



COVID Legal Drive



FDI Opportunities to Asia Pacific After COVID-19

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Outline

Part 1

- **Asia Pacific Investment Landscape**

Part 2

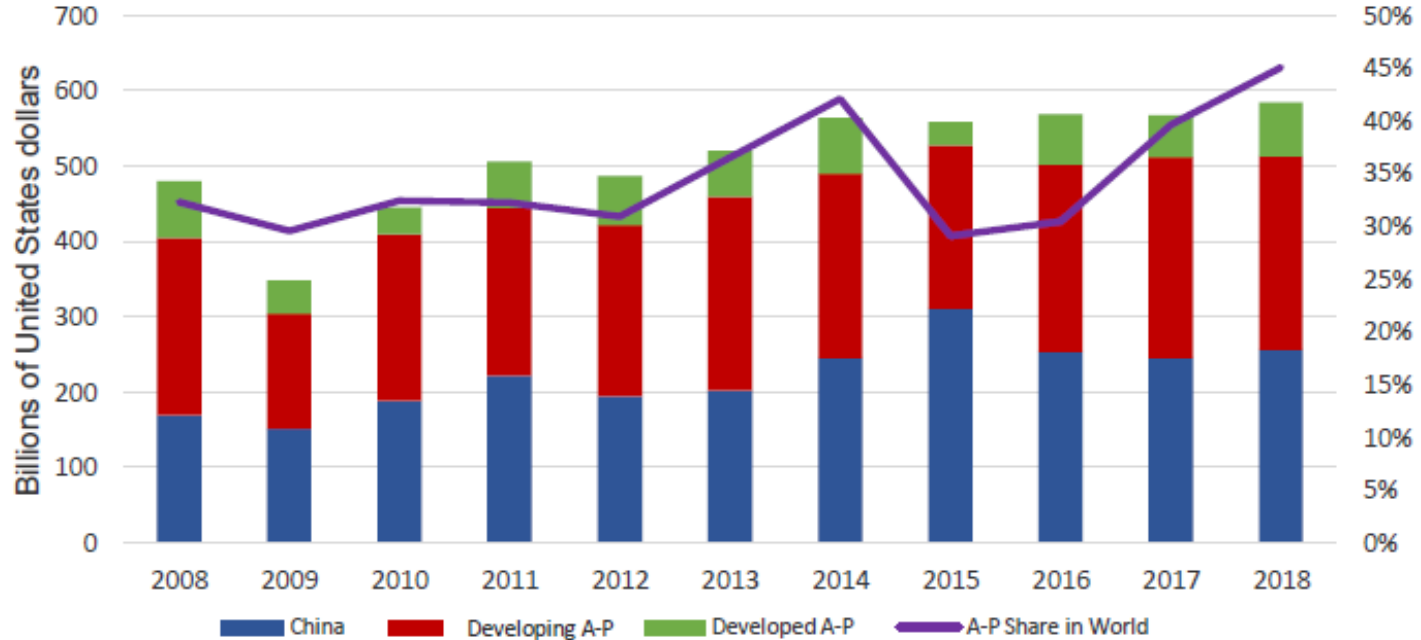
- **Responses to Covid-19 – *Impact and Challenges***

