



# Environment Goods Negotiations

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# Structure of Presentation



Negotiations on Environmental Goods in the WTO Doha Round



APEC Environmental Goods Initiative



Environmental Goods Agreement (EGA)



Concerns of Thailand's Stakeholders for the EG Negotiations



Implications of implementing the Environmental Goods Commitments



Policy Recommendations



## **Negotiations on Environmental Goods in the WTO Doha Round**



## Negotiations on Environmental Goods in the WTO Doha Round

- In 2001, Para. 31(iii) of the Doha Ministerial Declaration gives the mandate for the negotiation on environmental goods as follows.

### **Doha Ministerial Declaration para. 31**

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

- Committee on Trade and Environment Special Session (CTESS) was established for the negotiation on environmental goods.
- In 2007, Japan, US, EU, Canada, Korea, NZ, Norway, Chinese Taipei and Switzerland made the product list (“friends’ list”) and proposed it to the CTESS.
- In 2010, Japan further proposed the additional list consisting of energy efficient products to the CTESS in terms of addressing the problem of climate change.



.....As the Doha Round was stalemated, the negotiations on environmental goods has been at an impasse.





# APEC Environmental Goods Initiative



## APEC Environmental Goods Initiative

Environmental goods initiative based on the Friends' list in the WTO are shifted to APEC

Started to discuss tariff reduction of environmental goods

**2011**

**APEC Economic Leader's Meeting in Honolulu, U.S.** - agreed to reduce applied tariff rates to 5% or less by the end of 2015

### **APEC Economic Leader's Declaration in Honolulu (excerpt)**

In 2012, economies will work to develop an APEC list of environmental goods that directly and positively contribute to our green growth and sustainable development objectives, on which we are resolved to reduce by the end of 2015 our applied tariff rates to 5% or less, ...





## APEC Environmental Goods Initiative



Started to identify the concrete products

2012

**APEC Economic Leader's Meeting in Vladivostok, Russia** - agreed the APEC list of 54 environmental goods

### **APEC Economic Leader's Declaration in Vladivostok (excerpt)**

We welcome and endorse the APEC List of Environmental Goods that directly and positively contribute to our green growth and sustainable development objectives.



***.....To secure the implementation of the leader's commitment, APEC economies need to identify the specific products (ex-out description) and support implementation of developing economies by capacity-building.***



## APEC Environmental Goods Initiative

- Thailand actively engaged in the environmental goods negotiation under APEC in 2012.
- Since then Thailand has unilaterally reduced our tariffs on 42 subheadings of the APEC list of environmental goods.
- We continue to work on this process in order to ensure that the APEC leader's commitment in Russia 2012 is fulfilled.





# Environmental Goods Agreement (EGA)





# Environmental Goods Agreement

**14 WTO members launched plurilateral negotiations for EGA on 8 July 2014 at the WTO.**

Aims to eliminate tariffs or customs duties on a wide range of environmental goods.

Open to any WTO member and that the results will be applied in accordance with the MFN principle, under which WTO members should treat their trading partners in a non-discriminatory manner.



promote green growth and sustainable development while providing momentum for the conclusion of the Doha Round.

Built on a list of 54 environmental goods put together by the APEC countries in 2012. These include wind turbines, air quality monitors and solar panels.



# Environmental Goods Agreement

**Members** : Japan, U.S., EU, China, Korea, Chinese Taipei, Hong Kong, Singapore, Canada, Australia, NZ, Switzerland, Norway, Costa Rica , Israel, Turkey, and Iceland (Total 17 Parties)

## 10 Category of Environmental Goods



1. Air pollution control
2. Solid and hazardous waste management
3. Water management and water treatment
4. Environmental remediation and clean-up
5. Noise and vibration abatement
6. Cleaner and renewable energy
7. Energy efficiency
8. Environmental monitoring, analysis and assessment
9. Resource efficiency
10. Environmentally preferable products



