, our business consulting team in Singapore and partner firms across ASEAN are prepared to provide you with the tools and expertise necessary to succeed. Specializing in corporate establishment, tax advisory and planning, intellectual property, accounting and financial reporting, and business strategy, Dezan Shira & Associates Singapore is pleased to assist with any query pertaining to doing business in Singapore and the wider Asian region.

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COUNTRY PROFILES: THAILAND

A unified Thai kingdom was established in the mid-14th century. Known as Siam until 1939, Thailand is the only Southeast Asian country never to have been taken over by a European power. A bloodless revolution in 1932 led to a constitutional monarchy. Since 2005, Thailand has experienced several rounds of political turmoil including military coups in 2006 and 2014.

With a well-developed infrastructure, a free-enterprise economy, generally pro-investment policies, and strong export industries, Thailand has achieved steady growth due largely to industrial and agricultural exports – mostly electronics, agricultural commodities, automobiles and parts, and processed foods. The country's unemployment stands at less that one percent of the labor force, which has resulted in upward pressure on wages in some industries. The Thai government implemented a nation-wide 300 baht (US$10) per day minimum wage policy in 2013 and deployed new tax reforms designed to lower rates on middle-income earners. On average, depending on the type of business, it takes around 27.5 days to set up a business in Thailand.

The Thai economy has weathered internal and external economic shocks in recent years. The global economic recession severely cut Thailand's exports, with most sectors experiencing double-digit drops. In late 2011, Thailand's recovery was interrupted by historic flooding in the industrial areas in Bangkok and its five surrounding provinces, crippling the manufacturing sector. The government approved flood mitigation projects worth US$11.7 billion, which were started in 2012, to prevent similar economic damage, and an additional US$75 billion for infrastructure over the following seven years. This was expected to lead to an economic upsurge but growth has remained slow, in part due to ongoing political unrest and the resulting uncertainties.

The creation of 12 development zones across the country has been put out to tender by the Thai government who has also announced a policy of developing processing zones on its borders with Malaysia and Myanmar and joint ventures with China in Nanning and Kunming to process and repackage Southeast Asian goods for the Chinese market. The new industrial zones are meant to prepare the country for the ASEAN Economic Community in 2015.

OFFICIAL NAME
Kingdom of Thailand
CAPITAL
Bangkok
LAND AREA
510,890 km^2
POPULATION
67,010,502
CURRENCY
Thai Baht US$1 = 32.7963 THB *(As of November 11th, 2014)*
GDP
US387,252,164,291
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
US14,390
IMPORTS OF GOODS AND SERVICES (2013)
US272,165,429,929
EXPORTS OF GOODS AND SERVICES (2013)
US$284,889,409,621
MAIN INDUSTRIES
Tourism, textiles and garments, agricultural processing, beverages, tobacco, cement, light manufacturing such as jewelry and electric appliances, computers and parts, integrated circuits, furniture, plastics, automobiles and automotive parts, tungsten, tin
DEPARTURE TAX
700 Baht, included in air ticket
INFLATION RATE (2009 – 2013)
2.30%
AVERAGE MONTHLY MINIMUM WAGE
US$282.13 (THB 9,252.82)

General steps for setting up a business

The general steps for setting up a business in Thailand include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Search and reserve a company name online	Less than one day (online procedure)
2	Deposit paid-in capital in a bank	1 day
3	Obtain a corporate seal	4 days
4	Get approval for memorandum of association, apply to register the company as a legal entity (final registration) and also submit company work regulations	1 day for registration and 21 days for the approval of the work regulations

Investment vehicles available to foreign investors

Generally, foreigners are prohibited from the majority of business activities in Thailand. The definition of a foreigner under Thai law includes the following:

- Natural person not of Thai nationality
- Juristic person not registered in Thailand
- Juristic person registered in Thailand having half or more of the juristic person's capital shares held by a non-Thai person or entity.

Since most types of business activities are off limits to foreigners, the usual strategy to set up a company in Thailand is to ensure that at least 51 percent of the company's shares are held by a Thai shareholder - this will make the company a Thai national and will allow the company to operate all business activities like a Thai. The following investment vehicles are available to investors in Thailand:

- Limited Liability Company
  - » The most common type of business entity registered in Thailand is a private limited liability company. The registration of the limited liability company formation must be conducted with the Ministry of Commerce, Department of Business Development.
  - » Time line: approximately one to two weeks upon receiving all required information and documents

- Joint Venture
  - » A JV with Thai partners is often the most straightforward way for foreign investors to enter the country. There are two main options for the JV structure:
    - › Enter into a JV agreement with a Thai partner to form a new JV Company to operate the business. It is recommended that a Shareholders agreement between the Thai and foreign shareholders be created in order to govern the operation of the business.
    - › Acquisition of shares in the existing local company. In this event, a due diligence process would be compulsory to ensure no hidden liability.
  - » Time line: depending on the structure, approximately two months.
- Wholly owned
  - » Treaty of Amity (only available to American Nationals):
    - › Allows a U.S. national to own the majority of shares in a company.
    - › In order for a U.S. national to hold 100 percent of the shares, the company must receive Treaty of Amity approval and a Foreign Business License.
    - › The U.S. entity must be fully owned by American nationals. Any foreign element will disqualify this privilege under the Treaty of Amity.
    - › Time line: approximately one to two months upon receiving all required information and documents.

- Board of Investment Approval (BOI):
  - Allows foreigners to own the majority of shares in a company in Thailand by seeking the Board of Investment's approval.
  - If the company is approved, it may be entitled to tax and non-tax privileges, which would be provided to the company on a case-by-case basis (the approval would depend on the type of your business, the 5-10 years business plan, the contribution which the company would bring into the Kingdom, etc.).
  - A Foreign Business License is also required to allow the company to operate in Thailand as a foreign owned entity.
  - Timeline: approximately two to three months.

- Representative Office
  - To set up an RO in Thailand, the following must be completed:
    - Apply for establishment of the RO with the Ministry of Commerce's Department of Business Development.
    - Apply for a license to operate business activities as an RO (the RO of a foreign company is also considered to be a foreign company, and is restricted to operating various activities unless it has obtained a Permit under the NEC Announcement No. 281).
  - The business activities that an RO can carry out are limited to at least one of the following five activities:
    - Source for goods or services in Thailand for the head office.
    - Checking and controlling the quality and quantity of goods purchased or hired to manufacture in Thailand by the head office.
    - Giving advice concerning goods of the head office sold to agents or consumers.
    - Propagation of information concerning new goods or services of the head office.
    - Report on business trends in Thailand to the head office.
  - The general characteristics of an RO are as follows:
    - Non-revenue generating activities.
    - No authority to accept purchasing orders or to make offers for selling, or to negotiate carrying on business with persons or juristic persons in the country in which it is established.
    - All expenditures incurred by the RO must be borne by the head office.
    - Not subject to corporate income tax, however deposit interest on remitted funds from the head office are liable to tax.
    - Time line: approximately three months

Minimum financial investment requirements

TYPES OF ENTITY	CAPITAL REQUIREMENT
Limited Company	No minimum capital requirement. However, if the company needs to sponsor a work permit for foreign employee, a minimum registered capital must be at least 2,000,000 THB, declared as paid up.
Representative Office	3,000,000 THB
Treaty of Amity Company	3,000,000 THB
BOI Company	Depends on the conditions under the approval

Additional requirements

Banking operations and setting up

Once the company has registered with the Ministry of Commerce, a corporate bank account can be opened. Most of the banks in Thailand require the physical presence of the signatories as part of their due diligence procedure in opening a bank account. If the signatory is a foreigner, a work permit of such foreigner is required to open a corporate bank account.

HR issues

Foreigners looking to work in Thailand need to apply for both a visa and work permit. The non-immigrant "B" visa is the appropriate visa for anyone looking to conduct business or investment activity within Thailand. There are three "B" visa options based on duration of stay, these include:

- Single entry valid for three months
- Multiple entry valid for one year
- Multiple entry valid for three years

The maximum duration of stay per visit for a non-immigrant "B" visa is 90 days, but may be extended upon approval by the Immigration Bureau in Bangkok.

In order to work in Thailand under "B" visa status, the applicant must also posses an officially issued work permit. In order to complete a successful application, both the foreign worker and domestic employer must submit the required paperwork to the Department of Employment. To sponsor a work permit for foreign directors or employees, the company is required to have a minimum capital of 2,000,000 Baht per work permit. The company will also need to employ four Thai staff in order to support one work permit. A work permit can be generally be obtained within one month.

Taxation

Businesses operating in Thailand are subject to a range of taxes. These include Corporate Income Tax (CIT), a direct tax levied on juristic companies and partnerships carrying on business in Thailand or not carrying on business in Thailand but deriving certain types of income from Thailand. CIT is levied at a rate of 20 percent. However, small companies with revenues of less than 30 million baht may qualify for lower CIT rates.

Certain types of income paid to companies are subject to withholding tax at the source. The withholding tax rates depend on the types of income and the tax status of the recipient. For example, the withholding tax rate on royalty payments to Thai or foreign companies located in Thailand is three percent. Whereas the tax on royalty payments to foreign companies located abroad is 15 percent. Dividends are taxed at a rate of 10 percent no matter what type of company they are paid to.

Corporate Income Tax

- Rate: Reduced from 23 percent to 20 percent for the two accounting periods from 2013 to 2015
- Residence: If the company is registered under Thai law then all income is subject to CIT. Foreign companies are taxed on their net profits arising from business carried out in Thailand.
- Compliance: A self-assessment system is used for filing income tax returns and CIT is paid in two installments throughout the year.
- Incentives: A double deduction is available for qualified R&D expenses and tax exemptions are possible on license fees.

Indirect Tax

Generally, unless specifically exempt, every person who conducts business in Thailand is liable to pay VAT, regardless of whether the business is conducted by an ordinary person, group of persons, partnership, company, or any other juristic person. The standard VAT rate is 10 percent. However, the current VAT rate is seven percent, which is a reduced rate for a temporary period. Additionally, certain types of goods and services, such as goods intended for export, are eligible for a zero percent VAT rate.

- Rate: The current VAT rate has been reduced from 10 percent to seven percent. Some goods and services are exempt or zero-rated.

Individual Income Tax

- Rate: Income tax is charged at progressive rates of up to 35 percent.
- Thailand has a social security fund that employers and employees contribute to in equal portions. The current rate is five percent of the employee's salary up to THB750 per month.

Summary

Despite recent political instability, Thailand still remains an attractive destination for many investors. With well-developed infrastructure, a free-enterprise economy, generally pro-investment policies, and strong export industries, Thailand has achieved steady growth due largely to industrial and agricultural exports – mostly electronics, agricultural commodities, automobiles and parts, and processed foods. It seems clear that the country will remain an regional economic powerhouse for some time to come and continue to be an attractive investment destination for foreign businesses.

Investment Advice?

Please email *thailand@dezshira.com* to contact our Dezan Shira Asian Alliance practice in Thailand for legal and tax support for foreign investors into the country.

IMPORTANT UPDATE: THAILAND OFFERS TAX DEDUCTIONS ON R&D

Thailand's National Science and Technology Development Agency (NSTDA), in conjunction with the Revenue Department and Ministry of Science and Technology, has launched an online expense certification service to help businesses demonstrate they meet the qualifications necessary for a 200 percent research and development (R&D) tax deduction.

While several companies in Thailand are eligible for an R&D tax deduction, only a small proportion of those companies with qualifying R&D investments have requested tax exemptions due to inconveniences and inefficiencies in the current system and concerns over confidentiality.

According to the NSTDA, the new online system is "fast, provides data security, and is convenient to monitor with follow up and support." Because of this, many more businesses are expected to qualify for and claim an R&D tax deduction.

The new system is expected to reduce the project approval period to one or two months and bolster R&D to around one percent of Thailand's GDP within the next three years.

DEZAN SHIRA ASIAN ALLIANCE: THAILAND

For international clients requiring consistency and professionalism across multiple Asian countries and jurisdictions, the Dezan Shira Asian Alliance provides the highest levels of local knowledge combined with a pan-Asian presence and capability. Dezan Shira Asian Alliance members each follow the same standards and protocols as the main practice and are in regular communication with all of our Asian offices, allowing us to collectively provide both high quality local and multi-jurisdictional services to international investors throughout Asia.