Part 3

- **Investment Opportunities after COVID-19**



Figure 1. FDI Inflows to Asia and the Pacific and their global share, 2008-2018

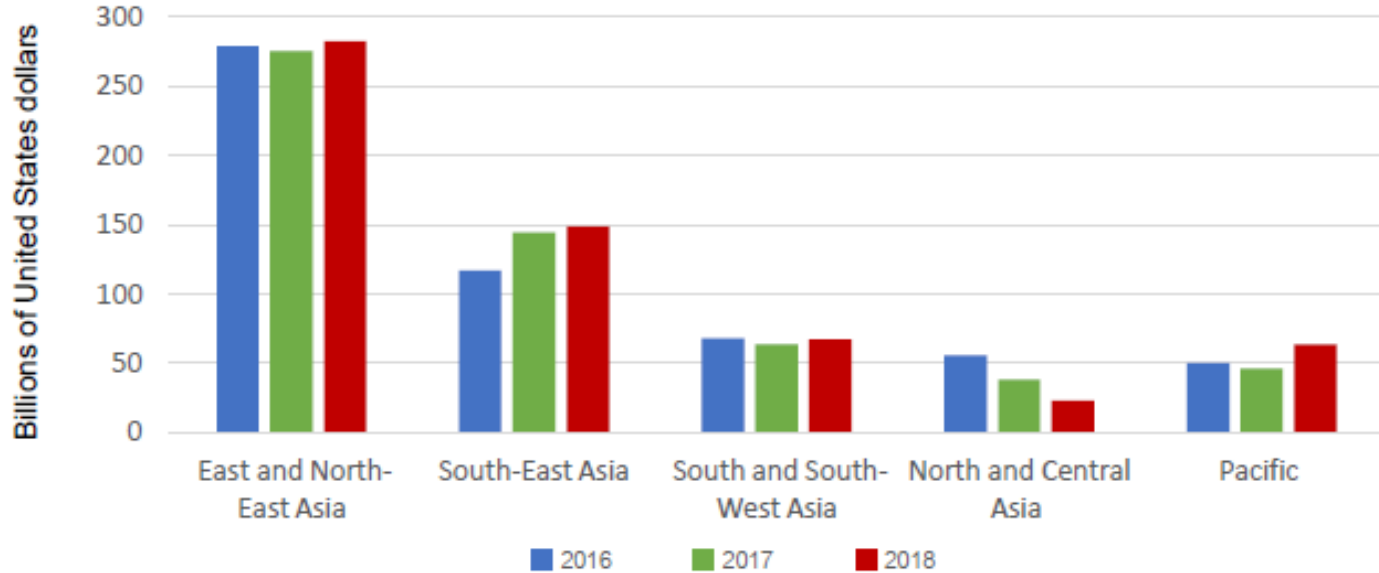


Source: ESCAP calculations based on UNCTAD (2019).

Note: China includes Hong Kong, China and Macao, China; A-P stands for Asia and the Pacific; Developing A-P excludes China.



Figure 8. FDI inflows by subregion in Asia and the Pacific, 2015-2018



Source: ESCAP calculations based on UNCTAD, 2019.

Flows of inward FDI to ASEAN Countries (million USD)

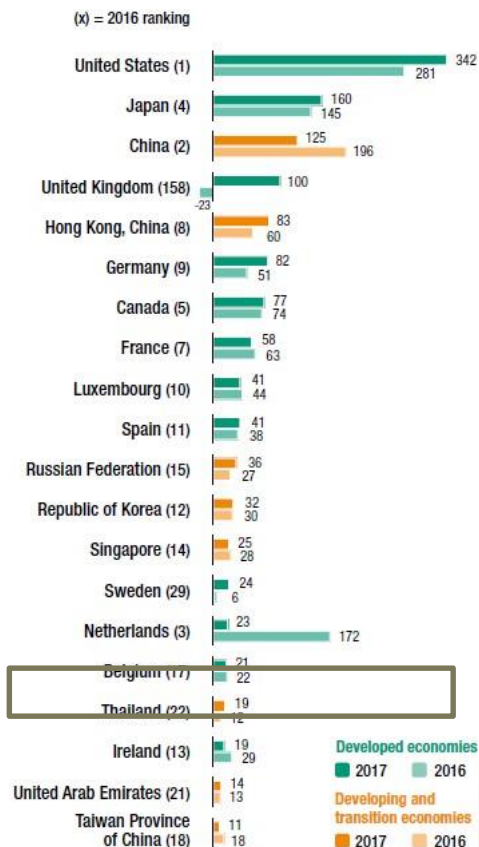
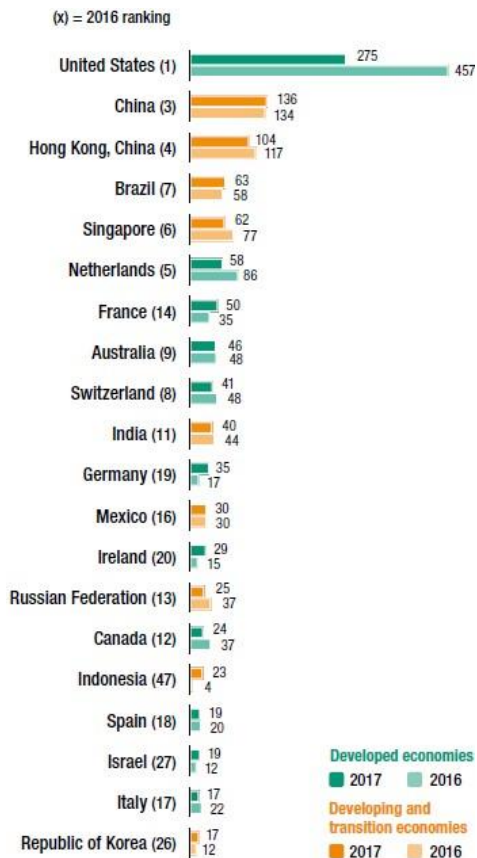