# Critical Mass

**THAILAND..?**

**Request more WTO  
Countries to join**

**EGA (17 members)**

**Current Critical  
Mass = 82.56%**

**EGA Member agreed  
to continue negotiation**

**If Critical Mass reaches 90%**






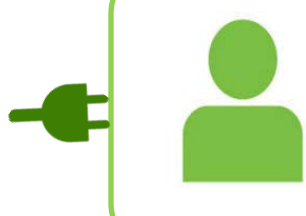
## **Concerns of Thailand's Stakeholders for the Environmental Goods Negotiations**





## Concerns of Thailand's Stakeholders for the Environmental Goods Negotiations

 No precise definition and scope of products. Some products could be difficult to justify.

 A wide range multiple-use products: The products with multiple-use are added into the consolidated list, and it is impractical for Customs to verify.

*Example:*

*- Instruments or apparatus work with computer for auto regulating or controlling propulsion ballast (HS 9032.89)*

*- Parts & accessories of other electrically operated goods (HS 9032.90)*





## Concerns of Thailand's Stakeholders for the Environmental Goods Negotiations



A number of Ex-outs: An ex-out refers to the specific product that is being proposed for tariff reduction, but that is classified under a HS subheading that includes many products.

*Example:*

*Canada, Japan, New Zealand and USA proposed "Solar water heaters" as an ex-out under HS 8419.19 (Non-electric storage water) in APEC.*



Different countries have different nature and scope of ex-outs where more than one ex-out is proposed.





## Concerns of Thailand's Stakeholders for the Environmental Goods Negotiations



Potential inconsistencies between product description, where described at subheading level.



Some product description may be more specific than ex-outs for the same product.

*Example: HS 8417.80*

*-US' ex-out: waste incinerators; heat or catalytic incinerators*

*- China's product description: municipal waste incinerator;  
radioactive waste incinerators (which is more specific than the US' ex-out)*



Lack of transparency in the negotiation process.





**Implications of implementing the EG Commitments**



# Implications of implementing the EG Commitments

## Key Criteria for Selecting Environmental Goods

- High export value of environmental goods
- Thailand's MFN and FTA tariff rate are 0%
- Ease of encouraging trading partner in reducing / eliminating their EGA products' tariff rate
- Promote Green Industry Policy







# Implications of implementing the EG Commitments

## Problem on involving EGA Tariff Elimination



**Loss of customs revenue generated from environmental goods products**



**Adverse impact on domestic producers**



**Importing countries could face non-tariff measures**  
-There might be compulsory conditions to use certain services or goods if importing certain goods



# Policy Recommendations





# Policy Recommendations

➤ Establish information-sharing networks or platform for dissemination of environmental technologies among APEC/WTO members.



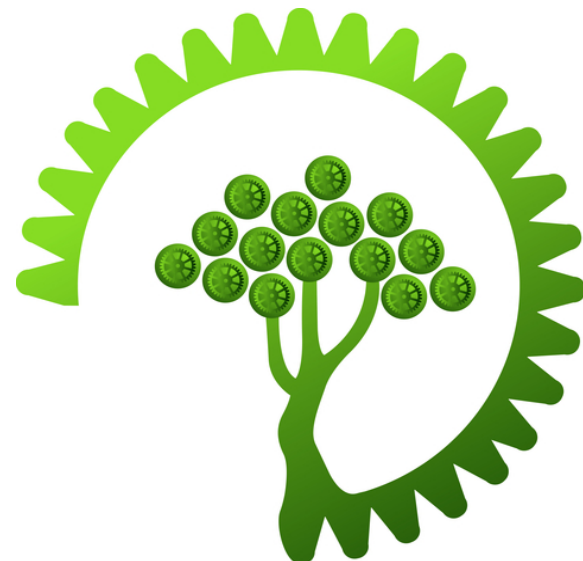
➤ Conduct quantitative and qualitative studies to analyze the positive and negative impact of trade liberalization of environmental goods on Thailand's economy, trade volume, investment, welfare, employment, sectoral production, competitiveness, etc



## Policy Recommendations

➤ Support capacity building on green supply chain to help developing countries and LDCs to improve supply chain performance and strengthen the supply chain connectivity in a green and environmental friendly way.