Dezan Shira & Associates is represented in Thailand by Honor Audit.

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COUNTRY PROFILES: VIETNAM

Vietnam gained full independence in 938 AD. Successive Vietnamese royal dynasties flourished as the nation expanded geographically and politically into Southeast Asia, until the Indochina Peninsula was colonized by the French in the mid-19th century. Following a Japanese occupation in the 1940s, the Vietnamese fought French rule in the First Indochina War, eventually expelling the French in 1954. Thereafter, Vietnam was divided politically into two rival states, North and South Vietnam. Conflict between the two sides intensified, with heavy intervention from the United States. The war ended with a North Vietnamese victory in 1975.

Despite the return of peace, for over a decade the country experienced little economic growth because of conservative leadership policies, the persecution and mass exodus of individuals - many of them successful South Vietnamese merchants - and growing international isolation. However, since the enactment of Vietnam's "doi moi" (renovation) policy in 1986, Vietnamese authorities have committed to increased economic liberalization and enacted structural reforms needed to modernize the economy and to produce more competitive, export-driven industries. Vietnam joined the World Trade Organization in January 2007, which has promoted more competitive, export-driven industries. Vietnam became an official negotiating partner in the Trans-Pacific Partnership trade agreement in 2010. Agriculture's share of economic output has continued to shrink from about 25 percent in 2000 to less than 20 percent in 2013, while industry's share increased from 36 percent to more than 42 percent in the same period.

The global recession hurt Vietnam's export-oriented economy, with GDP in 2013 growing at five percent, the slowest rate of growth since 1999. However, exports increased by more than one percent, year-on-year in 2013. Although Vietnam unveiled a broad, "three pillar" economic reform program in early 2012, proposing the restructuring of public investment, state-owned enterprises, and the banking sector, little perceptible progress has been made. On average, it takes around 34 days to set up a business in Vietnam – however, this number is expected to be reduced soon as a result of upcoming legislation.

Vietnam has begun to extend its development zone policy to include SEZs and has expanded the US$1.5 billion Hon La SEZ situated on the central east coast of Vietnam to include deep water facilities in addition to upgrading its port and infrastructure on the South China Sea. The country is also increasing its presence at border areas and has invested in the Laos SEZ in Vientiane. Additional export-processing facilities, and possibly SEZs, may develop along Vietnam's long eastern seaboard as it seeks to compete with South China for foreign investment.

OFFICIAL NAME
Socialist Republic of Vietnam
CAPITAL
Hanoi
LAND AREA
310,070 km^2
POPULATION
89,708,900
CURRENCY
Vietnamese Dong US$1 = 21,190 VND *(As of November 11th, 2014)*
GDP
US$171,391,820,360
GDP PER CAPITA (PPP) (CURRENT INTERNATIONAL $)
5,293
IMPORTS OF GOODS AND SERVICES (2013)
US$119,241,741,886 (2012)
EXPORTS OF GOODS AND SERVICES (2013)
US$ 124,700,595,352 (2012)
MAIN INDUSTRIES
Food processing, garments, shoes, machine-building, mining, coal, steel, cement, chemical fertilizer, glass, tires, oil, mobile phones
DEPARTURE TAX
N/A
INFLATION RATE (2009 – 2013)
10.08%
AVERAGE MONTHLY MINIMUM WAGE
US$106 (VND 2,311,886.59)

General steps for setting up a business

The general steps for setting up a business in Vietnam include the following:

NO.	PROCEDURE	TIME TO COMPLETE
1	Check the proposed company name; obtain a business registration certificate as well as a tax registration certificate from the local business registration office under the Department of Planning and Investment	14 days
2	Make a company seal	8 days
3	Registration of the seal-sample at the Police Department	1 day
4	Open a bank account	1 day
5	Publish the registration contents on the National Business Registration Portal (NBRP)	5 days
6	Pay business license tax	1 day, simultaneous with previous procedure
7	Buy pre-printed VAT invoices from the Municipal Taxation Department or obtain and print self-printed VAT invoices	10 days, simultaneous with previous procedure
8	Register with the local labor office to declare use of labor (Municipal Department for Labor, Invalids and Social Affairs).	1 day, simultaneous with previous procedure
9	Register employees with the Social Insurance Fund for the payment of health insurance and social insurance.	1 day, simultaneous with previous procedure
10	Register for trade union with Vietnam General Confederation of Labor	7 days, simultaneous with previous procedure

Investment vehicles available to foreign investors

There are five main types of vehicles for foreign investment in Vietnam:

- 100 percent foreign-owned enterprises (FOEs)
  - » FOEs can be established by one or more foreign investors in the form of either a limited liability company (LLC) or a joint-stock company (JSC).

- Joint venture enterprises (JVEs)
  - » JVEs can be established as an LLC, JSC, or a partnership, and the profits and risks in a JVE are distributed among the parties in proportion to their charter capital contributions.

- Partnership company
  - » A legal entity established by at least two individuals who are members of the partnership and co-owners of the enterprise. They are the General Partners and are liable for all obligations of the partnership without limit.
- Representative office
  - » An RO is not a legal entity and is forbidden from conducting any revenue generating activities. ROs are permitted to conduct such activities as quality control, acting as a product showroom, and helping to facilitate the execution of the contracts of the parent company.

- Branch office
  - » The subsidiary of a parent company and does not constitute a separate legal entity. It is entitled to conduct business activities in Vietnam within the parent company's business scope.

Other options for establishing a commercial presence in Vietnam include business cooperation contracts (BCCs), build-operate-transfer contracts (BOTs), build-transfer-operate contracts (BTOs), and build-transfer contracts (BTs). The difference between these contract types is at what point the title of the project is transferred to the government.

Additional requirements

While there are usually no minimum capital requirements for foreign investors who intend to establish a presence in Vietnam (except for those investing in special industries like banking, finance, and real estate), investors should put enough capital in to cover their business operations for one year.

Charter capital can be used as working capital to operate the company. It can be combined with loan capital or constitute 100 percent of the total investment capital of the company. Both charter capital and the total investment capital (which also includes shareholders' loans or third-party finance), along with the company charter, must be registered with the license-issuing authority of Vietnam. Any increases or decreases in charter capital are decided by the shareholders of the company and must be registered in order to update into the Investment Charter of the company. If this is not done, any increase or decrease in charter capital will not be valid.

In addition to the FIE's investment certificate, capital contribution schedules are set out in FIE charters (articles of association), joint venture contracts and/or business cooperation contracts. Members and owners of Limited Liability Corporations (LLCs) must contribute charter capital within the capital contribution schedules of their chosen method of business establishment.

In order to be able to transfer capital into Vietnam, after setting up the FIE, foreign investors must open a capital bank account in a legally licensed bank. A capital bank account is a special purpose foreign currency account designed to enable tracking of the movement of capital flows in and out of the country. This type of account allows money to be transferred to current accounts in order to make in-country payments and other current transactions.

HR issues

The number of foreign workers coming to Vietnam has steadily increased in recent years, surging to over 77,000 at the end of 2013. The large majority of foreign workers that come to Vietnam are employees of foreign contractors, working for, or establishing, FDI projects. A Vietnamese entity is permitted to recruit foreigners to work as managers, executive directors and experts where local hires are not yet able to meet production and business requirements. Unlike in some other Asian countries, such as China, Vietnamese representative offices are also able to hire staff directly.

Annually, employers (except for contractors) determine the demand for foreign workers for every position in which no competent Vietnamese workers can be found; they then send a report to the President of the People's Committee of the province or central-affiliated city where the head office of the employee is situated. During the process, any change in the labor demand for foreign workers should be reported to the President of the People's Committee of the province. The President will issue written approval to the employer for the employment of foreign workers for each position.

The company is required to get approval for the employment of foreign workers in each position before official recruitment. Under the law, the approval should occur in 15 days, however, in reality this often takes 30~40 days from the date of application by the President of the People's Committee of the province and is included in the application dossiers of the work permit, which should be submitted no later than 15 working days before the foreigner is to begin work in Vietnam.

Visas

In order to enter Vietnam, most foreigners need a visa issued by the Vietnamese Embassy or Consulate (some select countries can enjoy visa-free entry, check with your local consulate on the issues affecting residents of your home country). A Vietnamese visa can also be granted in a third-party country or from within Vietnam at an international airport.

However, to work in Vietnam and remain for an extended period, foreigners must apply for a longer-term three-month multiple entry visa. As of January 1, 2015, relevant visa types typically include:

- DT - Issued to foreign investors in Vietnam and foreign lawyers practicing in Vietnam
- DN - Issued to people who come to work at companies in Vietnam
- NN1 - Issued to Managers of representative offices or projects of international organizations and foreign non-governmental organizations in Vietnam
- NN2 - Issued to heads of representative offices, branches of foreign traders, and representative offices of other foreign economic, cultural, and professional organizations in Vietnam
- NN3 - Issued to people who come to work with foreign non-governmental organizations, representative offices, branches of foreign traders, representative offices of other foreign economic, cultural, professional organizations in Vietnam
- LD - Issued to people who come to work
- DL - Issued to tourists

Work Permits

In most cases, a work permit is required when working in Vietnam. Where a work permit is not compulsory, a notice must be submitted seven days in advance to the provincial Department of Labor, Invalids and Social Affairs prior to working in Vietnam. Currently, work permits for foreigners are valid for a maximum of two years. Authorities are becoming stricter regarding work permits. Those who violate the regulations by working in Vietnam without a work permit may be penalized or, if unable to meet work permit requirements, deported back to their home countries.

In order to be eligible for a work permit, the applicant must comply with the following conditions:

- The employee is capable of civil acts as prescribed by law
- The employee's health is suitable for their job
- The employee is a manager, executive officer, expert, or technician
- The employee is not a criminal or liable to criminal prosecution according to Vietnam's law and the foreign country's law
- The employment of the foreign employee is approved in writing by a competent authority

The following situations exempt the foreigner from needing a work permit:

- Working in Vietnam for less than three months and the following conditions are met:
    - » Coming to Vietnam to offer services
    - » Coming to Vietnam to handle a problem, or technical or complex technology situation arising which affects, or threatens to affect, the production process and/or business, and that the Vietnamese and foreign experts currently in Vietnam can not handle
- A member of an LLC with two or more members
- The owner of an LLC with only one member
- A member of the board of a joint stock company
- Coming to Vietnam to market products and services
- Coming to Vietnam for less than three months in order to resolve a situation which Vietnamese

or foreign experts currently in Vietnam are unable to resolve
- Lawyers granted a professional permit in Vietnam
- Heads of representative offices, chiefs of project offices or individuals working for foreign non-government organization in Vietnam
- Internally transferred within an enterprise which has a commercial presence in the committed service list of Vietnam with the World Trade Organization
- Coming to Vietnam to supply consulting services for programs and projects that use Official Development Assistance

Temporary Residence Cards

Under Vietnam's new immigration laws, work permits are no longer the condition for issuing for resident card under the new law on immigration.

According to Article 36 of the Law on Immigration, the following people will be issued temporary residence cards:

- Foreigners who are members of diplomatic missions, consular offices, representative offices of international organizations of the UN, intergovernmental organizations in Vietnam, their spouses, children under 18 years of age, and housemaids that go along during their term of office shall be issued with temporary residence cards with the symbol NG3.
- Foreigners issued with LV1, LV2, ĐT, NN1, NN2, DH, PV1, LĐ, TT visas shall be issued with temporary residence cards with the same symbols.

Taxation

Corporate Income Tax

- Rate: 22 percent (shifting to 20 percent in 2016).
- Residency: CIT applies to all companies carrying out business in Vietnam.
- Compliance: Generally self-assessed with four types of filings – quarterly returns, annual returns, ad hoc returns, and returns for the cessation/amendment of business or completion of project.
- Incentives: Corporate taxpayers incorporated under Vietnamese law can set aside up to 10 percent of their annual income for R&D and deduct the same amount from taxable income. Preferential tax rates are available for other encouraged projects, including a 20 percent rate to enterprises with annual revenue not exceeding VND20 billion.

Indirect Tax

- Rate: 10 percent value-added tax (VAT).
- Exports of goods and services are subject to zero percent VAT, and a five percent concessionary rate applies to specific essential goods.

