

WORLD TRADE ORGANIZATION

RESTRICTED

G/SCM/Q2/THA/7

8 April 1997

(97-1443)

Committee on Subsidies and Countervailing Measures

Original: English

SUBSIDIES

Replies to Questions posed by CANADA¹, the EUROPEAN COMMUNITY²,
JAPAN³, KOREA⁴, NEW ZEALAND⁵ and the UNITED STATES⁶ Regarding the
New and Full Notification of THAILAND⁷

The following communication, dated 26 March 1997, has been received from the Permanent Mission of Thailand.

Industrial Credit Refinancing Scheme

Questions

What are priority sectors and projects? (Japan 1/1, EC-I.a/1)

What are the criteria to select priority sectors and projects (Japan 1/2)

Reply

The Bank of Thailand defines priority sectors and projects as being sectors or projects that promote improvement in income, employment and technology transfer, particularly in rural areas. The nature of sectors and projects can be either manufacturing or agriculture. The total outlay of the scheme in a form of credit line has remained at the same level since 1988.

Question

Is this programme contingent upon export performance? (EC-I.a/2)

Reply

No.

Questions

Could Thailand comment on the compatibility of the scheme with its obligations under the Subsidies Agreement? (EC Q.I.a/3)

Can Thailand provide the timetable indicating how this subsidy will be phased out? (EC Q.I.a/4)

¹G/SCM/Q2/THA/2, ²G/SCM/Q2/THA/4, ³G/SCM/Q2/THA/3+ Rev.1, ⁴G/SCM/Q2/THA/1, ⁵G/SCM/Q2/THA/6, ⁶G/SCM/Q2/THA/5.

⁷G/SCM/N/3/THA-G/SCM/N/16/THA.

Reply

In Thailand's view, the industrial credit refinancing scheme is available to all applicants falling into the definition of the scheme without contingency upon export performance, and thus does not fall under the definition of Article 3 of the SCM Agreement. Therefore, part 4 of question I. A is no longer relevant.

Question

Could a small-scale industry qualify for assistance under both programmes) (Canada 2)

Reply

No. Each establishment can apply for only one scheme and since September 1996, the small-scale industry is defined as those establishments with fixed assets of not more than THB 50 million.

Question

Could the Government of Thailand provide some information on the amount of subsidy for each of the refinancing programmes? (Canada 1)

Reply

The following table provides the daily average outstanding of the purchases of promissory notes in 1995 which is an indication of the activities by both the Bank of Thailand and the commercial bank in Thai baht.

Unit: THB million

Schemes	BOT	Commercial Bank	Total purchases of Promissory Notes	Amount of Subsidies
Industrial credit	268.74	268.74	537.48	17.63
Small-scale industry	105.45	105.45	210.90	6.92
Livestock raising and aqua-culture	356.37	356.37	712.74	23.38
Rural development	223.95	223.95	447.90	14.69
Zone 3 investment	92.46	138.69	231.15	4.69
Sugar cane planting	708.20	708.20	1,416.40	46.46
Agricultural products trading	1,736.43	1,736.43	3,472.86	113.91
Public warehouse	27.63	27.63	55.26	1.81
Export and DLC	1,625.59	1,625.59	3,251.18	106.63
Exim Bank	20,749.87	20,749.78	41,499.74	1,361.19
Total				1,697.31

Incentives to Promote Industries under the Board of Investment's Privileges on Zone 3 Programmes

Questions

What are "priority sectors and projects"?

What are the criteria to select "priority sectors and projects"? (Japan 4)

Reply

The objective of this scheme is to provide companies in regional areas with an equal access to credits as those that locate near the capital, particularly those that are prime customers of commercial banks. Therefore, the priority sectors and projects are any BOI-promoted establishments located in Zone 3.

Investment Promotion Incentives

Before answering each specific question regarding investment promotion incentives, we would like to give a brief overview to enhance the Committee's understanding of this scheme.

Investment promotion incentives are geared towards industrial development and decentralization. These incentives are offered to both foreign and local investment. The magnitude of incentives granted varies according to the location of investment to address the on-going development imbalances between urban and rural areas. The entire country is divided into 3 zones. Zone 3, which is the least developed, receives greater incentives than the other two zones.