➤ Coordinate annual green supply chain dialogue to share the experiences of green supply chain progress.





## Policy Recommendations

- Request developed countries to hold a workshop to share the experiences, best practices and management tools in green supply chain.



- Encourage Thailand's environmental agencies to engage more actively in addressing global environmental challenges.



# Negotiations on Environmental Services under FTAs: Thailand experience

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**3<sup>rd</sup> March 2017, UN Bangkok**

# Unique characteristics of trade in services

**Intangible and  
not storable**

**Unstoppable -  
No concrete  
barriers**

**Countries rely on domestic laws and  
regulations as principal means to  
monitor trade in services.**

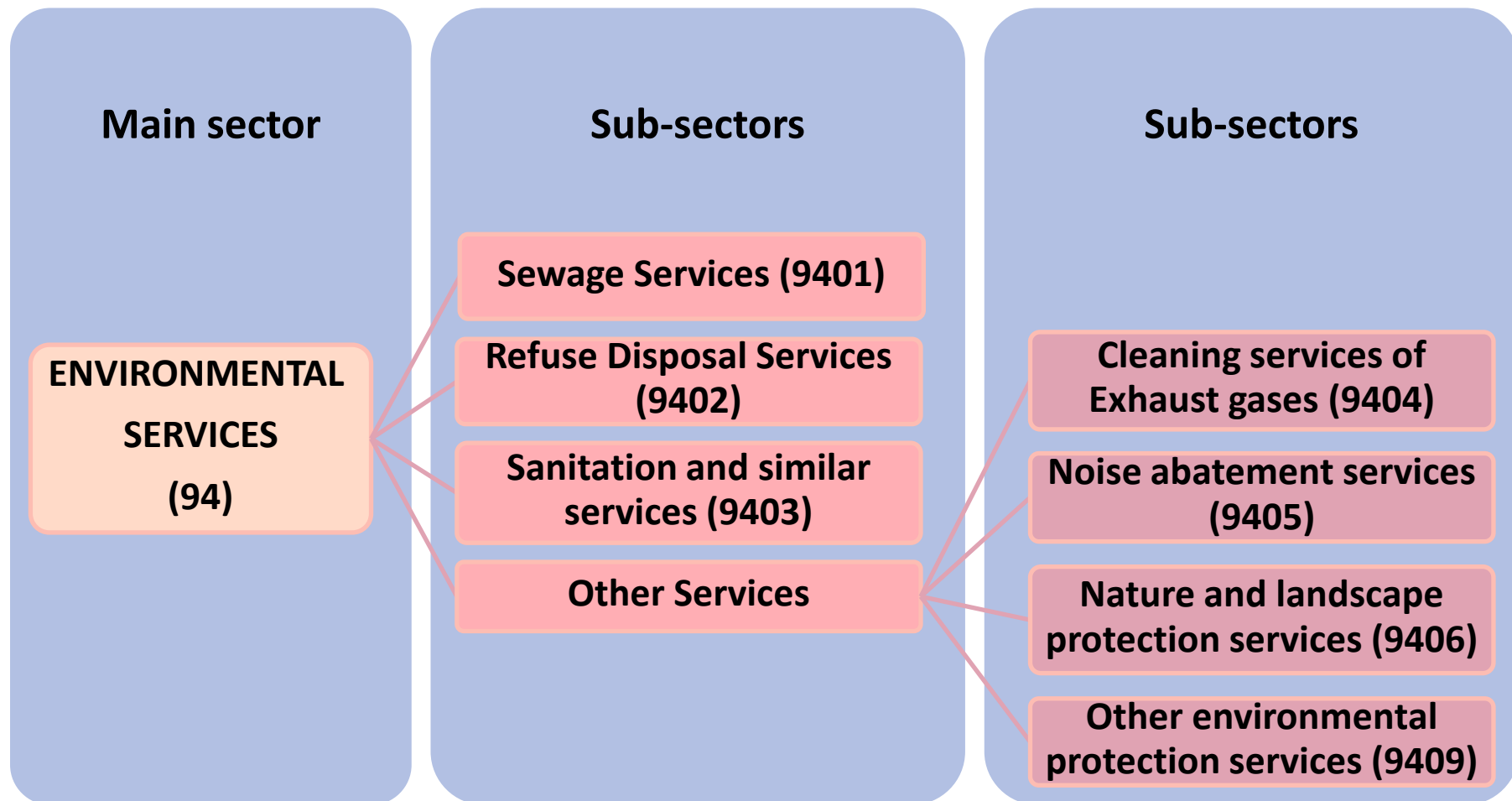
# WTO

## SERVICES SECTORAL CLASSIFICATION LIST (W120)

1. BUSINESS SERVICES
2. COMMUNICATION SERVICES
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES
4. DISTRIBUTION SERVICES
5. EDUCATIONAL SERVICES
6. ENVIRONMENTAL SERVICES
7. FINANCIAL SERVICES
8. HEALTH RELATED AND SOCIAL SERVICES
9. TOURISM AND TRAVEL RELATED SERVICES
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES
11. TRANSPORT SERVICES
12. OTHER SERVICES NOT INCLUDED ELSEWHERE

# WTO

## SERVICES SECTORAL CLASSIFICATION LIST (W120)

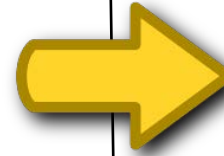


# 4 Modes of Supply (GATS)

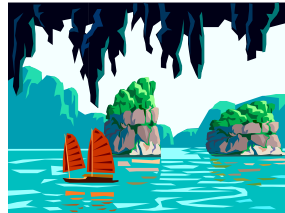
Country A

Country B

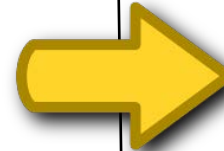
**Mode 1**  
Cross-Border Supply



**Mode 2**  
Consumption Abroad



**Mode 3**  
Commercial Presence