Individual Income Tax

- Rate: Up to 35 percent
- Non-residents can receive a flat tax rate of 20 percent on Vietnam-sourced income. Contributions to social, health, and unemployment insurance are compulsory for Vietnamese employees.

Summary

While Southeast Asia's promise remains less well known to many foreign companies than that of China or India, an increasing number of MNCs have started to target the region. This is especially true in Vietnam due to its cheap labor resources and its positive economic and demographic trends. Over the past 20 years, FDI inflows into Vietnam have increased tremendously in terms of share of investment, import/export turnover, and GDP percentage. Manufacturing and processing have attracted the lion's share of Vietnam's total FDI over the past five years, accounting for approximately 72 percent of the country's total registered capital.

Investment Advice?

Please email *vietnam@dezshira.com* to contact our Dezan Shira Asian & Associates' office in Vietnam for legal and tax support for foreign investors into the country.

VIETNAM BRIEFING

For more information concerning investment into Vietnam, please refer to our Vietnam Briefing website: www.vietnam-briefing.com

IMPORTANT UPDATE: VIETNAM RANKS AS 2ND MOST ATTRACTIVE NATION IN ASEAN FOR AMERICAN BUSINESS

According to survey results recently released by the U.S. Chamber of Commerce in Singapore, Vietnam is the second most popular destination for U.S. business expansion among the member states of the Association of Southeast Asian Nations (ASEAN). Indonesia took the top position.

The survey, titled the 2015 ASEAN Business Outlook Survey, gauged opinions from nearly 600 senior executives in U.S. companies engaged in operations throughout all 10 of the ASEAN nations.

According to statements given by those polled in the survey, the reasons for Vietnam's attractiveness include a stable government and political system, positive sentiment toward the U.S., the availability of low cost labor, and good personal security. Additionally, executives expressed positive views regarding the cost and availability of housing and office space.

Key takeaways from the Vietnam section of the survey include:

- 57 percent of executives expect their workforce to grow in 2014
- 66 percent expect their profit to increase in 2014
- 82 percent expect their profit to increase in 2015
- 95 percent of expatriate employees are generally satisfied with their assignments

However, the survey also detailed a number of worries that executives have about conducting operations in Vietnam – chief among these was corruption. An additional area of concern lay in the perceived reduction in the level of business incentives offered by the government. In the wake of the anti-Chinese protests, business leaders also expressed concern about employee safety.

Looking to ASEAN

Among the survey's key findings for ASEAN as a whole were:

- 75 percent of executives saw a rise in the level of business their companies conducted in the ASEAN region
- 89 percent of executives expected their business to increase over the next five years

Tami Overby, the U.S. Chamber's senior vice president for Asia, explained that "[the] survey underscores the confidence that U.S. businesses have about ASEAN, particularly as it integrates economies, deepens its trade and investment relations with major trading partners, and makes the region an important, attractive destination for U.S. investment." She also pointed to the important impact the ratification of the Trans-Pacific Partnership (TPP), a U.S. led free trade agreement (FTA), will have on the region.

The survey also showed that many U.S. companies were taking advantage of the FTAs that ASEAN has signed with Australia and New Zealand, China, India, Japan, and Korea. Almost half of the executives reported that they have made use of FTAs to export goods to China.

In regards to the increasing economic integration taking place in ASEAN, 53 percent of companies said that they had a strategy in place to take advantage of the implementation of the ASEAN Economic Community, which is scheduled to go into effect in 2015.

However, the survey also highlighted a number of problem areas for businesses conducting operations in ASEAN. As shown in previous studies, one of the key worries among executives was the level of corruption that still exists in the region (excluding Singapore and Brunei). Additional problems included burdensome laws and regulations, lack of transparency, poor quality of infrastructure, and the difficulty of moving products through customs in some countries.

ASEAN has become an increasingly important market for US companies and, as the recent survey makes clear, the region will continue to represent a growing proportion of these companies' worldwide revenues.

DEZAN SHIRA & ASSOCIATES IN VIETNAM

Dezan Shira & Associates expanded to Vietnam in 2008 and quickly set up offices in Hanoi and Ho Chi Minh City (HCMC). The year 2008 also saw the launch of Vietnam Briefing, which has now become a premier source of business intelligence related to Vietnam. Our staff includes a growing number of Vietnamese chartered accountants and lawyers, all of whom have multiple years of experience advising foreign companies.

Specifically, our services in Vietnam include pre-investment and entry strategy advisory, business advisory, accounting and reporting, treasury administration, tax and compliance, payroll and human resources, and audit and financial review. Dezan Shira & Associates' experienced business professionals are committed to improving the understanding and transparency of investing in emerging Asia.

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3

NAVIGATING ASEAN'S BUSINESS ENVIRONMENT

- Taxation
- Double Taxation Agreements
- Development Zones
- The Accelerating Trend towards Outsourcing Payroll Processing Work in Asia

TAXATION

A country's taxation system includes its corporate income tax (CIT), individual income tax (IIT), withholding tax, and indirect taxes such as value-added tax (VAT) or goods and services tax (GST).

Taxation rates, particularly corporate income tax, are often a source of competition between countries, with lower rates generally more attractive to businesses and foreign investors. Debate continues within economic literature on the costs and benefits of tax competition and tax harmonization – the standardization of tax rates.

Currently in force in the European Union, the idea of tax harmonization has been floated in ASEAN for several years but has yet to be realized.

It remains to be seen how ASEAN will choose to tackle the issue of taxation upon integration. Within the AEC Blueprint, which outlines the steps to integration, only two clauses mention taxation directly:

- Strengthening ASEAN Capital Market Development and Integration:
  - » Enhance withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance.
- Promote ASEAN as an integrated investment area and production network:
  - » Work towards establishing an effective network of bilateral agreements on the avoidance of double taxation among ASEAN countries.

Although tax rates vary widely across the region, the past decade has seen a general downward trend – especially in the years since the AEC Blueprint was inked. Brunei continues to maintain zero individual income tax, while rates go up progressively to 37 percent in Thailand. Corporate tax rates range from 17 percent in Singapore, one of the lowest in the world, to 35 percent for some foreign entities in Myanmar.

ASEAN has made large strides towards eliminating intra-regional trade barriers. According to the AEC scorecard, the implementation rate for 2008 to 2011 was 67.5 percent. In particular, tariff barriers have been largely eliminated although some significant non-tariff barriers remain. Under the Common Effective Preferential Tariff (CEPT) scheme, which paves the way for the elimination of customs tariffs between ASEAN countries, tariffs on 99 percent of trade between the ASEAN-6 were gone by 2010. In 2012, overall average intra-regional tariff rates were as low as 0.55 percent.

Individual Income Tax

The individual income tax rates of Asia have for the most part been experiencing a downward turn in recent years. Vietnam, Malaysia and Indonesia, for instance, have all marginally lowered their IIT rates since the turn of the century. In contrast, however, Myanmar has capped its rate at a high 35 percent for foreigners and 20 percent for resident citizens since first introducing it in 2012. Below, we provide a chart detailing the differences in IIT between the ten ASEAN nations.

COUNTRY	MIN (%)	MAX (%)
Brunei	0	0
Cambodia	20	20
Indonesia	5	30
Laos	0	24
Malaysia	0	26
Myanmar	1	35*
Philippines	5	32
Singapore	0	20
Thailand	5	37
Vietnam	5	35

**Only applicable to foreigners working in Myanmar; maximum for residents is 20%*

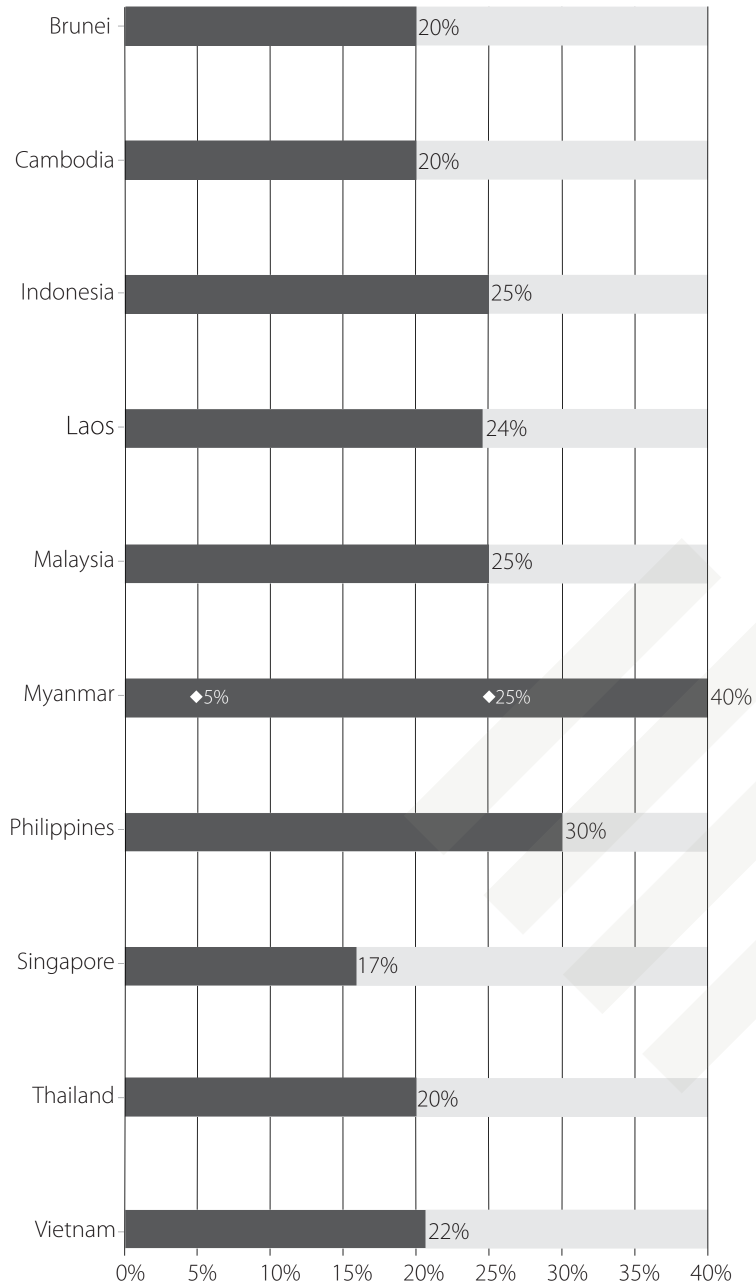
Corporate Income Tax

The corporate income tax rates of Asia have fluctuated considerably over the past two decades, and more change is forecast for the future. In China, the CIT rate has decreased from 33 percent in 2007 to its current 25 percent, and Indonesia's has decreased twice since 2007. Vietnam's rate has changed from 28 percent in 2008, 25 percent in 2012, and 22 percent in 2014 to the current 20 percent, which took effect in 2016.

Malaysia, the Philippines, and Thailand have experienced a similar downward turn in CIT rates over the past several years. This points to a trend in ASEAN towards legislating a lower rate of corporate taxation, indicating that the governments of each are beginning to focus more on securing investment than on subsidizing state spending.

That being said, there is still a sizable gap between the rates of CIT in ASEAN, with the highest more than doubling that of the lowest. Here, we provide a chart detailing the differences in CIT between each ASEAN nation.