(Source: <https://data.aseanstats.org/>)

Host Country	2015	2016	2017	2018
Brunei	171.3	N/A	460.2	515.3
Cambodia	1700.9	2,279.7	2,732.2	3,102.6
Indonesia	16,642.1	3,920.7	20,579.2	20,563.5
Lao PDR	1,079.2	1,075.7	1,659.4	1,319.7
Malaysia	10,180.0	11,290.3	9,295.8	7,611.2
Myanmar	2,824.5	2,948.5	4,002.4	1,609.8
Philippines	5,639.2	8,279.6	10,256.4	9,948.6
Singapore	59,702.3	68,820.0	83,618.3	79,723.1
Thailand	8,927.6	2,810.2	8,229.2	13,205.1
Viet Nam	11,800.0	12,600.0	14,100.0	15,500.0



Global Investment Landscape



Uncertainty factors even before Covid-19



Covid-19 and its impact



Spread around the world, with the end of the pandemic still not in sight

Affect almost every aspect of life

- Health
- Social activities, movements
- Economy - FDI to decline by up to 45%, Major drop in the number of international tourists

New Normal - some changes could be permanent

-For example, look at how stringent airport security measures have become since 9/11. Some changes in behavior due to COVID-19 could also become permanent ones.

Measures taken in response to the pandemic

Phase I

- **Helping businesses run as usual**

Phase II

- **Balancing between the public and private interest**

Phase III

- **Dispute Settlement**

Economic responses to COVID-19



Tax reliefs	<ul style="list-style-type: none">- Filing deadline extension for corporate and personal income tax- Reduction of withholding tax rate from 3% to 1.5%- Increased maximum income tax deduction for health insurance premiums
Supports for SMEs	<ul style="list-style-type: none">- Soft loans for THB 500 billion through commercial banks- A loan payment holiday for 6 months
Liquidity measures	<ul style="list-style-type: none">- Mutual Fund Liquidity Facility to ensure liquidity in bond market- Corporate Bond Liquidity Stabilisation Fund to provide THB 400 billion for the purchase of bonds from distressed corporates
Tourism Stimulus campaign (“We Travel Together”)	<ul style="list-style-type: none">- Subsidies for 5,000,000 nights of hotel accommodation at 40% of normal room rates, limited to THB 3,000 per night for up to 5 nights- Subsidies for other services, including food- Subsidies for 40% of air ticket costs.