**Mode 4**  
Presence of Natural  
Persons





# Examples

## **Mode 1 Cross-Border Supply**

- A Thai company controls sewage services in Laos through internet.

## **Mode 2 Consumption Abroad**

- Thai company exports scrap metal produced in Thailand to be recycled in Malaysia.

## **Mode 3 Commercial Presence**

- A Singaporean company is established in Thailand to provide advice on refuse disposal services.

## **Mode 4 Presence of Natural Persons**

- A Singaporean environmental consultant temporarily moves to provide services in the Philippines.

# Agreements including environmental services at multi-levels



**Multilateral level:**  
e.g. WTO

**Regional level:**  
e.g. ASEAN

**Bilateral level:**  
e.g. FTA

**Thailand**



# Thailand

## Trade Agreements covering environmental services

**1. WTO**

**2. ASEAN Framework Agreement on Services: AFAS**

**3. Japan-Thailand Economic Partnership Agreement: JTEPA**

**4. Thailand-Chile Free Trade Agreement**

**5. ASEAN-China Free Trade Agreement: ACFTA**

**6. ASEAN-Korea Free Trade Agreement: AKFTA**

**7. Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area: AANZFTA**

**A. Environmental consultancy on sewage system, refuse disposal, hazardous waste management, air pollution and noise management, sanitation and other environmental management services (CPC 9401)**

**1) None**

**2) None**

**3) Foreign equity participation must not exceed 49% of registered capital; and the number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.**

**4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.**

Only mode 1 commitments differ.