Corporate Income Tax



Corporate Income Tax Eligibility and Assessment		
Country	**Residency**	**Compliance**
Brunei	Considered resident if control and management of the business is exercised in Brunei.	Self-assessment. All filing is done under the System for Tax Administration and Revenue Services (STARS), introduced in 2012.
Cambodia	For residency, the business must make Cambodia its principle place of business or conduct the majority of its operations in the country. In the case of a non-resident, only that income which is earned within Cambodia will be subject to corporate income tax.	CIT/ToP returns are due on March 31 of the year following the income tax year and are filed annually.
Indonesia	A company is a resident if it was incorporated in Indonesia.	Companies must file CIT returns with Tax Office within four months after end of tax year. Notifying the Director General of Taxation can result in a two month extension.
Laos	No strict definition of residency; all companies registered under Lao law or carrying out business in Laos are subject to Lao profit tax.	Payments made on a quarterly basis, based on self-assessment.
Malaysia	Considered resident if the management and control of the business is exercised in Malaysia.	Tax payable one month before the commencement of the year of assessment, and monthly installments paid on the estimate of tax payable.
Myanmar	Enterprise is considered resident if incorporated in Myanmar.	Tax year between April 1 and March 31. Annual tax returns must be filed with the Internal Revenue Department by June 30 of the following income year.
Philippines	Considered resident if the company is carrying out business in the Philippines.	Self-assessment system with the annual income tax return due on the 15th day of the 4th month.
Singapore	Tax residency applies if primary control and management of the company is in Singapore.	If a company accrues, receives, or derives income from Singapore then it must file an income tax return. The due date for filing is November 30th of the year of assessment and the tax is assessed on a preceding year basis.
Thailand	If the company is registered under Thai law then all income is subject to CIT. Foreign companies are taxed on their net profits arising from business carried out in Thailand.	A self-assessment system is used for filing income tax returns and CIT is paid in two installments throughout the year.
Vietnam	CIT applies to all companies carrying out business in Vietnam.	Generally self-assessed with four types of filings - quarterly returns, annual returns, ad hoc returns, or returns for the cessation/amendment of business or completion of project.

DOUBLE TAXATION AGREEMENTS

Under the AEC Blueprint, ASEAN was scheduled to complete its network of double taxation avoidance agreements by 2010, although gaps still remain. Double taxation avoidance agreements (DTAs), which prevent the same income from being taxed by two or more jurisdictions, save significant money for multinational companies and encourage cross-border trade. Among the ten countries, only Cambodia has yet to sign any DTAs with its fellow ASEAN members. Malaysia has DTAs with all members except Cambodia.

Double taxation has been dubbed "one of the most visible obstacles to cross border investment," leaving room for a significant amount of money to be saved under the almost 3,000 double taxation avoidance agreements (DTAs or DTAAs) signed between nations across the globe. To combat such obstacles, DTAs aim to prevent the same income from being taxed by two or more states, while also eliminating tax evasion and encouraging cross-border trade efficiency.

DTAs are mostly of a bilateral nature and, while DTA-signing countries are not all members of the Organization for Economic Cooperation and Development (OECD), DTAs are generally based on model conventions developed by the OECD or (less commonly) the United Nations. And while about 75 percent of the actual words of any given DTA are identical with the words of any other DTA, the applicability and specific provisions of each treaty can vary substantially.

From an investor's perspective, confusion about international taxation can arise when investors are subject to two different and potentially conflicting tax systems. For example, Hong Kong and Singapore adopt a "territorial source" principle of taxation, which means that only profits sourced locally are taxable. Meanwhile, other countries such as China and the United States, are on the worldwide tax system, and resident enterprises can be required to pay tax on income sourced both inside and outside of the country. DTAs not only provide certainty to investors regarding their potential tax liabilities, but also act as a tool to create tax-efficient international investments.

DTAs apply to individuals and companies of the countries or jurisdictions who are parties to the agreement, with the aim to prevent double taxation by allowing the tax paid in one of the two countries to be offset against the taxes payable in the other country, and/or by providing exemptions or reduced tax rates for specific income types such as royalties, interest, and dividends.

Exchange rate volatility has emerged as a pressing challenge for investors seeking to establish and scale regional production chains within ASEAN. 2015 survey data from the Economist indicates these fluctuations have overtaken regulatory compliance as the single greatest impediment to profit maximization in South East Asia – with nearly 50 percent of respondents voicing concerns.

Foreign Exchange Volatility in ASEAN

Unlike the common market of the European Union (EU), firms entering ASEAN's Economic Community – the AEC – will be greeted by the notable absence of a common currency. Although the risks of adopting such an arrangement have been born out over the course of the European sovereign debt crisis, utilization of regional supply chains, without the assistance of a common form of exchange, it creates a unique subset of risks that investors within ASEAN must now contend.

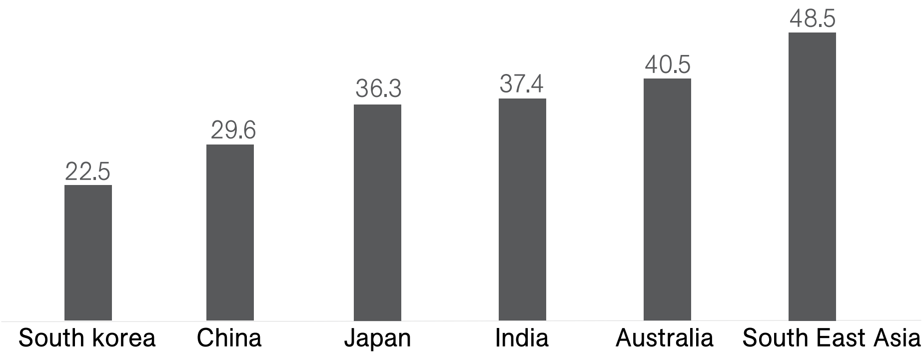
Under ASEAN's common marketplace, debt service, input pricing, and remittance of profits are all subject to the shifts in the value of the regions ten currencies. Sudden fluctuations in a given currency's value can have significant cost implications for firms holding outstanding contracts or debts within the currency in question. While changes to valuation may move in a company's favor in the short term, the potential for volatility to negatively impact profitability of operations should not be disregarded.

As ASEAN continues to attract record levels of capital inflows, the volatility of regional exchange rates will likely continue into the near to medium term. This, in conjunction with a lack of risk mitigation tools ,has not gone unnoticed by investors. As indicated by the chart below, currency risk is thought to be a more pronounced in South East Asia than in China, South Korea, or even Australia – which is currently suffering at the hands of falling commodity prices.

When managing foreign exchange risk in large markets with established and liquid currencies – such as the United States, EU, or Japan – forwards contracts are a widely utilized and effective tool

Regional Exposure to Foreign Exchange Risk

%repondents citing currency as a likley factor in the reduction of profitability



to reduce uncertainty. Forwards allow investors to lock in fixed exchange rates at low costs which can then be used to settle contracts with suppliers, make payments on loans, and remit profits.

In ASEAN however, lowered liquidity, lagging availability of derivatives products such as forwards, and heightened levels of government regulation make "onshore forwards contracts" a rare and ineffective tool for risk mitigation. While these traditional methods fall short of their counterparts in developed economies, tools do exist to assist investors in their efforts to expand into the dynamic markets of South East Asia.

NDF Markets

In response to the underdeveloped state of derivatives markets in many of ASEAN's frontier economies, Non Deliverable Forwards (NDF) have become the "offshore" alternative of choice for those seeking the coverage of traditional forwards contracts. NDFs allow investors to sidestep the absence of onshore hedging tools and mitigate the risks posed by foreign exchange through the establishment of forwards contracts with financial institutions in third party states. Within ASEAN, Singapore – with its deep financial infrastructure – has emerged as a hub for this activity, allowing buyers and sellers to settle payments through financial intermediaries within its boarders.

Although NDF brokers offer substantial liquidity under normal market conditions, the domination of the marketplace by a few large financial institutions is likely to result in diminish capacity under adverse market conditions. With this in mind, and in light of prevalent trends in China as well as the European Union, it is highly recommended that NDF mitigation be employed in conjunction with additional risk mitigation tools.

Strategic Planning

Both as a means of mitigating exposure to foreign exchange risk as well as ascertaining areas warranting the introduction of NDF contracts, substantial market research should always be conducted on the front end of investment within ASEAN states. The following chart provides a first step in this direction by outlining the average monthly exchange rate volatility between ASEAN states, and with their key trading partners over the past four years.

Understanding that optimal utilization of ASEAN's tariff harmonization is likely to require linkages of production in truly regional supply chains, the chart above breaks down ASEAN members into their respective production strengths – factor based, efficiency based, and innovation based production. For each stage of the production process, it thus becomes an integral component of due diligence to assess alternative markets on foreign exchange, in addition to traditional metrics such as labor and regulatory compliance costs.

In practice, this analysis can be applied to those considering expansion or establishment within the region. Prospective investors in the production of computing products, for example, must consider the volatility between their home markets – the US or EU – innovation based economies with the capacity to build high tech components – Singapore or Malaysia – as well as markets within ASEAN where these products will be assembled – Vietnam or Cambodia. Depending on the combination of production required to finish a given good, the adjustment of supply chains to mitigate exchange rate exposure may lead to substantial profit retention over the long term of a project.

Withholding Tax and Profit Repatriation

DTAs also affect the repatriation of profits and earnings, as the location of profit taking and distribution can be manipulated favorably under the correct circumstances. This means that profits may be permitted to be taken in a lower cost jurisdiction than would normally be the case and distributed from there back to the overseas headquarters. This makes complete sense when developing a business in Asia, as capital injections and investments can then be made from the lower tax jurisdiction.

The distribution of dividends back to the home domicile can also be arranged in a beneficial and less tax burdensome manner than would otherwise be possible. Many preferred holding company jurisdictions maintain DTAs that limit or eliminate the level of withholding taxes payable on dividends coming from subsidiary countries and going to parent companies. For example, Hong Kong has a DTA in place with China that lowers dividend withholding taxes from the general rate of ten percent down to just five percent (provided that a certification of resident status is obtained). What this means for foreign businesses is that they have the option to create a corporate structure such that profits from a China subsidiary may be remitted to a Hong Kong holding company at a five percent withholding tax rate on dividends, before then being passed on to the overseas parent company with no additional tax obligations. In contrast, if the China subsidiary were to remit directly to the parent company in a country that does not hold a DTA with China, it may be taxed at a withholding tax rate of ten percent. Such reductions can represent significant tax savings over a period of time, being realized instead as additional profits.

Permanent Establishments

DTAs also exist to define areas where companies may not be considered to be generating taxable income in one or the other country. Within these, a key area is the concept of permanent establishment (PE) status.

There are three general types of PEs that are recognized throughout the world: fixed place PEs, agency PEs, and service PEs. These are typically defined as follows:

TYPE OF PE	REQUISITES
Fixed Place PE	• Fixed place of business • Business of the foreign entity is wholly or partly carried out here
Agency PE	• Authority to conclude contracts on behalf of the foreign enterprise • Secures and delivers orders wholly or almost wholly on behalf of the foreign enterprise
Service PE	• Foreign enterprise furnishes or performs services in the foreign country • Staff works in the foreign country for a total of six months or 183 days during a 12-month period

Triggering PE status is an issue of great importance as it defines the taxable status of particular legal structures and trade. A typical DTA, for example, contains clauses related to the PE concept and this can favorably impact on the total investment needed to enter the target market. It can also impact upon the type of legal vehicle actually required to be incorporated and, in some cases, does away with the need for one altogether.

The concept of PE is primarily used to determine a specific state's right to impose tax on the business activities of foreign companies operating in that country. Where a resident of a country carries on business in another country with which the resident's country has a DTA, the profits derived will not be subject to tax in the other country unless the business is carried on through a PE. Once an enterprise triggers PE status in a country, that enterprise will be subject to the host country's relevant business taxes, and any qualifying staff will be subject to individual income tax in the country as well. As such, it is critical for foreign businesses operating within Asia in any capacity to stay on top of their PE applicability and the relevant tax rates in the region.

With further regards to PE qualifications, the OECD Model Income Tax Treaty defines a PE as a "fixed place of business through which the business of an enterprise is wholly or partly carried on". However, while most DTAs do use the OECD definition, countries are allowed to define what constitutes a PE independently.

This can have highly beneficial results. For example, a well-structured incorporation can carry out effective services for its parent company - in some cases to the extent of billing local companies on their behalf - without triggering tax exposure in the secondary country. It depends upon how the PE issue is addressed within the specific DTA. Singapore, for example, has favorable DTAs with many other countries, which when properly structured at the local incorporation level, do away with any profits tax liability altogether, even while maintaining an office in the country. Such tax structuring and usage of DTAs is becoming more common, and precise evaluation of how a PE is determined under the terms of each treaty becomes important to understand.

Conclusion

In addition to the above mentioned taxation implications, DTAs lay out the ground rules for many other bilateral tax agreements. The nature of these differ significantly depending upon each individual treaty, however each should be studied in detail to ascertain both the required legal structure and the scope of trade. International businesses intending to trade with Asia and/or establish a physical presence would be wise to examine the applicable treaties and seek professional advice over the legal and financial implications prior to contemplating the legal structure itself.