Balancing the public and private interests

- ***Key approaches***

- **Strike a balance between achieving and public policy objectives and mitigating the impact on the private sector and businesses**
- **Ensure that measures are implemented in a non-discriminatory and proportionate manner, in accordance with both domestic and international law**
- **Ensure that crisis management is conducted in a unified and integrated manner – *various committees established for this purpose***

- *Centre for COVID-19 Situation Administration (CCSA)*
- *Centre for Economic Situation Administration (CESA)*
- *Ad Hoc Committee on Legal Matters*



Managing challenges: *the case of export control on masks*

Measures

- Surgical masks declared as “controlled products”. All of the masks manufactured in Thailand entirely managed by the Ministry of Commerce
- The Ministry also sought to introduce export control on masks

Problems

- Some masks companies operate under investment promotion regime and the conditions for receiving incentives are tied to export of masks
- Other companies are “Original Equipment Manufacturers (OEMs)” operating under license agreements with foreign companies requiring export of certain number of masks regularly and cannot sell domestically

Actions

- Consultations were held among agencies, private hospitals and masks manufacturers to find a way to prioritize distribution to those most in need

Outcome

- Some willing companies agreed to ramp up their production capacity
- Guaranteed purchasing price to ensure adequate compensation for masks manufacturers to address higher manufacturing costs
- Provides clear guidelines allowing special consideration for companies under contractual obligations and companies under investment incentives



Potential disputes and how to manage them

- **Measures taken in handling the COVID-19 could potentially be challenged both under contracts and International Investment Agreements (IIAs)**
 - *IIAs grant foreign investors unique rights in the host countries including: protection against expropriation without adequate compensation, fair and equitable treatment, free transfer of funds*
- **The pandemic underlies the importance of the management of potential investment disputes**
- **The role of lawyers is crucial in advising line agencies/clients about potential consequences under contracts and IIAs, ensuring that informed decisions are made**





FDI Opportunities after COVID-19

Looking Ahead



- **Successful management of the COVID-19 crisis is a testament to the strength of the Thai public health system – *great advantage***
- **Although the end is still not in sight, gradual re-opening is necessary while preventing a second wave of outbreak**
- **The current crisis provides an opportunity to rethink the development policies. FDI will continue to be an important element, especially in the recovery process.**
- **Many trends already underway in the global economy are simply being accelerated by the pandemic, forcing countries to act even more quickly.**

Investment policy reforms (1) : *Investment Protection Regime*

Modernising	<ul style="list-style-type: none">- Modernising the investment protection scheme- Establishing the Committee on the Protection of International Investments (Regulation of the Office of the Prime Minister on Work Relating to the Protection of International Investments 2019)- Revising the Bilateral Investment Treaty (BIT) model
Safeguarding	<ul style="list-style-type: none">- Safeguarding the right of State to regulate in the interest of public objectives, including public health objectives
Improving	<ul style="list-style-type: none">- Improving the efficiency of the Investor-State Dispute Settlement Mechanism (ISDS)
Fostering	<ul style="list-style-type: none">- Fostering sustainable and responsible investment