**A. Environmental protection and environmental abatement services (CPC 9401)**

**1) None**

**2) None**

**3) Foreign equity participation must not exceed 49% of registered capital; and the number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.**

**4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.**

**A. Sewage services (including industrial waste water treatment system) (CPC 9401)**

**1) Unbound**

**2) None**

**3) Foreign equity participation must not exceed 49% of registered capital; and the number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.**

**4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.**

**B. Refuse disposal services (including hazardous waste management and incinerator) (CPC 9402)**

## C. Sanitation and similar services (CPC 9403)

## D. Other

Cleaning services of exhaust gases  
(including industrial emission  
abatement)  
(CPC 9404)

Noise abatement services  
(CPC 9405)

Nature and landscape protection  
services  
(CPC 9406)

Other environmental protection  
services  
(CPC 9409)

**1) Unbound**

**2) None**

**3) Foreign equity participation must not exceed 49% of registered capital; and the number of foreign shareholders must be less than half of the total number of shareholders of the company concerned.**

**4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.**



WTO commitments plus four additional sub-sectors as follows:

<p><b>A. Sewage Services:</b> Sewage removal services usually provided using equipment such as waste pipes, sewers or drains (part of CPC 1.1 : 94110)</p>	<p><b>1) None</b>  <b>2) None</b>  <b>3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.</b>  <b>4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.</b></p>
<p><b>B. Refuse Disposal Services: Hazardous waste treatment and disposal services (CPC Version 1.1: 94222)</b></p>	<p><b>1) Unbound</b>  <b>2) None</b>  <b>3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.</b>  <b>4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.</b></p>
<p><b>C. Sanitation and Similar Services: Beach cleaning services , drain unblocking services (CPC Version 1.1: part of 94390)</b></p>	<p><b>1) Unbound</b>  <b>2) None</b>  <b>3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.</b>  <b>4) Only Business Visitor (BV) and Intra-corporate Transferee (ICT) are allowed under specified conditions.</b></p>
<p><b>D. Other: Marine environmental protection services (CPC Version 1.1: Part of 94900)</b></p>	<p><b>1) Unbound</b>  <b>2) None</b>  <b>3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.</b>  <b>4) Only Business Visitor (BV), Contractual service suppliers (CSS), and Intra-corporate Transferee (ICT) are allowed under specified conditions.</b></p>

Similar to four additional sub-sectors of Thailand's commitment under ASEAN (9<sup>th</sup> Package)

**A. Sewage Services:**  
Sewage removal services usually provided using equipment such as waste pipes, sewers or drains (part of CPC 1.1 : 94110)

- 1) None
- 2) None
- 3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.
- 4) **Unbound**

Mode 4 is unbound.

**B. Refuse Disposal Services:** Hazardous waste treatment and disposal services (CPC Version 1.1: 94222)

- 1) Unbound
- 2) None
- 3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.
- 4) **Unbound**

**C. Sanitation and Similar Services:** Beach cleaning services , drain unblocking services (CPC Version 1.1: part of 94390)

- 1) Unbound
- 2) None
- 3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.
- 4) **Unbound**

**D. Other: Marine environmental protection services** (CPC Version 1.1: Part of 94900)

- 1) Unbound
- 2) None
- 3) Foreign equity participation must not exceed 70% of registered capital and shall only operate through joint-venture with a juridical person of Thai national.
- 4) **Unbound**

# APEC

## Strong attention on trade liberalization and facilitation of environmental goods and services

### **In APEC leaders' declaration (The Yokohama Vision-2010)**

- “...we will increase the dissemination and utilization of environmental goods and services,
- reduce existing barriers and refrain from introducing new barriers to trade and investment in such goods and services...”

### **In Annex C of Honolulu Declaration (2011)**

- Leaders agreed to undertake actions to promote trade and investment in environmental goods and services as set out in Annex C.