DEVELOPMENT ZONES

Within each country, taxation rates may also vary by region or industry due to special tax incentives provided by the government and the presence of designated business friendly economic development zones. Preferential tax policies, ease of access to domestic markets, strong institutions, and resource support are just some of the benefits of locating one's business in a development zone. With significant variation in the terminology and conditions of development zones around ASEAN, it is important for businesses to understand what a particular zone can offer. Choosing a development zone within ASEAN can potentially provide a low cost manufacturing base for the regional markets that extends beyond Southeast Asia to China, India and the Pacific.

With the success of China's special economic zone in Shenzhen in the 1980s, development zones across Asia have proliferated as catalysts for economic reform and foreign investment.

While the Shenzhen example originated as an entire city area cordoned off from the rest of China in case the experiment with capitalism went wrong, the concept, while not new, caught on quickly. Shenzhen was rapidly divided into a variety of different zones, some focusing on the oil and gas drilling sector (Shekou Port) while later, other variations catering for export manufacturing. Later still, high-tech and other specific industrial applications followed. Shanghai (and later towns all over China) followed suit, and this model has now spread across Asia.

However, this has given rise to regional terminology issues, and it can be difficult to work out initially what benefits certain zones can provide. It has also given rise to zones being set up by local governments not actually adhering to central government guidelines, and in India's case, the somewhat haphazard establishment of private sector zones which have not always proven well-managed or which do not possess optimal infrastructure. Due diligence is essential to sorting out which zones can really help and which ones are purely cosmetic in nature. It remains key when seeking to understand what a development zone can accomplish for your business – and whether its stated capabilities actually match up with the sales brochure. There remains no doubt, however, that utilizing the services of a well-managed development zone with great infrastructure can significantly enhance your success and help develop opportunities across emerging markets throughout Asia and beyond.

Benefits of locating in development zones

There are a large number of benefits associated with development zones, which are attractive draws for investors looking for an easier way to take advantage of labor and other inputs, these include the following:

- Preferential policies
- Support and participation of government
- Autonomy
- Resource availability
- Technology, learning, and innovation

Preferential policies compared to non-development zone areas

Development zones receive a number of regulatory benefits and privileges aimed at reducing the cost of investment and facilitating imports and exports. These include lowered land costs, tax awards and exemptions, facilitated customs clearance and ease of access to domestic markets. In particular, some higher-ranked zones have the ability to provide exemptions from certain national taxes.

Support and participation of government

Governmental support of development zones causes foreign investors to receive support in different terms and scopes. First, eager to attract foreign investors and boost the area's employment and economic wealth, zone management will often be quick to respond to changes in needs related to regulatory or market fluctuations. Local governments can also provide accounting, legal, marketing and consulting services to help investors, albeit with mixed results. This does indicate a willingness to aid in the growth of these areas by implementing an improved policy framework, leading to clearer legal and regulatory standards. While some development zones are privately run, government-backed zones are generally preferable. This is because they tend to be better regulated and have essential government-supported services such as customs, bonded zones and better infrastructure at their fingertips.

Resource availability

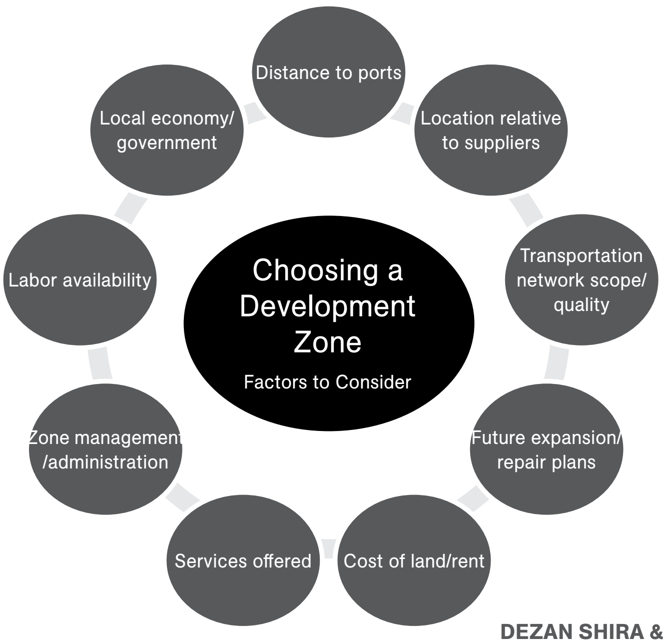
Zones that specialize in certain industries/sectors will likely have access to specific resources and expertise favorable to investors.

Technology, learning and innovation

Development zones are often hubs for creativity and innovation, stemming from the provision of government incentives, competition between tenants and the presence of highly skilled labor.

Factors to consider when choosing a zone

Above all, the right type of development zone for an investor will depend on their specific business needs – such as industry, import/export plans, location of suppliers, labor/land/power requirements, and scale of operations. The factors which draw one investor to a particular development zone and another investor elsewhere are generally unique to the investor. So, the first step to development zone selection is a self-evaluation of your company's priorities.



Once you've established these priorities, work with a consultancy firm to narrow down a list of zones. In any location of interest, seek out a list of companies that are already located in that zone. If you find that the zone is occupied by companies with a similar background to yours (in terms of country or region of origin and line of business), it is valuable to reach out and gauge what their experience has been like.

Be mindful of the zone's management and administrative practices. A well-run zone will be up to date on changes in regulations or in the marketplace which will affect you and will be able/willing to help you make the necessary adjustments.

Be sure to also investigate the quality and scope of infrastructure networks; do not take statements about location lightly. A high quality infrastructure will increase efficiency and lower transportation costs significantly. Keep a future-focused mind-set and take plans for expansion or repair of these networks into account.

When narrowing down a list of sites, recruit professional assistance. Typically, due diligence in this field requires an assessment of the site itself in addition to the legal and tax implications of locating there.

For research issues concerning pan-Asian requirements or intelligence, please email *asia@dezshira.com* for assistance.

THE ACCELERATING TREND TOWARDS OUTSOURCING PAYROLL PROCESSING WORK IN ASIA

For several years now, multinational companies with operations in one or more Asian countries have begun transitioning to an outsourced model for handling their payroll and HR administration. Already well-entrenched in the U.S. and U.K., the accelerating trend towards outsourcing payroll processing is unlikely to reverse due to the huge efficiency and savings it brings. In Asia, however, the cost-benefit of outsourcing is significantly less clear-cut. In essence, the transition towards outsourcing in Asia is primarily being driven by three factors:

1. The increased importance of Asia-based employees to their organization, and the importance of ensuring the handling of their payroll in a professional manner.
2. The increasing number of Asia-based employees, and increased complexity of their compensation packages.
3. The increasin g virtualization of HR administration, which has allowed work that previously entailed locally-based employees working with government bureaus to be handled from an online location.

Savings are now kicking in due to the virtualization mentioned above in countries like China and Vietnam, but the main motivation for companies to choose an outsourced model is more related to the ability to achieve a higher level of consistency in data management, greater transparency for management, and improved confidentiality across their Asia-based entities. As companies continue to expand their operations across Asia, not only does their headcount grow, but the number of legal entities they must maintain also increases. Such expansion poses a great challenge to these companies when seeking vendors able to comprehend and efficiently explain local payroll requirements, and produce reports that seamlessly link in with the accounting platforms they are using.

“One-country” vendors can often do an efficient job, but communicating with several such companies every month can be very time-consuming for HR managers based at HQ. On the other hand, “global” vendors (a managed model) can sometimes struggle to meet all the local statutory requirements and customs in faraway markets that change rules and regulations frequently.

Stepping in to fill this gap are the “pan-Asia” vendors, offering shared service or integrated payroll outsourcing models. Their ability to coordinate multiple payrolls across the entire region represents a significant improvement over the traditional “one-country” and “global vendor” model. The proliferation of pan-Asia vendors is partially why the transition to the outsourcing model is accelerating.

Payroll processing across ASEAN and into Asia requires detailed local knowledge of each countries’ tax and social welfare regulations, as well as local labor laws, to ensure your employees and corporation remain in local compliance. It makes sense to seek professional advice when looking at servicing multiple offices in the Asian region and ideally to have this consolidated into one location.

In Asia, Singapore provides an excellent administrative solution as its own currency is freely transferable meaning easy access to the free flow of your funds into and out of the country as needed, coupled with a better ability to manage the funding of employees in more remote locations without having to place large amounts of treasury into numerous bank accounts in different countries.

AUDIT AND COMPLIANCE IN ASEAN

Companies doing business in Indonesia are required to prepare annual financial statements in accordance with the Indonesian Financial Accounting Standards (SAK), which are set by the Financial Accounting Standards Board (Dewan Standar Akuntasi Keuangan – DSAK IAI). By law, all accounting books, records, and financial statements should be presented in the Bahasa Indonesian language, and all amounts listed in Indonesian rupiah.

SAK accounting standards have been mostly adopted from the International Financial Reporting Standards (IFRS), with current adoption representing a one year delay. While Indonesia is committed to minimizing the differences between SAK and IFRS, at the moment there are no plans for a full adoption of IFRS. Additionally, beyond the year long delay in adoption, the DSAK IAI has made other modifications to IFRS guidelines.

Accounting standards are currently broken down into two tiers:

- Tier 1 –SAK, approved for listed companies and other public companies and, as mentioned above, is based on IFRS standards; and,

- Tier 2 – SAK ETAP, approved for entities with no significant public accountability, such as SMEs, and is largely based on the international standards for SMEs.

The DSAK IAI also issued PSAK 45 as part of the SAK for not-profit entities. The Board is currently deliberating on whether a more robust set of standards is necessary to meet the reporting requirements of not-profit entities in Indonesia.

Note that separate accounting standards set by the Accounting and Auditing Organization for Islamic Financial Institutions are also permitted for Sharia-based companies.

Required Annual Reports

The required annual documents that need to be provided by companies operating in Indonesia for the annual audit consist of the following:

- Statement of financial position (balance sheet);
- Statement of comprehensive income (profit and loss statement);
- Statement of cash flows;
- Statement of changes in equity;
- Notes to the financial statement.

Financial statements are required to provide both the current and previous year's figures and need to be presented in a comparative basis. Furthermore, foreign companies that wish to use any language other than Indonesian must first obtain permission from the Ministry of Finance. Similarly, if a company wishes to use a different currency in its accounting, such as USD, it must first obtain approval from the tax authority.

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Required Auditor

In order to avoid potential conflicts of interest, the Indonesian Auditing Standards Board requires auditors to be an independent public accountant registered in Indonesia. Auditors must carefully observe and comply with any relevant rules issued by the Ministry of Finance (MOF), in order to make sure that there are not any potential conflicts of interest when advising the filing company. Further, the MOF does not allow filing companies to use the services of an auditing firm for any longer than six consecutive years, unless there have been significant changes of partners in the firm.

Compliance Timeline

Once a company's financial statements have been audited at the end of the fiscal year, documents are required to be filed within six months with the Ministry of Trade.

Audit and Compliance in Malaysia

Companies doing business in Malaysia are required to prepare their financial reports in accordance with the following two sets of reporting standards:

- Malaysian Financial Reporting Standards (MFRS), designed for companies with public accountability; and,
- Malaysian Private Entities Reporting Standards (MPERS), designed for private companies with annual periods beginning on or after January 1, 2016.

MFRS standards are almost on a word-by-word basis in alignment with IFRS, with few exceptions. Certain exemptions include Agriculture (IAS 141) and Construction of Real Estate (IFRIC 15). However, even these exemptions are expected to be affected by future updates to MFRS.

MPERS standards, meanwhile, are based on the "IFRS for SMEs" as equivalent to the March 2013 version, with only minor areas of divergence.

The finalized MPERS standard, which comes into effect on January 1, 2016, replaces the Private Entity Reporting Standards (PERS). These previous accounting standards for private companies had been based on pre-2003 accounting standards, and were withdrawn once the MPERS became effective.