Investment policy reforms (2): *Investment Promotion and Facilitation*

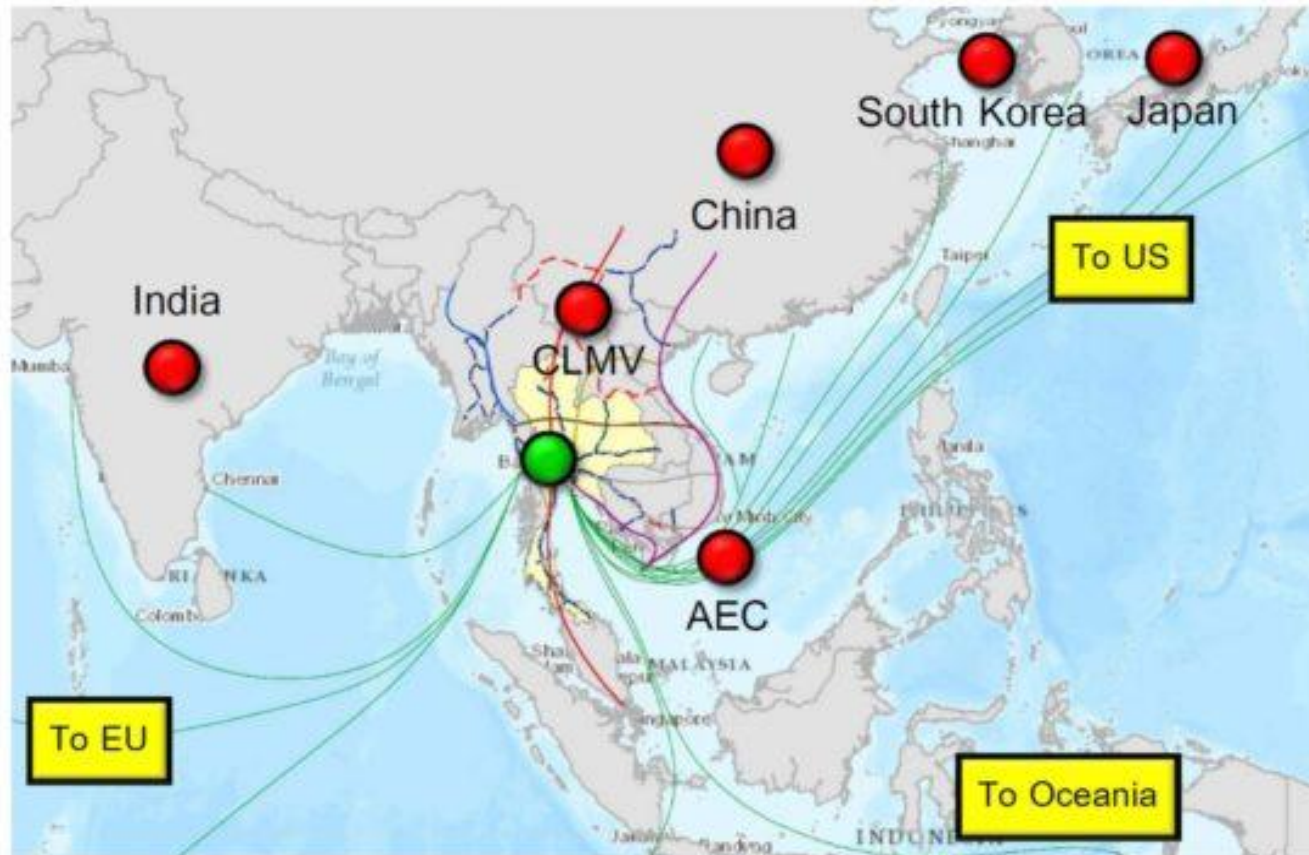
Regulatory Reform	<ul style="list-style-type: none">- Regulatory guillotine and reform for simplified regulations, alleviating administrative burden and better ease of doing business- Recent major improvements include Business Security Act 2015, Amendments to the Trademark Act, the new Competition Act, Proposed amendments to the Foreign Business Act also underway
Digitalisation	<ul style="list-style-type: none">- E-govt already underway, accelerated by the pandemic- <i>E.g. E-submission service launched by the Board of Investment (BOI) for online document submission, Online meeting services</i>- More efforts to bridge the digital divide and strengthen e-platforms
Re-orienting Development	<ul style="list-style-type: none">- Thailand 4.0, promote development through more advanced technology and innovation, new targeted industries, EEC
International instruments	<ul style="list-style-type: none">- Thailand currently has 13 FTAs with 18 countries- RCEP concluded, expected to be signed soon, CPTPP?





Why EEC?

Strategic Gateway to Asia



Combined GDP of East Asia, ASEAN, CLMV, India region represent **1/3 of world's GDP**



Gateway to Asia - reaching more than **half of world's population**



EEC will represent the **largest investment projects** in ASEAN, in terms of budget and area





12 Targeted Industries

Promoting Advanced Technology and Innovation

First S-Curve



Next-generation
Automotive



Intelligent
Electronics



Advanced Agriculture
and Biotechnology



Food for
the Future



High-value and
Medical Tourism

New S-Curve



Automation and
Robotics



Aviation
and Logistics



Medical and
Comprehensive
Healthcare



Biofuel
and Biochemical



Digital



Defense
Industry



Education and Human
Resource Development

Thank you