Corporate Income Exemption or Reduction (EC Q.I.b)

Questions

Can Thailand provide the criteria for eligibility for these benefits?

Can Thailand explain under what conditions the Board of Investment will grant a tax reduction rather than an exemption from tax? Has the Board of Investment full discretion in reducing grants?

Reply

Corporate income tax exemption granted under Section 31 of the Investment Promotion Act of 1977 is provided according to the established criteria and policies, not on a discretionary basis. As mentioned earlier, investment promotion incentives are generally based on project locations. Projects located in Zone 1 are granted three-year corporate income tax exemption if they export at least 80% and are located in industrial estates or promoted industrial zones whereas those in Zone 2 are granted three to seven years of corporate income tax exemption. Projects located in Zone 3 are granted eight-year corporate income tax exemption and 50% reduction for five years thereafter. However, due to the presence of the SCM Agreement, the BOI plans to bring this measure into conformity with the SCM Agreement in accordance with the transitional arrangements provided.

Question

Is there any requirement of local content or the use of domestic goods in order to benefit from this scheme?

Reply

The local content requirement is imposed on a limited number of activities only such as manufacture of automobile engines and motorcycle assembly. The Board of Investment has phased out the imposition of local content on a number of activities since April 1993. All local content requirements imposed by the Board of Investment have been notified under the TRIMs Agreement. The BOI will bring the measures into conformity with the Agreement in accordance with the transitional arrangement provided for in the Agreement.

Export Promotion Programme (Section 36) (EC Q.I.c)

Questions

*Can Thailand provide the criteria for eligibility for these benefits?
To what extent is export performance a criterion?*

Reply

Projects that meet the criteria in granting approval and undertake activities eligible for promotion are eligible for benefits under section 36 if they export at least 30% of their sales.

Question

Can these benefits be conferred cumulatively?

Reply

Yes. However, it should be noted that the exemption of export duties is no longer applied since Thailand does not levy any export duties.

Question

Could Thailand comment on the compatibility of the scheme with its obligations under the Subsidies Agreement?

Reply

According to footnote 1 and Annexes I through III, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes not in excess of those which have accrued shall not be deemed to be a subsidy. Thus, exemption of import duties on raw materials which are consumed in the production process for export as provided under Section 36(1) of the Investment Promotion Act does not constitute a subsidy.

In the same context, the exemption of import duties on imports for re-exports does not constitute a subsidy. This benefit is applied only to the importation of products that are re-exported without processing.

As for the exemption of export duties, this benefit is no longer applied since there are no export duties applied as previously mentioned.

Regarding the deduction from assessable income for payment of corporate income tax of an amount equal to 5% of the increased income over the previous year, derived from exports, Thailand as a developing Member, can benefit from the transitional arrangement for export subsidies.

Question

Can Thailand provide the timetable indicating how this subsidy will be phased out?

Reply

Recognizing Thailand's obligations under the SCM Agreement, the Board of Investment has recently established a working group to prepare a plan to phase out BOI benefits that are deemed export subsidies in accordance with the transitional arrangement as provided for developing Members under the Agreement.

Questions

Could Thailand provide the total amount to benefits provided so far to eligible companies under this scheme?

Could Thailand provide the total amount already budgeted or foreseen to be spent under this scheme?

Reply

Thailand has provided the statistics on this scheme in its notification. The exemption and reduction of import duties on inputs used in the manufacture of exports amount to THB 52.1 billion and THB 38.9 billion in 1994 and 1995 respectively. Since the amount of benefit is not based on any definite amount earmarked for each year, it is not possible to foresee the total amount of benefits to be provided in the future.

Import Duty Exemption (EC Q.I.d)

Question

Can Thailand provide the specific criteria for eligibility for these benefits?

Can Thailand explain under what conditions the Board of Investment will reduce a grant by 50%? Has the Board of Investment full discretion in reducing grants?

Reply

Like other incentives provided by the Board of Investment, the grant of import duty exemption and reduction is generally based on the location of the investment project. Projects in Zones 1 and 2 are eligible for 50% reduction of import duties on machinery while those in Zone 3 are granted exemption.

Benefits for Factory Relocation (EC Q.I.e)

Question

Can Thailand give the detailed criteria for the zone classification, in particular the GDP per capita of each zone compared to the national average?