Required Annual Reports

The documents required during an annual audit are similar for both foreign companies operating in Malaysia and Malaysia-incorporated companies. These include the following:

- Director's report;
- Financial statements;
- Statement by directors on the financial statements;
- Statutory declaration by the director or officer primarily responsible for financial management;
- Auditor's report.

It should be noted that foreign companies listed in Malaysia are able to apply either MASB approved accounting standards or acceptable internationally recognized accounting standards. Similarly, Malaysian companies are able to use IFRS in their financial statements if they wish to do so.

Required Auditor

During the filling process companies must use the services of a professional accountant qualified under the Accountants Act 1967; which must confirm that the applicant's statements comply with the approved accounting standards.

Private exempt companies are not required to file audited accounts; an exempt private company is defined as a private company having not more than 20 members, none of whom are corporations having direct or indirect interest in its shares.

However, an exempt private company which is solvent may still need to submit a certificate signed by a director, a company secretary and auditor stating that:

- The company is an exempt private company;

- The audited accounts in compliance with the provisions of the Company Act, has been tabled in the company's Annual General Meeting;

- The company is able to meet it liabilities as and when they fall due as at the date of the audited profit and loss account.

The certificate that substitutes the attachment of the audited accounts must either be in Bahasa Malaysia or English. If presented in any other language a translation must be provided.

Compliance Timeline

After the end of the fiscal year the financial statements should be audited by an independent auditor and presented in the annual shareholding meeting for approval. Companies are required to file a copy of the audited financial statement report to the Companies Commission of Malaysia (SSM) within two months of the annual general meeting.

Audit and Compliance in Thailand

Thai Financial Reporting Standards (TFRS) are word-by-word aligned with IFRS (Bound Volume 2015), except for the industry-specific financial instrument standards. However, the Federation has announced the following upcoming updates:

- IFRS will be adopted by the Federation one year after its effective day. For example IFRS bound volume 2015 will became effective in Thailand on January 1, 2016; IFRS bound volume 2016 will become effective in Thailand on January 1, 2017;

- Additionally, regarding financial instrument standards, the Federation plans for full adoption to be effective in 2019, but it plans to encourage early adoption prior to 2019.

In addition to TFRS, there is a process for accepting a new set of accounting standards for SMEs that is identical to the IFRS for SMEs (amendment 2015). The new standards will be known as Thai Financial Reporting for SMEs (TFRS for SMEs) and are expected to come into effect in 2017.

Currently, SMEs in Thailand are allowed to use one of the two following standards:

- Thai Accounting Standards (TAS); or
- Thai Accounting Standard for Non-Publicly Accountable Entities (NPAEs).

Required Annual Reports

Limited companies, both public and private, should provide the following document at the end of each accounting period:

- Audited financial statement;
- Balance sheet;
- Profit and loss accounts;
- List of shareholders, as of the date of the meeting;
- Minutes of the annual meeting.

For reporting purposes companies must prepare their documents in the Thai language. While foreign companies may prepare their documents in a language other than Thai, a translation must be attached.

Required Auditor

Financial statements must be examined and certified by an independent certified auditor. This should be done regardless of whether the company is traded or not. The only exception to this rule is the financial statements of a registered partnership under Thai law, whose total capital, assets, and income are not more than that prescribed in Ministerial Regulations.

Compliance Timeline

Private and public limited companies must have their financial statements audited at the end of the fiscal year by an independent auditor. The board of directors must then approve the audited documents during a general meeting within four months of the end of the fiscal year. The approved documents must then be submitted to The Ministry of Commerce (MOC) within one month of the shareholder meeting.

Foreign companies operating a branch office, representative office, or regional office in Thailand must submit their audited financial statements within five months or 150 days of the end of the fiscal year. Approval of documents by shareholding meeting is not required for these entities. Failure to comply with these regulations may result in a penalty up to THB 100,000 (approximately US$3,000).

Audit and Compliance in the Philippines

Philippine Accounting Standards (PAS) and Philippine Financial Standards (PFRS) apply to all entities with public accountability and, for the most part, are based on IFRS standards. However, the most recent amendments have not been adopted in most cases or have been adopted with some modifications.

IFRS for SMEs has been observed since 2010, under the name Philippine Financial Reporting Standard for SMEs (PFRS for SMEs). Under the definition adopted by the Philippine Securities Exchange Commission an entity is considered an SME if it meets the following criteria:

- The company has total assets of between P3 million (approximately USD $65,000) and P350 million (approximately USD $7.5million) or total liabilities of between P3 million and P250million;
- The company is not required to file financial statements under SRC Rule 68.1;
- The company is not in the process of filing its financial statements for the purpose of issuing any class of instruments in a public market;
- The company is not a holder of a secondary license issued by a regulatory agency;
- The company is not a public utility.

Finally, micro-sized enterprises defined as entities with total assets and liabilities under P3 million (approximately USD $65,000) have the option to use either income tax basis, accounting standards effective before the transition to PFRS, or the PFRS for SMEs. Otherwise the company is not required to file any financial statements with the SEC.

Required Annual Reports

All companies regardless of their size are required to prepare their documents in Tagalog, English, or Spanish. Accounting records must also be kept in Philippine Pesos, or a "functional currency" used in its operations if approved by the SEC and the Bureau of Internal Revenue (BIR).

Companies must maintain a stock and transfers book that must be registered with the SEC; as well as a book of accounts that must be registered with the BIR before use, which consists of the following:

- General ledger;
- General journal;
- Purchase journal;
- Sales journal;
- Cash receipts/disbursements journal.

While companies can use a computer-based accounting system, its use is subject to certain conditions and requires a permit from the BIR.

Required Auditor

In accordance to SRC 68, all companies must submit their financial statements accompanied by an auditor's report issued by an independent auditor. Additionally, the SEC requires external auditors to be rotated every five years. In the case of an auditing firm, the signing partner must also be rotated for public companies and secondary licensees every five years. Once the services of the auditor have been used for five consecutive years, the same auditor cannot participate in the auditing process for a period of, in most cases, two years.

Compliance Timeline

Companies must prepare and file their audited financial statements to the SEC annually, and while companies can use the calendar year as fiscal year they are not required to do so. Additionally, companies must file the General Information Sheet (GIS) within 30 days of the annual shareholders' meeting.

Audit and Compliance in Singapore

In line with the city state's number one overall ranking in the World Bank's Ease of Doing Business index, annual audit and compliance in Singapore is significantly less burdensome for investors than in many of its ASEAN peers. Indeed, the amendment to the Companies Act, aspects of which came into effect as of July 1, 2015, even expanded the criteria under which companies can qualify as Exempt Private Companies (EPCs), and thus reduce their annual compliance obligations.

In terms of required reporting standards for year-end financial statements, businesses in the city-state are required to use Singapore Financial Reporting Standards (SFRS). SFRS are modelled on IFRS and in substance only trail the most recent IFRS updates by three months. Only under two circumstances may IFRS be substituted for SFRS – when a company is listed on another country's stock exchange whose authorities recognize IFRS, or on a case by case basis approved by regulators.

Required Annual Reports

Singapore's authorities require companies to submit year-end financial accounting. This accounting should include the following:

- Statement of comprehensive income (profit and loss accounting);
- Statement of financial position (balance sheet);
- Cash flow statement;
- Statement of changes in equity.

Additionally, companies in Singapore must file their Estimated Changeable Income (ECI) declarations with the Inland Revenue Authority of Singapore (IRAS).

Required Audit and Audit Exemptions

An independent auditor is required in Singapore, and must be appointed by a company's directors within three months of incorporation. The auditor must be a certified public accountant in Singapore, and cannot also sit on the board of directors of the firm to be audited.

However, Singapore, more so than its ASEAN peers, offers businesses in the city-state an attractive audit exemption scheme significantly reducing the complexity of doing business in the territory for SMEs. Under the previous iteration of Singapore's Companies Act, businesses qualify as EPCs if they meet the following criteria:

- Annual revenue under S $5 million;
- Less than 20 shareholders;
- No corporate shareholders;
- Not part of a larger business group.

The EPC designation means that, instead of preparing and filing an annual audit with the Accounting and Corporate Regulatory Authority (ACRA), EPCs may simply submit a declaration of solvency signed by the company directors and the company secretary, thus significantly reducing the regulatory burden.

Under the amendment of the Companies Act, valid for businesses whose fiscal year begins on or after July 1, 2015, the streamlined requirements for EPC qualification are as follows:

- Annual revenue under S $10 million;
- Total assets not exceeding S $10 million;
- Total employees under 50.

To guard against the risk of financial fraud, however, companies in which outside shareholders own over five percent will be required to submit an annual audit, regardless of size.

Compliance Timeline

Companies are required to submit their ECI declarations to IRAS within three months of their fiscal year-end. Additionally, companies are required to hold an AGM at least once every 15 months, at which financials presented must be valid from a period of no more than six months before. Non-EPCs must then submit an annual return to ACRA within one month following the conclusion of the AGM (it should be noted that an AGM can be dispensed with through a resolution passed by all shareholders with voting rights). Finally, all companies must submit their tax filings to IRAS on or before November 30; non-compliance can lead to fines and prosecution in the territory.

CURRENT STATE OF IFRS ADOPTION IN ASEAN

	Commitment to IFRS	Status of IFRS	Plans to Harmonize with IFRS	Translation of Reporting
Indonesia	✓	Lagging One Year	No Plans for Full Harmonization	Required
Malaysia	✓	Almost Fully Aligned*	✓	✗
Thailand	✓	Lagging One Year	✓	Required
Philippines	✓	Lagging One Year	✓	✗
Singapore	✓	Lagging Three Months	✓	✗

**Note: Malaysia's Financial Reporting Standards have only minor points of divergence with IFRS, but on the whole modelled word for word with the most recent iteration of IFRS*
***Note: Standards identical to IFRS for SMEs will be implemented in Thailand in 2017*

4

CASE STUDIES: ASEAN AS A PLATFORM FOR ASIAN GROWTH

- Assessing ASEAN as a Global Manufacturing Alternative
- China – ASEAN Wage and Tax Cost Comparisons
- Singapore Compared with Hong Kong
- Sourcing Product in ASEAN
- Singapore as ASEAN's Financial & Management Hub
- Executive Summary
- Useful Contacts

ASSESSING ASEAN AS A GLOBAL MANUFACTURING ALTERNATIVE

The world's manufacturing climate is beginning to change. Where once China's dominance in the industry went undisputed, its competitive edge as a manufacturing destination is now beginning to falter. Faced with increasing competition from some of the world's emerging market economies, the rising labor costs and complex regulatory environment of China is triggering an exodus of manufacturing operations to more investor-friendly and cost-effective jurisdictions.

Of those jurisdictions, the 10-nation ASEAN bloc stands out as one of the most appealing. Several of the organization's nations are already reaping the rewards of China's decline, with figures from the past year demonstrating that they are undermining Asia's biggest power in numerous key areas. At their current pace, these countries will soon become some of the world's greatest factory states.

Salary Comparisons and Investor Trends

For some time now, rising labor costs in China have been setting off alarm bells among foreign investors. In China's rush to wean itself from being an export-driven economy and into a consumer-based one, it is State policy to place more money into the hands of Chinese nationals. This means that China has a specific agenda of raising workers' salary levels on an annual basis, reflected by minimum wages increasing on average by 12.6 percent each year from 2008 to 2012.

In contrast, the governments of the ASEAN bloc tend to be focused on expanding and improving their export industries, which generally necessitates an emphasis on high-end manufacturing and lower labor costs. Broadly speaking, ASEAN manufacturers can be divided into those that have invested in mid- and high-tech manufacturing and those which for the time being are concentrated in low- or no-tech assembly. Not surprisingly, the former tend to feature higher minimum wages and highly skilled workforces, like Malaysia and Thailand, whilst the latter type of manufacturing nation describes states such as Vietnam and Indonesia, where wages are noticeably lower.

COMPARISON BETWEEN CHINA WAGES AND OTHER ASIAN COUNTRIES			
Country	National Minimum Wage (US $)	Adjusted for Employer Social Insurance Contributions (US $)	As a % of China
China	2,472	3,337	-
India	689	740	22%
Indonesia	1,087	1,187	36%
Malaysia	3,107	3,534	106%
Philippines	1,515	1,648	49%
Thailand	3,012	3,169	95%
Vietnam	1,296	1,581	47%

Looking to the future, the average salary of the Chinese worker is set to continue rising, and will likely surpass even those high-tech ASEAN nations that have comparatively higher minimum wages. Salaries across the Asia-Pacific are due to increase on average by seven percent next year, and although the average salary of some ASEAN nations is set to rise at a greater rate than China's, increases in real terms – i.e. when inflation is taken into account – show that Chinese wages will see the steepest hike.