### **In the Joint Statement of APEC Ministers (2014)**

- “...welcome the endorsement of the initiative on liberalization, facilitation and cooperation of environmental services...”

# APEC - Environmental Service Action Plan (ESAP)

## Two-track approach (2016-2020)

### Track 1

- Survey on environmental services (CPC94)
- Gather information on efficient regulatory and trade promotion policies in environmental services

### Track 2

- Study broader environmental industries/business
- Contribute to discussions on scope of environmental services
- Identify challenges relating to environmental services

**Moving towards trade liberalization**

# Challenge: Selecting environmental services to be included in commitments

## Definition problem

Many services can have an environmental end-use.

How to draw the line between "environmental services" *per se*, and other services coming into play for the protection of the environment in a broad sense.

National and international definitions and classification systems differ, and do not coincide with W120.

Some view that environmental services in W120 are not adequately reflecting trade in environmental services.



# Examples

- Some identify environmental engineering and environmental analysis and testing as environmental services.
- However, they appear under professional and other business services respectively in W120.

- Some view water treatment and distribution as an environmental service.
- However, W120 does not contain a reference to these services.

# Challenge: Selecting environmental services to be included in commitments

**High level of innovation in environmental services to prevent and solve environmental problems.**

- Especially to combat key environmental problem of climate change.

**Potential emergence of new environmental services in the future that will not be covered in current commitments.**

- Central Product Classification may need to be updated to cover new environmental services.

## **Criteria for selecting environmental services to be included in commitments**

**Environmental services that Thai nationals do not have capacity to provide.**

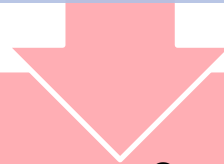
**Non-infrastructure environmental services can be subjected to higher degree of liberalization than infrastructure services.**

- **Business-to-business basis**
- **Main clients are private firms seeking to comply with environmental regulations.**
- **e.g. air pollution mitigation, remediation of polluted sites**

# Thailand's regulation on environmental services

## Example Regulation

**Ministerial Regulation No. 2 B.E. 2527 (1984) on the qualification of environmental impact assessment specialist issued under the Enhancement and Conservation of the National Environmental Quality Act B.E. 2518 (1975)**



**Environmental Impact Assessment Specialist must obtain a licence.**

**An applicant for a licence can only be:**

**(1) an academic institute or a research institute registered under the Thai law with its principal office or an office in Thailand.**

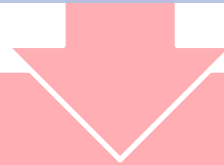
**(2) a juridical person registered under the Thai law;**

- a registered ordinary partnership, all partners must be Thai nationals.**
- a limited partnership, all unlimited liability partners must be Thai nationals. Not less than 51% of its capital or shares must belong to Thai nationals. Its principle office or office must be located in Thailand.**
- a limited company, at least half of the members of its board of director must be Thai nationals. Not less than 51% of the capital or shares must belong to Thai nationals.**

# Thailand's regulation on environmental services

## Example Regulation

### Foreign Business Act B.E. 2542 (1999)



Environmental services are on List Three.

Businesses that Thai nationals are not ready to compete.

Foreigners are not allowed to operate business on the list, unless obtaining permission or a licence from the Director General with an approval from the Commission, or from the Minister with an approval of the Council of Ministers.

Foreign equity participation must not exceed 49% of the registered capital.



# Implementation challenges

**Environmental infrastructure services  
e.g. waste management, waste water  
treatment .**

**Normally operated by local public authorities:**

- **Public authorities may provide these environmental services themselves.**
- **Or involving the private sector and delegate responsibility to provide these services:**
  - **Involvement of private firms can take various contractual forms.**
  - **Some forms may be subject to government procurement.**
  - **Possibility of private-public partnerships (PPPs)**



**Thank You**