Reply

Decentralization has been a major investment policy theme. The factory relocation scheme has then been designed to encourage existing companies to move outside Bangkok and neighbouring areas around which most industrial activities and economics development have clustered. This scheme also aims at alleviating environmental problems. Distance from Bangkok is then used as the criterion in classifying zones. The entire country is divided into three zones. Zone 1 comprises of Bangkok and five neighbouring provinces. Zone 2 consists of ten provinces (nine provinces adjacent to Zone 1). Zone 3, which is the most remote area and has per capita GDP of THB 28,749 or only 47% of the national average, covers the rest of the country.

Question

Are all industrial activities promoted on an equal basis?

Reply

Regarding factory relocation benefits, the same criteria are applied to all industrial activities eligible for investment promotion, not limited to certain enterprises.

Question

In what respect and to what extent can these benefits be cumulated with benefits under Section 36 of the Investment Promotion Act?

Reply

If the benefits under Section 36 granted to the original project have not expired, they can be carried forward.

Question

Are export activities a requirement for benefits in the specific zone? Is local content a requirement?

Reply

No. Factory relocation incentives are not contingent upon export performance or local content. The conditions attached to the benefits under this scheme are as follows:

- The existing operation must employ not fewer than 100 people.
- Main production machinery must be moved to the new location, and the new factory must be ready for operation within two years of receipt of investment promotion certificates.

Question

What are the criteria to select projects by the Board of Investment? (Japan - Q.5)

Reply

Factors taken into account when granting project approvals include 20% value-added, registered capital not less than 20% of total investment, modern machinery and production processes, and adequate environmental protection systems.

Question

Is this scheme contingent upon export performance or upon the use of domestic over imported goods with regard to the selection of such projects? (Japan - Question 5)

Reply

The answer was covered in the response to the European Community's questions I.b and I.c.

Questions 3.a and 3.b from Canada

Would the Government of Thailand clarify whether the benefits of the programme are automatic upon qualification or whether applicants would then negotiate the benefits?

If the benefits differ with each applicant?

Would the Government of Thailand provide further information on the relative importance of each of the major fiscal incentives granted?

How many companies benefit from more than one incentive?

Reply

Investment incentives are granted according to the criteria set and announced by the Board of Investment. If the projects meet the criteria and conditions established, they will be granted incentives accordingly. Applicants for investment promotion do not need to negotiate the benefits.

Question 3.c from Canada

What are the sales of companies benefitting from corporate income tax exemption and reduction?

Reply

The BOI does not maintain sales records of companies granted corporate income tax exemption or reduction because income taxes are dealt with directly by the Revenue Department. It is then impossible to compile the requested information. The volume of sales of companies does not constitute a factor taken into account when granting investment incentives.

Follow-up Question from the European Community

The exemption of import duties on essential materials used in the manufacture of exports provided under Article 36(1) of the Investment Promotion Act and exemption of import duties on machinery can constitute export subsidies.

Reply

The exemption of import duties on essential materials used in the manufacture of exports and the exemption of import duties on machinery for projects subject to the export performance requirement may constitute an export subsidy; however, Thailand, as a developing Member, can benefit from the transitional arrangement provided in the SCM Agreement.

General

Question from Korea

In your notification, most Government support consists of the BOT's purchase of P/N. Does Thailand not maintain any subsidy other than the investment incentive scheme by means of tax exemption and reduction for domestic industries?

Reply

Yes, but Thailand is of the view that those programmes do not fall within the meaning of Article 25.2.

Agriculture

United States Q.II.A and New Zealand Q.2

We note that Thailand omitted reference to its rice price support and export subsidy programmes. Regarding price support, we understand that Thailand has continued its "Paddy Mortgage Scheme which allocated THB 836.80 per MMT in 1996 to cover production loans to farmers who put a targeted 2.5 MMT of paddy up as collateral. The Thai Government also maintains several rice purchase programmes to support prices, valued at approximately \$100 million for 1996. For Export Subsidies, despite the Thai Government announcement that the programme was discontinued for 1996 due to strong paddy prices, the 1995 subsidy was valued at \$10/mt to encourage forward sales by the private sector.

Could Thailand confirm that all such schemes which lower export prices have been permanently discontinued?