As can be seen, the comparisons between China, which for the last twenty years has been the so-called "workshop of the world", and ASEAN now make for compelling reading. Global manufacturers should be assessing the impact of rising China costs, the varying costs of ASEAN, and the implications of this. Coupled with this scenario comes the question of putting into place a full corporate upgrade of the corporate body in Asia, together with the logistics, supply chain and administrative infrastructure this now needs. The good news is that more than ever, corporate decision making now has significant options when it comes to Asia, and this is as true for the SME as it is for the multinational.

These types of figures are making the ASEAN bloc look like an increasingly attractive manufacturing alternative to China. Indeed, when combined with China's difficult regulatory framework, these salary increases have already begun to impact the region's foreign direct investment (FDI) trends. Last year, the FDI inflows of the ASEAN 5 – which comprises Singapore, Malaysia, Indonesia, the Philippines and Thailand – was US$128.4 billion, compared to the US$117.6 billion inflows of China. This represented a seven percent year-on-year increase in FDI for these ASEAN nations and a three percent dip for China.

Looking ahead, the likes of Indonesia, Malaysia and Thailand are almost certainly due to capitalize further on China's higher wages and solidify their position as some of the world's foremost manufacturing locations.

For research issues concerning pan-Asian requirements or intelligence, please email *asia@dezshira.com* for assistance.

CHINA – ASEAN WAGE AND TAX COST COMPARISONS

Part of the interest in investing in ASEAN is to take up the weight of production destined both for the China market, where increasing wages are rising alongside an increasing consumer demand, as well as overseas markets. Shifting all or part of a facility which may once have been destined for China is now part of every in-house economist's pencil sharpening. While we acknowledge that issues such as infrastructure gaps and other logistical influences also need to be put in as part of any operational cost comparison, we can provide a snapshot of how ASEAN's emerging labor force overheads and basic tax regimes stack up against China's in this country-by-country comparison. Brunei and Singapore are excluded from this comparison as their economic and demographic make up do not support the employment of large amounts of workshop labor.

Cambodia

OVERHEAD	CAMBODIA	CHINA
Cost of Labor (USD, pcm, minimum wage)	128	391
Cost of Social Welfare (% of salary)	0.8%	30-50%
Corporate Income Tax	20%	25%
Dividends Tax	14%	10%
VAT	0-10%	17%

Indonesia

OVERHEAD	INDONESIA	CHINA
Cost of Labor (USD, pcm, minimum wage)	145	391
Cost of Social Welfare (% of salary)	8.74%	30-50%
Corporate Income Tax	25%	25%
Dividends Tax	10%	10%
VAT	0-10%	17%

Laos

OVERHEAD	INDONESIA	CHINA
Cost of Labor (USD, pcm, minimum wage)	75	391
Cost of Social Welfare (% of salary)	0.75%	30-50%
Corporate Income Tax	24%	25%
Dividends Tax	10%	10%
VAT	10%	17%

Malaysia

OVERHEAD	MALAYSIA	CHINA
Cost of Labor (USD, pcm, minimum wage)	230	391
Cost of Social Welfare (% of salary)	1.75%	30-50%
Corporate Income Tax	25%	25%
Dividends Tax	0%	10%
GST/VAT	6%	17%

Myanmar

OVERHEAD	MYANMAR	CHINA (YUNNAN PROVINCE)
Cost of Labor (USD, pcm, minimum wage)	56	200
Cost of Social Welfare (% of salary)	-	30-50%
Corporate Income Tax	25%	25%
Dividends Tax	-	10%
Commercial Tax/VAT	0-5%	17%

Philippines

OVERHEAD	PHILIPPINES	CHINA
Cost of Labor (USD, pcm, minimum wage)	90	391
Cost of Social Welfare (% of salary)	0-25%	30-50%
Corporate Income Tax	30%	25%
Dividends Tax	10%	10%
VAT	12%	17%

Thailand

OVERHEAD	THAILAND	CHINA
Cost of Labor (USD, pcm, minimum wage)	274	391
Cost of Social Welfare (% of salary)	5%	30-50%
Corporate Income Tax	20%	25%
Dividends Tax	10%	10%
VAT	7%	17%

Vietnam

OVERHEAD	VIETNAM	CHINA
Cost of Labor (USD, pcm, minimum wage)	172	391
Cost of Social Welfare (% of salary)	22%	30-50%
Corporate Income Tax	22%	25%
Dividends Tax	Nil	10%
VAT	10%	17%

It should be noted that all wages quoted are national minimum wages. To compare with India, as a rule of thumb, Indian wages are about 30 percent of those in China at this current time.

Factors to note include the high cost of social welfare in China compared to all other ASEAN nations, and that this is rigorously enforced in the PRC. To obtain a true picture of the actual employment cost, both the wage and the relevant social welfare costs should be added together and compared. China currently has, as a matter of State policy, a plan to increase minimum salary levels by between 15-20 percent per annum, and this is expected to continue. This minimum wage increase also impacts upon higher earning employees as they also expect salary increases at least to a similar level if not higher than their lower earning colleagues.

For further analysis or cost comparisons of operating a business amongst various Asian locations, please contact Dezan Shira & Associates at *asia@dezshira.com*

SINGAPORE COMPARED WITH HONG KONG

Singapore is the de facto financial and services hub for ASEAN, and as a city state with such a remit it is more pertinent to compare the dynamics of Singapore with Hong Kong rather than China as a whole. The two cities compete with each other – yet how do they stack up when compared?

In fact, since Hong Kong's return to mainland China in 1997, its positioning as a services hub has retrenched from Asia to being almost exclusively the gateway to mainland China, and a bridge between China and Taiwan. Singapore meanwhile has forged ahead with its ASEAN ties, and has become a regional hub for the bloc, meaning that today a clear distinction can be drawn between the markets they serve. Although a little simplistic, the general rule of thumb that Hong Kong services the mainland, and Singapore ASEAN, contains much truth, and particularly so when one realizes that Hong Kong is not included in the China-ASEAN FTA although separate negotiations between ASEAN and Hong Kong are now underway and may be concluded in 2016.

The two cities have differed in their treatment of immigrant talent over the past 15 years as well, Hong Kong has become increasingly Sinicized, leading to the loss of some indigenous culture and the creation of some tensions between locals and mainland immigrants and tourists, while Singapore has been rather more selective and has made academic needs as well as wealth a prerequisite for immigration. While the Singaporean government has been criticized for being authoritarian, the city now generally upholds higher standards of living and maintenance than Hong Kong. The irony of Beijing being seen elsewhere as authoritarian seems lost on many Hong Kongers when it comes to comparisons with Singapore.

However, the evolution of China, especially as it flexes its economic power throughout Asia, means that Hong Kong and Singapore also compete for similar business. Both cities, for example, are RMB trading hubs and both attract mainland Chinese companies for investment. So from a business cost and trade perspective, how do they stack up?

Hong Kong Trade

HONG KONG TRADE	
Hong Kong Exports To	
China	47%
ASEAN	5.8%
Malaysia	3.3%
United States	3.2%
India	3.1%
Hong Kong Imports From	
China	50%
Japan	7.2%
United States	5.7%
South Korea	5.7%
Singapore	3.7%

Exported Products: Gold (37%), Telephones (5.1%), Jewellery (3.4%), Silver (2.2%), and Scrap Copper (1.9%)

Imported Products: Gold (9.9%), Telephones (6.4%), Computers (5.8%), Integrated Circuits (5.6%), and Broadcasting Equipment (4.9%)

Services Industry as % of Total Exports: 30%

These figures show Hong Kong's deep involvement in the jewelry trade, with basic materials being reworked into designs mainly for the China market, as well as being a transshipment hub for electrical products also ultimately destined for the mainland China market. Top quality products are often available in Hong Kong and at lower prices than in China, where a more stringent regulatory regime, especially concerning communications equipment is in place, as well as luxury tax surcharges on imported items. This encourages mainland Chinese entrepreneurs to purchase products in the city and return with them to China as personal items which are then resold. This round tripping to reduce mainland tax burdens on specific quality products has now become a major 'tourism' industry statistic in Hong Kong. However, given the very low value attached to jewelry workmanship it is arguable whether Hong Kong is adding any real value in its processing industry.

As Hong Kong manufacturing and processing continues to decline as a result of moving to mainland China, the services industry has been growing. This encompasses mainly trade support services such as advertising, fairs, and marketing in addition in financial services. Much of these are aimed at mainland China. It is also worth noting that many of the businesses registered as "manufacturing" entities in Hong Kong instead act as holding companies or service operations for mainland China subsidiaries, meaning that the services ratio of export trade in Hong Kong is probably higher than the official estimates shown.

Singapore Trade

SINGAPORE TRADE	
Singapore Exports To	
China	14%
Malaysia	12%
Indonesia	12%
Hong Kong	7.2%
Australia	6%
Singapore Imports From	
China	12%
Malaysia	10%
South Korea	8.4%
United States	7.3%
Japan	6.1%

Exported Products: Refined Petroleum (28%), Integrated Circuits (7.9%), Computers (4.3%), Oxygen Amino Compounds (3.2%), and Packaged Medicaments (2.1%)

Imported Products: Refined Petroleum (23%), Crude Petroleum (12%), Integrated Circuits (6.5%), Computers (2.7%), and Petroleum Gas (2.0%)

Services Industry as Total of Exports: 72%

By contrast, Singapore has developed a value-added petrochemicals industry as is shown in its figures, in addition to developing IT and pharmaceutical repackaging (India generics, some Chinese TCM) with a wider remit than Hong Kong's market base and less dependence upon China. It has also been rather more driven in its pursuit of developing a services industry than Hong Kong, with financial and business services dominating, followed by IT, transportation and communications.

Singapore has also been extremely active in signing bilateral double tax treaties, with nearly 100 in existence. It also has a free trade agreement with the United States. In contrast, Hong Kong's policy as concerns DTA and other agreements has been patchy over the past few years. Beijing is responsible for Hong Kong's foreign affairs, yet it has not included Hong Kong as a territory under some of its most important agreements (such as the ASEAN FTA). Consequently there is some confusion about treaty status concerning the territory. Hong Kong does have a "Closer Economic Partnership Agreement" (CEPA) with China, however the qualifying period to access this for a Hong Kong incorporation can be seven years. Hong Kong has about thirty DTA in place – about a third of that agreed by Singapore. In comparison, Hong Kong's position appears somewhat confused, neither fully part of China's own bilateral agreements yet unable to proceed unilaterally without Beijing's approval. Singapore does not have such a two tier international approach to its bilateral relations.

Meanwhile we can compare the operational costs in each city as follows:

OVERHEAD	SINGAPORE	HONG KONG
Cost of Labor (USD, pcm, minimum wage)	n/a	1,200
Cost of Social Welfare (% of salary)	17%	5% (capped at USD194)
Corporate Income Tax	17%	16.5%
Dividends Tax	nil	nil
GST/VAT	7%	nil
One Person serviced office in CBD (USD, pcm)	1,900	3,000
100 sqm office (Tampines/Causeway Bay)	4,500	11,000

Hong Kong remains a service center and gateway for China, however, its policy concerning its regional competitiveness and positioning as a regional hub, appear to have become diminished in recent years, and especially so when compared with Singapore. Hong Kong appears not to have a visionary plan to take it forward as an Asian service center, other than a loose strategy to integrate it into the Pearl River Delta and use it as a hub for generating investment capital for Chinese companies listing on its bourse. Meanwhile, property prices have rocketed, pushing the cost of office rentals extremely high, while much of the China tourism figures appears to have been taken up with parallel trading rather than attempts to offer a bona fide high value visit experience. In short, the territory has been mismanaged.

Costs are already forcing many back office operations, and Hong Kong residents into nearby Guangdong cities such as Shenzhen, and it remains unclear what the city's actual function is really intended to be. For now, it remains a good location from which to base a trading company dealing with China, due to its wealth of talent and proximity to the mainland. And the services sector in Hong Kong largely remains world class in this regard. Whether it can maintain this with the rise of Shenzhen's and Shanghai's lower operational costs and existing compliance with mainland Chinese laws will depend on future customs regulations. Beijing's intentions and the anticipated development of China itself make Hong Kong's future role questionable, especially as the city possesses no other added value industry. This makes Hong Kong a China play only, with the potential for the services industry to migrate directly to China. This process has already begun and will continue unless the Central Government can provide Hong Kong with a specific, defined, and planned role for the future.

Singapore meanwhile has positioned itself as the gateway to Asia, and followed this through with very specific plans and a long-term strategy. Whereas Hong Kong has embraced China, Singapore has embraced a rather more diverse Asia, and in doing so has made itself a melting pot of pan-Asian languages and culture, and especially so within ASEAN, something Hong Kong has singularly failed to do. Singapore has also invested in a true added value industry by importing crude and other petroleum and gas products from ASEAN neighbors, and Indonesia particularly, then processing these for export. Hong Kong has not achieved this.

Meanwhile, the two cities remain competitive in terms of economic environment, such as tax rates and so on, although operational costs such as rental in Hong Kong are double the price of Singapore. But it is Singapore that has developed as a true Asian regional hub, leaving Hong Kong to deal almost exclusively now with China, and far from certain about its own destiny.

In conclusion, Hong Kong despite its issues, currently remains the best services hub for dealing with mainland China, although Shenzhen may now start to be considered as a viable alternative. Singapore though is a superior services hub for dealing with ASEAN, with the clinching argument for either being proximity of markets, but also language capabilities and the wealth of local experience towards the respective target markets possessed uniquely in each.

SOURCING PRODUCTS IN ASEAN

One of the defenses often used by China based sourcing agents when confronted about sourcing, or even manufacturing product from elsewhere is that China's infrastructure is overly superior to that of ASEAN, and that production capability standards in China override any local cost savings elsewhere. While it is true that China - generally - does a reasonably sustainable job of producing goods to a uniform and consistent standard, it is also equally true that labor and associated operational costs are becoming more expensive.

China based consultants are reluctant to have to move away from what they know, and will argue that China's capacity and overall production standards make any alternative unrealistic. Yet increasingly, this mantra is becoming outdated. China now has one of the highest levels of social welfare payments that need to be paid by the employer to the employee in Asia, while coupled with that, infrastructure and supply chain improvements have been making great strides in all areas of Asia, including ASEAN.

Generally speaking, we have found if production rates in an emerging ASEAN manufacturing location such as Indonesia, Malaysia, the Philippines, Thailand or Vietnam can reach 70 percent of that attainable in a Chinese facility, then the lower operational costs in these countries make it economically desirable to relocate production to the new location.

Elsewhere in this guide we have provided wage and social welfare comparisons to enable readers to draw their own conclusions. But sourcing is not purely about wages. It is also about regulations, applicable taxes, and logistics, manufacturing and warehousing infrastructure.

ASEAN Applicable Treaties

As has been noted elsewhere, ASEAN has signed multilateral free trade agreements with both China and India, and enjoys largely tariff-free movement of goods within its own borders and with these treaty partners. This situation has already been well understood by Chinese manufacturers, who have reached out into many areas in ASEAN and begun selling product to these markets as the terms of the free trade agreement has allowed them to do. It is also true to note that many local manufacturers in countries such as Indonesia, have been taken unawares by this, and have been slow to react to the new opportunities presented. Yet the Chinese 'invasion' of regional ASEAN markets will only be short-lived - purely as domestic manufacturing costs in China are rising and are expected to continue to do so.

In addition to this, the ASEAN AEC 2015 deadline means that Cambodia, Laos, Myanmar, and Vietnam all come into treaty compliance and each will be able to market and sell their local production into China. While the first three may still offer some logistical and quality control difficulties, Vietnam is a well-established manufacturing platform and is likely to seriously compete with China in the light industrial area. The ASEAN-China FTA has reduced tariffs on over 7,000 identifiable products - some 90 percent of all ASEAN-China traded goods - to zero. While the wage overheads in countries such as Vietnam are 30 percent of those in China's Guangdong Province, it becomes obvious as to what will happen: the China focused sourcing industry needs to move.

Part of the qualification for applying the China-ASEAN FTA on goods exported into China relies on agreed “Rules of Origin”. This broadly states that 40 percent of the product needs to be ASEAN in origin. Certificates to this effect need to be presented to customs for duty free clearance. Given the fact that ASEAN itself has a wide band of applicable wages, overheads and manufacturing capabilities, the sourcing agents and manufacturers that will prosper in this new competitive environment will be the ones who can shop around the region.

This means that over the next few years, Asian sourcing will, by its very competitive nature, be the most profitable for those who can find the best sources of different components from around the region, and bring them together to create the final finished goods.

Moving deeper into ASEAN, the region offers a vast array of facilities to assist sourcing agents, packaging companies and manufacturers who wish to consolidate product or add value. There are multiple development zones throughout ASEAN, and these will be a crucial facility for the competitive buyer to source, consolidate, add value and then ship to the destined market. With no tariffs applicable throughout ASEAN, it becomes easy to buy component parts from different sources within ASEAN and then bring them together.

The use of development zones has been effective in helping both foreign buyers or investors and domestic companies meet in a relationship that provides mutual benefits. Development zones typically permit the foreign party to bring component parts into a country for assembly without having to pay import duties. This would be useful for example when parts of the final product need to be brought in from non-ASEAN nations such as Europe or the United States - as is often the case with more valuable or difficult to make precision parts. Investors may then add in locally-sourced components, assemble the final product and warehouse it all duty-free before then having the option to export the finished product or enter a market with a product that has now been assembled or had value added at local labor costs.

Thousands of zones are springing up across the ASEAN region, many more will follow, and it is inevitable there will be some considerable variety in quality. For this reason, it is useful to look at the zones management and investors, several governments utilize expertise from their own history of operating such zones, and countries such as China, Japan and Singapore possess considerable knowledge in how a well run zone should operate.

Meanwhile, with the advent of the AEC 2015 deadline, the Asian sourcing industry will change overnight with a refocusing of attention to suppliers and facilities throughout ASEAN. It is time for the global sourcing and light manufacturing industries to be looking beyond China in order to keep their businesses competitive.

SINGAPORE AS ASEAN'S FINANCIAL & MANAGEMENT HUB

Singapore is somewhat unique amongst ASEAN as it is the only country to possess a truly internationally convertible currency. In addition, the country also possesses a highly regarded stock exchange, far reaching financial institutions, high standards of corporate compliance and has an excellent standard of managerial expertise, state of the art IT and communications systems, all coupled with a low tax rate combine to make it the obvious choice as a business administration center for the ASEAN region - and beyond.

An issue when managing multiple operations across Asia is that of treasury. ASEAN countries all have their own currencies, and alongside its larger trade partners China and India, these are not all freely tradable, while the Singapore dollar is commonly traded on global markets. Yet Singapore also offers facilities to help manage currencies in different denominations as apply to ASEAN, and is also an officially approved RMB trading hub for the Chinese RMB. Smooth banking and financial transactions capabilities involving the Indian Rupee, numerous other Asian currencies, as well as the US Dollar, Euro, British Pound, Japanese Yen, amongst many others, make it an ideal choice for siting treasury management. Most foreign banks have an operational presence in Singapore.

In addition to this, administering HR and payroll for employees working in different countries, being paid in different currencies, and facing different social security payments and individual income tax rates can also be a challenge. Coupled with treasury, Singapore is an ideal place to consolidate these transactions and manage them under one roof.

Singapore also has an excellent network of over 70 double tax treaties with different countries around the world. It is relatively straight forward to deal with the Singapore tax bureau and get this built into your business model in order to generate tax efficient cash flow and profitability.

This, when matched with low effective corporate and personal tax rates, no capital gains tax, controlled foreign corporation (CFC) rules, or a thin capitalization regime, makes Singapore one of the most competitive tax systems worldwide. The city-state is also renowned for offering extensive tax incentives to businesses seeking to establish a local presence in the country, and especially within the SME and IT areas.

Additionally, Singapore exudes an undeniable level of "comfort" for Western companies and investors. The city-state's highly skilled English-speaking workforce, strict protection of private and intellectual property rights, and exceptional political and economic stability rival even those of Western Europe and the United States. In quality of life, Singapore consistently ranks first in Asia and among the top 15 globally, and often ranks first in global ease of doing business rankings.

EXECUTIVE SUMMARY

by Chris Devonshire-Ellis

CHRIS DEVONSHIRE-ELLIS is the Founding Partner and Chairman of Dezan Shira & Associates, which he established in 1992. Advising foreign investors about the legal and tax protocols throughout Asia, the firm has developed from a small office in Shenzhen to 28 offices throughout China, ASEAN and India, with additional client liaison offices in Europe and the United States.

Chris also founded the Asia Briefing publishing house in 1999, and produces the titles Asia Briefing, ASEAN Briefing, China Briefing, India Briefing and Vietnam Briefing. He is based in Singapore.

ASEAN & Asia

Over the past 25 years, the global supply chain has shifted from its manufacturing bases in the United States and Europe to an Asian base dominated by China. That China has developed so quickly and so fast over this period has not purely been down to government policies per se, the demographic dividend that the country has enjoyed over this period as a cheap and large supplier of mass labor has been the main driver in this phenomenon.

However, this dynamic is now changing. China is aging, and is currently in a transition between being the world's largest manufacturing base to becoming the world's largest consumer market. This has major implications as the country becomes more expensive for manufacturing, moving its production line further into high-tech and as Chinese consumers become wealthier. This also has implications for the future dynamics of foreign investment into the country; on one hand, China will become a significant consumer of products, on the other, it will become increasingly expensive as a low-medium end manufacturing base.

However, this coincides with the emergence of the only other country that has the potential to match China; that of India, where interestingly, the worker/age demographic is now coming through. Indian workers are available today for the same price as a Chinese worker 15 years ago, and, if not in quite as large numbers, certainly significant enough to impact upon the global supply chain.

This demographic shift will see "Made in India" surpass "Made in China" in mass produced products over the next decade. Factories will shift part of their global supply chain to India as a result and the country will become increasingly important over the next decade as concerns foreign direct investment related to global consumer demand.

Right in the middle of this mix will be Vietnam, Indonesia, the Philippines, Malaysia, and Thailand, whose membership in ASEAN provides them with free trade agreements with both China and India, as well as the applicable tax and duty benefits these FTAs also bring. This will see production begin to leech away to the larger ASEAN nations. Singapore will continue to develop as an Asian regional hub, and at the expense of Hong Kong, which is increasingly becoming a China-only play.

Emerging markets such as Cambodia, Laos, and Myanmar, while exotic, demonstrate a lack of infrastructure that remains an operational concern and it will be ten years at least before these nations are able to offer a competitive advantage except for the most hardy of investors.

This means that the global supply chain is now, rather like the ripples caused by a stone being thrown into a pond, emanating outwards from China into the rest of Asia, and to India and ASEAN in particular. Corporate executives faced with decision making processes when it comes to Asia now must, more than ever, be aware and conversant with the details of Asia's numerous double tax and free trade agreements, including those that do not directly involve the United States and Europe. Foreign investors can now take part in the ASEAN free trade area simply by placing a subsidiary there. Meanwhile, tax advisors are well advised to keep abreast of new potential agreements such as the RCEP and TPP proposals.

ASEAN offers a triangular approach to the future of foreign investment into Asia. Not only does it possess a significant middle class in its own right, and a huge diversity of both talent and opportunity, but it also possesses extremely important free trade agreements with China and India. This combination will shift the way the global supply chain and manufacturing base operates.

Investing in Asia is now far more tax sophisticated and geographically varied than it was, and offers both more options and interesting solutions for growth as a result of this than has ever previously been the case. With a plethora of choices now available throughout the Asian region, both for the SME and the MNC, the future of the global supply chain is now directly linked to Asia. The winners will be the corporates and individuals that can both understand and operate throughout the entire region, and this has now become both the challenge and the marker for it being an "Asian" century.

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