Reply

The Agreement on Agriculture provides the exceptions for developing countries to apply certain export subsidy measures. In 1996, Thailand provided export subsidies on rice along those lines. As a matter of fact, the measure is not imposed in order to reduce the price of exports nor promote more exports nor enhance export competitiveness. Rather, the idea is to encourage exporters to purchase more from farmers. It is expected that there will be a high volume of relatively low-quality rice production during the second crop year in 1996. The subsidies are meant to reduce the marketing cost for those who buy rice from farmers and stockpile it so as to upgrade its quality before exportation.

The quantity of rice to be subsidized under this 1996 project is strictly limited to 300,000 tons which is very little as compared to the subsidized amount of 1.5 million tons in 1995 and the average total export of rice about 5 million tons a year. The measure is tailor-made to cause positive psychological effects on farmers rather than boosting exports.

We have notified all domestic support and export subsidy schemes to the Committee on Agriculture along the lines of the Agreement on Agriculture and notification requirements thereof. Thailand's notification on price support programme and export subsidy on rice in 1995 appear as document G/AG/N/THA/15 and G/AG/N/THA/10 respectively. Due to the obscurity and complexity on the notification requirements and procedures, we happened not to notify the measures to the Committee on Subsidies though without any intention to violate our obligation.

Livestock raising and Aquaculture credit

Could Thailand provide more information on this programme and its eligibility requirements? (United States Question II.b and the European Community Q. I.f/1)

To what extent is this programme conditional upon export performance? (European Community Question I.f/2)

Can Thailand explain what priority projects are? Is export performance requirement a factor in granting priority status to a project? (European Community Question I.f/3)

Reply

This programme is generally available to all commercial farming of livestock and aquaculture for consumption regardless of their market orientation. Despite its non-specificity, this programme has been notified for transparency purposes.

Japan - Question 2

Does this mean that this subsidy is consistent with Thailand's commitment made in Part IV of its Schedule?

Reply

Yes.

New Zealand - Question 1

What labour intensive or highly utilized agricultural products receive support under the Industrial Credit Refinancing Scheme?

Reply

The Industrial Credit Refinancing Scheme is not targeted to specific agricultural products, nor limited to the agricultural sector, no record is presently compiled with product classification. Moreover, any labour-intensive industries are also eligible for this scheme. The reason that it has not been notified under the Agricultural Agreement is that the total subsidy under this scheme is limited to only 5% of the total market value of the total agricultural production and it is exempted under Article 6.4 of the Agricultural Agreement.

Rural Development Credit Refinancing Scheme

Japan - Question 3

Is this subsidy consistent with Thailand's commitment made in Part IV of its Schedule?

Reply

Yes.

Non-Notified Programmes

Tax Certificates for Exporters

United States Question I.1, European Community Question II.b

Reply

This programme provides for the remission of import duties on inputs used in the manufacture of exports. The remission does not result in any excess of those that have been levied. Therefore, according to Annexes I through III, this programme does not constitute a subsidy and does not need to be notified under Article 25.

Export Packaging Credits

United States Question I.2 and the European Community Question II.a

Reply

The Bank of Thailand has discontinued this scheme since the establishment of the Export-Import Bank of Thailand in 1993. The packing credit scheme currently administered by the Export-Import Bank of Thailand does not constitute a subsidy because interest rates charged for export credits have never been below those to be paid for the funds obtained. Thus, it does not need to be notified.

Repurchase of Industrial Bills

United States Question I.5

Reply

This scheme does not exist.

Rediscount of Industrial Bills

United States Question I.6

Reply

This scheme has been discontinued since 1988.

Reduced business taxes for producers of intermediate goods for export industries

United States Question I.8.

Reply

We are not sure which programme the United States is referring to because we are not aware of this programme. However, business tax has been repealed by value-added tax since 1 January 1992.

Bank of Thailand Agricultural Bill Purchase Project

United States - Question II.10

Reply

This scheme does not constitute a subsidy within the meaning of the SCM Agreement which has already been explained in the response to United States Question II.a.

Industrial Estate Authority Act & Export Processing Zone

United States Questions I.7 and I.13, the European Community Question II.d

Reply

Thailand did not notify the programmes under the 1979 Industrial Estate Authority of Thailand Act as the context of the provisions of Annexes I through III of the SCM Agreement made Thailand understand that these activities do not constitute a subsidy. Nevertheless, for transparency purposes, the following information is provided:

Export processing zones are specific areas created to group export-oriented manufacturing in one place for efficient processing and merchandising. The zones are aimed at generating employment, technology transfer and industrial linkages, specifically as a means to encourage decentralization and regional development. These are very much analogous to free zones being established elsewhere in the world.

Provision of investment incentives is made to both local and foreign investors for all export destinations without discrimination.

Form of Incentives: tax and duty concessions.

Exemption from payment of import charges, value-added tax and excise tax on machinery, equipment, tools and supplies, including components, goods imported and taken into an export processing zone for operation.

Exemption from payment or refund of taxes and duties if goods have been exported.

Duty Drawback Scheme under Section 19 bis of the Customs Act

European Community Question II.C

Reply

The duty drawback scheme provides for the remission of import duties on inputs used in the manufacture of exports. The remission does not result in any excess of those that have been levied. Thus, according to Annexes I through III of the SCM Agreement, this scheme does not constitute a subsidy and does not need to be notified.

Electricity Discounts for Exporters

United States Question I.4 and the European Community Question II.e

Reply

Since this programme has never been invoked, it was determined not to be a subsidy under Article 1 and thus has not been notified.

Incentives under the Investment Promotion Act

United States Question I.9

Replies

Assistance to trading companies

The BOI has stopped granting investment promotion to international trading companies since 1981. Thus, this scheme is no longer applicable.

Other incentives

Although Thailand's notification does not spell out the investment incentives classified by sections of the Investment Promotion Act, all applicable benefits mentioned are captured in the notification, which can be grouped into three categories: (1) exemption and reduction of corporate income tax; (2) exemption and reduction of import duties on machinery; and (3) exemption and reduction of import duties on raw and essential materials. The details of these benefits were covered in the response to the European Community Questions I.b-d.

It should be noted that Thailand has introduced value-added tax in lieu of business taxes since 1 January 1992. Therefore, incentives related to business taxes are not relevant. Moreover, the benefits under Section 36(3) are not applied any more since Thailand does not levy any export duties. Section 33 has never been applied either. And lastly, the benefit under Section 34 which accrues only to individual shareholders, not the company itself, therefore, does not fall under the definition of subsidy in Article 1.

Other programmes of the Board of Investment

United States Question I.10

Reply

Apart from granting investment incentives, the BOI provide the general public including local and foreign investors, with information on investment opportunities, potential Thai business partners and general macro-economic data i.e. key economic indicators and costs of operating in Thailand. the BOI's activities related to promoting Thai investment overseas are limited to providing general information relating to target countries such as macro-economic data, investment opportunities, and lists of projects that seek partners. These services are generally available and do not constitute subsidies. Thus, they do not need to be notified.

It should be noted that the BOI does not provide engineering, testing and training services or those related to software design and development. The BOI is not a training institute and it is not equipped to perform such duties.

Thailand Development Research Institute

United States Question I.11

Reply

TDRI was established in conjunction with technical assistance from foreign governments. It is a private profit-oriented research institute and therefore, does not fall under the meaning of Article 1 of the Agreement.

International Trade Promotion Fund - *United States Question I.3*

Programmes Supporting Industry of the Department of Export Promotion - *United States Q.I.12*

Reply

The International Trade Promotion Fund is administered by the Department of Export Promotion. This fund was initially established from contribution by exporters but, since 1994, the contribution has ceased. Presently, the Fund is used for the operation of any organizations and Government agencies in relation to the promotion of export in a general sense. Individual companies in the private sector who wish to participate in a project of the Department of Export Promotion must pay a participation fee.

Since the programme does not utilize support from the Government in the meaning of Article 1 of the Agreement nor is it specific in the meaning of Article 2, the programme has not been notified.

Agriculture Programmes

For the remaining programmes related to agriculture asked by the United States, we would like to refer to the reply to Question II.A of the United States.

Nonetheless, Thailand would like to indicate its full intention to fulfil its obligation under the framework of Article 25.2, particularly, in recognizing the need to reflect and justify certain agricultural notifications under the SCM but due to the complexity of the notification requirements and the difficulties often faced when dealing with multiple agencies tasks, it is not possible at the time of this review. However, Thailand will attempt to improve its notification under this Agreement as much as possible, particularly in the update notification.